JOURNAL
of the
HOUSE OF REPRESENTATIVES
of the
GENERAL ASSEMBLY
of the
COMMONWEALTH OF KENTUCKY

Regular Session of 1982

Volume I

Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1982, and
in the One Hundred and Ninetieth
Year of the Commonwealth

Begun on the Fifth Day of January, 1982, and Adjourned
Sine Die on the Fifteenth Day of April, 1982

Paid from State Funds

FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Section 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes,* the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This volume represents the fulfillment of this obligation for the House of Representatives of 1982.

The text of a bill is spread in full when it receives a first reading. The roll call on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended.

Mrs. Shan Stone Gray, Mrs. Jeanne Wallace, Ms. Ann Seppenfield and Ms. Sharon G. May prepared the 1982 House Journal. The edited copy and index found in this volume reflect the cooperative efforts of the commission's staff.

VIC HELLARD, JR.
Director

The Capitol
Frankfort, Kentucky
1982

JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
COMMONWEALTH OF KENTUCKY

REGULAR SESSION, 1982

TUESDAY, JANUARY 5, 1982

FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on January 5, 1982, the one hundred and ninetieth year of the Commonwealth, in accordance with the provisions of the Constitution, Acting Clerk Evelyn Marston assumed the Chair and called the House to order.

Prayer by Reverend John Massey of the First Presbyterian Church, Glasgow, Kentucky.

Acting Clerk Marston led the members in the Pledge of Allegiance to the Flag.

The Clerk read the following certificate from the Secretary of State:

Office of Secretary of State
Commonwealth of Kentucky
Frankfort 40601

I, Frances Jones Mills, Secretary of State of the Commonwealth of Kentucky, do hereby certify that, according to the records in the Office of the Secretary of State of the Commonwealth of Kentucky, and the best information obtainable, the attached is a true and correct list of the duly elected and qualified members of the House of Representatives of the General Assembly of the Commonwealth of Kentucky.

Given under my hand and seal of office, this 5th day of January, 1982.

s/FRANCES JONES MILLS
Secretary of State
Commonwealth of Kentucky

Members of the House of Representatives

1982 Kentucky General Assembly

1ST DISTRICT Ward "Butch" Burnette (D)
194 Brookwood, Box 348
Fulton, Kentucky 42041

2ND DISTRICT Lloyd Clapp (D)
P.O. Box 85
Wingo, Kentucky 42088

3RD DISTRICT Alice H. "Dolly" McNutt (D)
105 Country Club Lane
Paducah, Kentucky 42001

4TH DISTRICT Joel Ellington (D)
Route 3, Box 199
Old Mayfield Road
Paducah, Kentucky 42001

5TH DISTRICT Freed Curd (D)
1607 Sycamore
Murray, Kentucky 42071

6TH DISTRICT J. R. Gray (D)
Route 3
Benton, Kentucky 42025

7TH DISTRICT David E. Boswell (D)
Route 6, Box 95
Woodland Drive
Owensboro, Kentucky 42301

8TH DISTRICT Ramsey Morris (D)
1907 Russellville Road
Hopkinsville, Kentucky 42240

9TH DISTRICT James E. Bruce (D)
Route 1, 41A South
Hopkinsville, Kentucky 42240

10TH DISTRICT William T. "Bill" Brinkley (D)
311 Lake Street
Madisonville, Kentucky 42431

11TH DISTRICT David H. Thomason (D)
2501 Heather Lane
Henderson, Kentucky 42420

12TH DISTRICT Roy Joe Head (D)
Highway 120
Providence, Kentucky 42450

13TH DISTRICT Louis Johnson (D)
1511 Kent Place
Owensboro, Kentucky 42301

14TH DISTRICT Donald J. Blandford (D)
Route 1
Philpot, Kentucky 42366

15TH DISTRICT Philip Stone (D)
620 West Reservoir Avenue
Central City, Kentucky 42330

16TH DISTRICT Lewis Foster (D)
Route 1, Box 231
Lewisburg, Kentucky 42256

17TH DISTRICT Willard "Woody" Allen (R)
Route 2, Box 123
Morgantown, Kentucky 42261

18TH DISTRICT Mary Ann Tobin (D)
U.S. 60, Box 387
Irvington, Kentucky 40146

19TH DISTRICT Ronny Layman (R)
Route 4
Leitchfield, Kentucky 42754

20TH DISTRICT Jody Richards (D)
1022 Ridgecrest Drive
Bowling, Green, Kentucky 42101

21ST DISTRICT Billy Ray Smith (D)
Route 8, Box 374
Barren River Road
Bowling Green, Kentucky 42101

22ND DISTRICT Richard A. Turner (R)
Route 4
Tompkinsville, Kentucky 42167

23RD DISTRICT Bobby H. Richardson (D)
4 Forrest Hills
Glasgow, Kentucky 42141

24TH DISTRICT Sam B. Thomas (D)
Country Club Drive
Lebanon, Kentucky 40033

25TH DISTRICT Allene A. Craddock (D)
710 Woodland Road
Elizabethtown, Kentucky 42701

26TH DISTRICT Virgil L. Pearman (D)
952 North Woodland Drive
Radcliff, Kentucky 40160

27TH DISTRICT Bill Lile (D)
11304 Frenchrone Drive
Valley Station, Kentucky 40272

28TH DISTRICT Jim Dunn (D)
5009 Maryman Road
Pleasure Ridge Park, Kentucky 40258

29TH DISTRICT Al Bennett (D)
3518 Blanton Lane
Louisville, Kentucky 40214

30TH DISTRICT Thomas J. Burch (D)
4850 Brenda Drive
Louisville Kentucky 40219

31ST DISTRICT Mark D. O'Brien (D)
36 S. Sheridan Road
Louisville, Kentucky 40220

32ND DISTRICT Fred Cowan (DR)
1913 Spring Drive
Lousville, Kentucky 40205

33RD DISTRICT Bob Heleringer (R)
3200 Sudbury Lane
Louisville, Kentucky 40220

34TH DISTRICT Gerta Bendl (D)
2403 Newburg Road
Louisville, Kentucky 40205

35TH DISTRICT Carl A. Nett (D)
901 Eastern Parkway
Louisville, Kentucky 40217

36TH DISTRICT Tom Riner (D)
1143 E. Broadway
Louisville, Kentucky 40204

37TH DISTRICT Paul Clark (D)
4711 S. Second Street
Louisville, Kentucky 40214

38TH DISTRICT Dan "Malano" Seum (D)
326 E. Esplanade
Louisville, Kentucky 40214

39TH DISTRICT Benny "Ben" Handy (D)
1442 S. Third Street
Louisville, Kentucky 40208

40TH DISTRICT Jerry Bronger (D)
3500 Robin Drive
Louisville, Kentucky 40216

41ST DISTRICT Mae Street Kidd (D)
2308 West Chestnut Street
Louisville, Kentucky 40211

42ND DISTRICT Aubrey Williams (D)
1310 Rosewell
Louisville, Kentucky 40211

43RD DISTRICT Carl R. Hines, Sr. (D)
635 Southwestern Parkway
Louisville, Kentucky 40211

44TH DISTRICT James Bernard Yates (D)
2305 Thurman Drive
Shively, Kentucky 40216

45TH DISTRICT Dottie Priddy (D)
9001 Whippoorwill Road
Louisville, Kentucky 40229

46TH DISTRICT Harold Haering (R)
7709 Zenith Way
Louisville, Kentucky 40219

47TH DISTRICT Edward L. Holloway (R)
10705 Sunderland Place
Middletown, Kentucky 40243

48TH DISTRICT	Louis Guenthner, Jr. (R) 6103 Rhodes Drive Northfield, Kentucky 40222
49TH DISTRICT	Frank J. Smith (D) Box 222 Star Route Shepherdsville, Kentucky 40165
50TH DISTRICT	Kenny Rapier (D) 115 Parkview Drive Bardstown, Kentucky 40004
51ST DISTRICT	Herman W. Rattliff (R) Route 3, Box 305 Campbellsville, Kentucky 42718
52ND DISTRICT	Raymond Overstreet (R) Riverview Estates Liberty, Kentucky 42539
53RD DISTRICT	Richard Fryman (R) Route 3, No. 558 Albany, Kentucky 42602
54TH DISTRICT	Joe Clarke (D) 420 Boone Trail Danville, Kentucky 40422
55TH DISTRICT	Thomas M. Jones (D) 401 Sunset Drive Lawrenceburg, Kentucky 40342
56TH DISTRICT	Joe Barrows (D) Route 1, McCracken Pike Versailles, Kentucky 40383
57TH DISTRICT	C. M. "Hank" Hancock (D) 514 Murray Street Frankfort, Kentucky 40601
58TH DISTRICT	Marshall Long (D) 1204 Washington Street Shelbyville, Kentucky 40065
59TH DISTRICT	Bob Jones (D) 2135 S. Highway 1694 Crestwood, Kentucky 40014
60TH DISTRICT	William K. "Bill" McBee (D) 500 Florence Pike Burlington, Kentucky 41005
61TH DISTRICT	Clay Crupper (D) Wilorn Street Dry Ridge, Kentucky 41035
62ND DISTRICT	Mark Farrow (D) RFD 2, Box 69 Stamping Ground, Kentucky 40379

63RD DISTRICT
Ken Harper (R)
2716 Brookdale Court
Shaker Heights
Crestview Hill, Kentucky 41017

64TH DISTRICT
Charles O. Petty (D)
686 Ridge Road
Covington, Kentucky 41015

65TH DISTRICT
Joseph U. Meyer (D)
106 W. Eleventh Street
Covington, Kentucky 41011

66TH DISTRICT
Barry G. Caldwell (R)
2722 Surfside Drive
Villa Hills, Kentucky 41017

67TH DISTRICT
Terry L. Mann (D)
19 Douglas Drive
Newport, Kentucky 41071

68TH DISTRICT
William "Bill" Donnermeyer (D)
333 Bonnie Leslie Avenue
Bellevue, Kentucky 41073

69TH DISTRICT
Arthur L. Schmidt (R)
134 Winters Lane
Cold Springs, Kentucky 41076

70TH DISTRICT
Pete Worthington (D)
R.R. No. 1
Ewing, Kentucky 41039

71ST DISTRICT
Dr. Walter Blevins, Jr. (D)
106C Divide Hill, Apt. 2
Morehead, Kentucky 40351

72ND DISTRICT
Jim LeMaster (D)
545 Red Bud Lane
Paris, Kentucky 40361

73RD DISTRICT
Paul W. Richardson (D)
72 Milwood
Winchester, Kentucky 40391

74TH DISTRICT
Adrian K. Arnold (D)
Route 3, Box 416
Mount Sterling, Kentucky 40353

75TH DISTRICT
Willam G. Kenton (D)
137 Bell Court West
Lexington, Kentucky 40508

76TH DISTRICT
Jerry Lundergan (D)
1808 Joan Drive
Lexington, Kentucky 40505

77TH DISTRICT
David L. Van Horn (D)
1024 Juniper Drive
Lexington, Kentucky 40504

78TH DISTRICT Pat Freibert (R)
659 Tateswood
Lexington, Kentucky 40502

79TH DISTRICT Henry Clay (Hank) List (D)
3260 Carriage Lane
Lexington, Kentucky 40502

80TH DISTRICT Danny R. Ford (R)
P.O. Box 143
Mt. Vernon, Kentucky 40456

81ST DISTRICT Harry Moberly, Jr. (D)
Route 1, Barnes Mill Estates
Richmond, Kentucky 40475

82ND DISTRICT Elvin Elmer Patrick (R)
218 South Fifth Street
Williamsburg, Kentucky 40769

83RD DISTRICT Tommy Todd (R)
Route 2
Nancy, Kentucky 42554

84TH DISTRICT Clarence D. Noland, Jr. (R)
Sand Hill Road
Irvine, Kentucky 40336

85TH DISTRICT Albert Robinson (R)
Route 6, Box 60
London, Kentucky 40741

86TH DISTRICT Jimmy White (D)
324 N. Main Street
Barbourville, Kentucky 40906

87TH DISTRICT Pearl Ray Lefevers (R)
Kettle Island
Kentucky 40958

88TH DISTRICT Roger Noe (D)
Garden Street
Harlan, Kentucky 40831

89TH DISTRICT Jim Maggard (D)
General Delivery
Haddix, Kentucky 41331

90TH DISTRICT Randy Moore (R)
Highway 421 West
Hyden, Kentucky 41749

91ST DISTRICT Hoover Dawahare (D)
Hayes Street
Whitesburg, Kentucky 41858

92ND DISTRICT Carl C. Perkins (D)
Leburn
Kentucky 41831

93RD DISTRICT N. Clayton Little (D)
Route 1, Box 407
Virgie, Kentucky 41572

94TH DISTRICT	Herbert "Herbie" Deskins, Jr. (D) P.O. Box 799 Pikeville, Kentucky 41501
95TH DISTRICT	Gregory D. Stumbo (D) Mays Branch Prestonsburg, Kentucky 41653
96TH DISTRICT	L. E. "Gene" Cline (D) Box 206 Olive Branch, Kentucky 41164
97TH DISTRICT	Keither Endicott, Jr. (R) Route 40, P.O. Box 251 Inez, Kentucky 41224
98TH DISTRICT	Ronald R. Cyrus (D) 1410 Cyrus Court Flatwoods, Kentucky 41139
99TH DISTRICT	Ray O. Brown (D) Main Street Sandy Hook, Kentucky 41171
100TH DISTRICT	Charles R. Holbrook, III 1734 Dysard Hill Ashland, Kentucky 41101

The roll was called. All members present.

Representative LeMaster moved that the Journal show that each member produced Certificates of Election and that such certificates be confirmed. Agreed.

Said representatives produced their Certificates of Election, appeared before the Presiding Officer and were administered their oaths of office by The Honorable C. R. Walden, Judge of the 43rd Judicial District.

Representative Donnermeyer moved the nomination of Bobby H. Richardson as Speaker of the House of Representatives.

Representative LeMaster moved that the nominations cease. Agreed.

Representative LeMaster moved that Bobby H. Richardson be elected Speaker of the House of Representatives by acclamation. Agreed.

Representative Bobby H. Richardson was elected Speaker of the House of Representatives by acclamation. A committee composed of Representatives Craddock, Rattliff, Clapp and Foster escorted the Speaker to the Chair.

The oath of office was administered to Speaker Richardson by The Honorable C. R. Walden, Judge of the 43rd Judicial Circuit.

Speaker Richardson assumed the Chair.

Representative Donnermeyer moved the nomination of David H. Thomason as Speaker Pro Tempore of the House of Representatives.

Representative Ellington moved that the nominations cease. Agreed.

Representative Ellington moved that David H. Thomason be elected Speaker Pro Tempore by acclamation. Agreed.

Representative Thomason was elected Speaker Pro Tempore of the House of Representatives by acclamation. The Speaker appointed a committee composed of Representatives Stumbo and Stone to escort the Speaker Pro Tempore to the podium.

The oath of office was administered to Speaker Pro Tempore Thomason by The Honorable Carl D. Melton, Judge of the 51st Judicial Circuit.

Representative LeMaster moved the nomination of the following House Constitutional Officers to serve until sine die in 1982:

Chief Clerk — Evelyn Marston
Assistant Clerk — Sue Hagg
Enrolling Clerk — Margaret Watts
Sergeant at Arms — Stuart Kelly
Chief Doorkeeper — Emmett A. Slattery
Cloakroom Keeper — Wallace Bartley
Cloakroom Keeper — William E. Davis
Janitor — Harold Conn
Page — Laura Elizabeth Lewis
Page — Sara Chewning
Page — Greg Hendricks
Page — Charles E. Jones

Representative LeMaster moved that the nominations cease. Agreed.

Representative LeMaster moved that the House Constitutional Officers be elected by acclamation. Agreed.

The nominees for the House Constitutional Officers were elected by acclamation and the oath of office was administered by The Honorable C. R. Walden

Representative Donnermeyer announced that the Democratic Party in caucus assembled had elected the following Majority Party House leadership:

Floor Leader — Jim LeMaster
Whip — James Dunn
Caucus Chairman — William "Bill" Donnermeyer

Representative Rattliff announced that the Republican Party in caucus assembled had elected the following Minority Party House leadership:

Floor Leader — Arthur L. Schmidt
Whip — Willard "Woody" Allen
Caucus Chairman — Herman W. Rattliff

Representative Donnermeyer announced a majority caucus meeting in the State Reception Room on recess.

Representative Rattliff announced a minority caucus meeting in Room 12 on recess.

Recess

Representative LeMaster moved that the House recess for fifteen minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HR 9, by Representatives LeMaster, B. Richardson, Donnermeyer, Dunn and Thomason: A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House with prayer.

Representative LeMaster moved the adoption of the following **HR 9:**

HR 9, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House with prayer.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the Sergeant-at-Arms be directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House and open the sessions thereof with prayer.

HR 9 was adopted by voice vote.

HR 10, by Representatives LeMaster, B. Richardson, Thomason, Donnermeyer and Dunn: A RESOLUTION adopting temporary Rules to govern the 1982 House of Representatives.

Representative LeMaster moved the adoption of the following **HR 10:**

HR 10, A RESOLUTION adopting temporary Rules to govern the 1982 House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That except as provided in Sections 2 through 6 of this resolution the Rules adopted by the House of Representatives for the Regular Session of 1980 be adopted as the temporary Rules governing the session beginning January 5, 1982, to remain in effect until superseded by the adoption of permanent Rules.

Section 2. That Rule 38 of the Rules of the House of Representatives, Regular Session of 1980, be amended to read as follows:

Rule 38. Standing Committees. The following shall be the standing committees of the House.

1. Agriculture and Small Business
2. Appropriations and Revenue
3. Banking and Insurance
4. Business Organizations and Professions
5. Cities
6. Counties and Special Districts
7. Education

[~~8. Elections and Constitutional Amendments~~]
8[~~9~~]. Energy
9[~~10~~]. Health and Welfare
10. Judiciary-Civil
11. Judiciary-*Criminal*
12. Labor and Industry
13. Natural Resources and Environment
14. State Government
15. Transportation

Section 3. That Rule 39 of the Rules of the House of Representatives, Regular Session of 1980, be amended to read as follows:

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. In making such appointments to standing committees the Committee on Committees shall appoint a member with service in the immediately preceding regular session to at least one committee on which the member served in such previous regular session. Such appointment to the one committee shall be at the preference of the member, and the Committee on Committees shall be bound by the member's preference for that one committee. A member of the Committee on Committees shall not serve as chairman of a standing committee. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees the number of members on the committee to be appointed shall be announced to the House. At the same time, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than seventeen (17) members to any one standing committee, *except the Committee on Appropriations and Revenue and the Committee on State Government which shall each have not more than twenty-one (21) members.* Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three of the following committees: all standing committees *except the Committee on Appropriations and Revenue and the Committee on State Government,* and the Committee on Committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Section 4. That Rule 40 of the Rules of the House of Representatives, Regular Session of 1980, be amended to read as follows:

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over the subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. Agriculture and Small Business: matters pertaining to crops, livestock, poultry and their marketing; disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; the state fair; county fairs; all matters not specifically assigned to another committee relating to administrative, regulatory or operating issues which, because of their smaller size, uniquely impact small business.

2. Appropriations and Revenue: matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; veterans bonus; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. Banking and Insurance: matters pertaining to banking; banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the blue sky law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the uniform commercial code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. Business Organizations and Professions: matters pertaining to professional licensing not assigned specifically to another committee; chambers of commerce; business development corporations; racing; prize fighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salesmen; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; the business regulation aspects of the uniform commercial code; warehouses and warehousemen; partnerships; trade practices.

5. Cities: matters pertaining to the officers, organization, government and financing of city government; special purpose assessment and taxing districts within a city; incorporation and classification of cities; city revenue bond projects; the imposition of duties and costs on cities; city taxes and licenses; city indebtedness; compensation of city officers; metropolitan sewer districts; interlocal government cooperation; housing projects; urban renewal and redevelopment; city streets and sidewalks; sewers; annexation of territory; consolidation of local government services; forms of city government; city civil service; city finances and revenue; public works; police and fire departments and their retirement systems; parks and playgrounds; planning and zoning; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; police court and city attorney; city libraries.

6. Counties and Special Districts: matters pertaining to the officers, organization, government and financing of county governments; county imposed taxes and licenses; county and special district debt; the imposition of duties and costs on counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of county officers and employes; the offices of county judge, magistrates, county attorney, sheriff, constable, county police, jailer, coroner, surveyor, county clerk; county employes' civil service and retirement; planning and zoning; interlocal cooperation and consolidation of services; county roads; public road districts; water districts; fire protection districts; issuance of bonds for county and special district projects; metropolitan sewer and sanitation districts; local air pollution control districts; county and county law libraries; library districts.

7. **Education:** matters pertaining to public primary, secondary and higher education; the state board of education; the state department of education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts, teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employes; pupil transportation; school property and buildings; vocational education and rehabilitation; state universities and colleges; community colleges; municipal universities and colleges; regional education; education of the physically handicapped; educational television.

[~~8. Elections and Constitutional Amendments: matters pertaining to the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; legislative and congressional districts; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purgation of voters; conduct of regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absent ballots.~~]

8[~~9~~]. *Energy:* matters pertaining to privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development, *including synfuels*; energy waste disposal; Utility Regulatory Commission and Energy Regulatory Commission; solar *and other renewable energy*; *hydroelectric and* thermo-nuclear *energy*; and gasohol.

9[~~10~~]. *Health and Welfare:* matters pertaining to health and welfare in cities; fire prevention and protection; support of dependents; probation and parole; garbage and refuse disposal; public assistance; correctional penitentiaries; child welfare; adoptions; mothers aid and assistance to children; children's homes; incompetents; poor persons and poor houses; confederate pensions; aid to needy blind; commitment and care of children; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; tuberculosis hospitals; hospitals, clinics and personal care homes; foods, drugs and poisons; hotel, restaurants and trailer park regulations; sanitation plants; sanitation districts; frozen food locker plants; alcoholism; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; registered nurses and practical nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists, ophthalmic dispensers; physical therapists.

10[~~11~~]. *Judiciary-Civil:* matters pertaining to contracts; debtor-creditor relations; ownership and conveyance of property; *private corporations and associations; competency proceedings;* administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; [~~habeas corpus;~~] witnesses; evidence; legal notices; [~~crimes and punishments;~~] construction of statutes; civil [~~and criminal~~] procedure; [~~civil rights; matters pertaining to~~] the Supreme Court~~,~~ District Courts, the Court of Appeals, *and* Circuit Courts[~~, County and Probate Courts, Quarterly Courts, Justices of the Peace Courts, and Police Courts~~]; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerk of courts; juries, attorneys; commissioners and receivers; *and* court reporters[~~; and juvenile courts~~].

11. Judiciary-Criminal: matters pertaining to support of dependents; statutory actions and limitations; habeas corpus; witnesses; evidence; crimes and punishments; criminal procedure; civil rights; and juvenile matters.

12. **Labor and Industry:** matters pertaining to commerce not specifically assigned to another committee; industrial financing and development; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; hotels, electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employes; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

13. **Natural Resources and Environment:** matters pertaining to forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; state and national parks; drainage districts and local flood control and water usage; water pollution; air pollution; Department of Natural Resources.

14. **State Government:** matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the general assembly, its committees, officers and service agencies; redistricting; the governor; the lieutenant

governor; intergovernmental cooperation; relations with the federal government; administrative organization; administrative regulations; statutory administrative agencies; department of law; secretary of state; state personnel; state retirement systems; military affairs and civil defense; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; state and regional planning; the arts; the libraries; archives and records; public corporations; commonwealth attorney; circuit clerk; *proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; legislative and congressional districts; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purgation of voters; conduct of regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absent ballots.*

15. Transportation: matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service and operating regulations; motor carriers; matters pertaining to the construction and maintenance of the state highway system; the Department of Transportation; state aid for local roads and streets; the state police; the Federal Highway safety law; turnpike authority; state and federal highways; limited access facilities; use of road bond monies; bill boards; automobile recyclers; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Section 5. That Rule 41 of the Rules of the House of Representatives, Regular Session of 1980, be amended to read as follows:

Rule 41. Rules Committee. There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Party Whip, the Minority Floor Leader, the Minority Caucus Chairman, the Minority Party Whip, and not less than nine nor more than *thirteen* [~~twelve~~] members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee. Provided, however, that such recommitment shall be accompanied by an explanation of the reason therefor, and that no bill or resolution shall be referred back by the Rules Committee on more than one occasion. All meetings of the Rules Committee shall be open to members of the House and to members of the Capitol Press Corps only. No electronic devices of any nature including cameras and recording devices shall be allowed in the committee room or to be used therein by any person while the Rules Committee is in session. No bill may be kept in Rules Committee for longer than five (5) legislative days. Within that time each bill must be reported to the floor or referred back to a standing committee.

The Majority Floor Leader shall while the Rules Committee is in session call bills and resolutions and shall call the same for consideration by the Rules Committee. A bill or resolution may be placed for consideration in the first order of business at the next regular Rules Committee meeting by a majority of the membership voting for such consideration.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which he is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall act as Chairman of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions in the order he deems proper and shall be recognized by the Speaker for said purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chairman in the absence of the Speaker.

SECTION 6. THAT A NEW RULE BE ADDED TO THE RULES OF THE HOUSE OF REPRESENTATIVES, REGULAR SESSION OF 1980, AND HEREBY ADOPTED TEMPORARILY TO READ AS FOLLOWS:

Rule 42. Liaison Subcommittees. The Committee on Appropriations and Revenue shall be divided into the following six standing subcommittees of seven members each.

1. Subcommittee on Development and Energy, Natural Resources, and Environmental Protection;

2. Subcommittee on Education;

3. *Subcommittee on General Government, Finance, and Public Protection;*
4. *Subcommittee on Human Resources;*
5. *Subcommittee on Justice and Judiciary;*
6. *Subcommittee on Transportation.*

Of the seven members of each such subcommittee four shall be members of the Committee on Appropriations and Revenue designated by the chairman of such committee, and three shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House. The chairman of each standing subcommittee shall be appointed by the chairman of the Committee on Appropriations and Revenue from the membership of such committee on the particular standing subcommittee.

The remaining three members of each standing subcommittee shall be deemed a liaison subcommittee of the standing committee or committees from which they were appointed. A vice chairman of the standing committee from which such members were appointed shall act as chairman of the liaison subcommittee. The selection of such vice chairman shall be made by the Committee on Committees. If such three members have been appointed from more than one standing committee the Committee on Committees shall determine which standing committee vice chairman shall act as chairman of the liaison subcommittee.

The liaison subcommittee members of the standing subcommittee shall have full voting authority in all matters before the standing subcommittee.

HR 10 was adopted by voice vote.

Representative LeMaster moved that 1980 House Rules as amended by **HR 10** be adopted as the House Rules for 1982. Agreed.

HCR 1, for the Interim Joint Committee on Cities with a recommendation for passage, by Representatives List and Holbrook: A CONCURRENT RESOLUTION urging the cities of the Commonwealth of Kentucky to consider the feasibility of municipal insurance pooling.

HCR 2, by Representative List: A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States for the purpose of requesting appropriate action by the Congress, either acting by consent of two-thirds of both Houses or, upon the application of the legislatures of two-thirds of the several states, calling a constitutional convention to propose an amendment to the Federal Constitution to require, with certain exceptions, that the total of all federal appropriations may not exceed the total of all estimated federal revenues in any fiscal year.

HCR 3, by Representative F. Smith, with a recommendation for passage by the Interim Joint Committee on Energy: A JOINT RESOLUTION extending the tenure of the Special Solar Energy Advisory Committee and directing certain state agencies to report to that committee.

HJR 4, by Representative F. Smith, with a recommendation for passage by the Interim Joint Committee on Energy: A JOINT RESOLUTION directing the department of finance to amend purchasing and bidding regulations in support of a strong energy conservation ethic.

HCR 5, for the Small Business Task Force with a recommendation for passage, by Representatives Craddock, Turner, Arnold and Pearman: A CONCURRENT RESOLUTION recognizing the Kentucky Small Business Development Center and encouraging participation of state universities and the Commerce Cabinet.

HCR 6, by Representative Worthington: A CONCURRENT RESOLUTION relating to the management of low level radioactive waste in Kentucky and providing for legislative oversight.

HR 7, by Representative Farrow: A RESOLUTION in loving memory of Speaker William G. Kenton.

HCR 8, by Representatives Moberly, Barrows and Hancock: A CONCURRENT RESOLUTION establishing a task force on the Kentucky River.

HB 1, by Representatives Bendl, Overstreet and Noe, with a recommendation for passage by the Interim Joint Committee on Health and Welfare: AN ACT relating to mental health.

HB 2, by Representative Heleringer: AN ACT relating to property taxes.

HB 3, by Representative Heleringer: AN ACT relating to public meetings.

HB 4, by Representative Heleringer: AN ACT relating to lobbyists.

HB 5, By Representative Heleringer: AN ACT relating to housing.

HB 6, by Representative Heleringer: AN ACT relating to motor vehicle insurance.

HB 7, by Representative Heleringer: AN ACT relating to dairy product marketing.

HB 8, by Representative Heleringer: AN ACT relating to income tax.

HB 9, by Representative Heleringer: AN ACT relating to choice of party primary in which to vote.

HB 10, by Representative Heleringer: AN ACT proposing to amend Section 116 of the Constitution of Kentucky relating to membership in the Bar.

HB 11, by Representative Heleringer: AN ACT relating to finance charges.

HB 12, by Representative Heleringer: AN ACT relating to motor vehicle usage taxes.

HB 13, by Representative F. Smith: AN ACT relating to dealers in gold, silver or platinum.

HB 14, for the Interim Joint Committee on Judiciary with a recommendation for passage, by Representatives LeMaster and Barrows: AN ACT establishing rules relating to legislative proposals and enactments.

HB 15, by Representative Foster: AN ACT relating to mineral interests.

HB 16, by Representative Allen: AN ACT relating to individual income taxes.

HB 17, by Representative Holbrook: AN ACT proposing to amend the Constitution of Kentucky and relating to the levy of taxes by cities, counties, and school districts.

HB 18, by Representative Donnermeyer: AN ACT relating to motor vehicle titles and making an appropriation therefor.

HB 19, by Representatives Patrick and Little: AN ACT relating to surface mining.

HB 20, by Representative Burch: AN ACT relating to crimes and punishments.

HB 21, by Representative Burch: AN ACT relating to condominiums.

HB 22, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Arnold and Allen: AN ACT relating to county revenue management.

HB 23, by Representative Bennett, with a recommendation for passage by the Interim Joint Committee on Elections and Constitutional Amendments: AN ACT relating to electioneering.

HB 24, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Arnold and Bennett: AN ACT relating to investment of public funds.

HB 25, by Representative Rattliff, with a recommendation for passage by the Interim Joint Committee on Judiciary: AN ACT relating to controlled substances.

HB 26, by Representative Rattliff, with a recommendation for passage by the Interim Joint Committee on Judiciary: AN ACT relating to controlled substances.

HB 27, by Representatives Foster, Morris, Bronger, Rattliff and Stone: AN ACT relating to inheritance tax.

HB 28, by Representative Cyrus: AN ACT relating to electric utilities.

HB 29, by Representative Priddy: AN ACT relating to conduct of schools.

HB 30, by Representative Priddy: AN ACT relating to attendance districts.

HB 31, by Representatives Crupper and Farrow: AN ACT relating to the examination of applicants for operator's licenses.

HB 32, by Representatives Noe, P. Richardson, Overstreet, Freibert and Priddy, with a recommendation for passage by the Interim Joint Committee on Health and Welfare: AN ACT relating to criminal responsibility.

HB 33, by Representative McBee: AN ACT relating to controlled substances.

HB 34, by Representative Clarke, with a recommendation for passage by the Interim Joint Committee on Health and Welfare: AN ACT providing for the establishment of the commission on the deaf and hearing impaired and making an appropriation therefor.

HB 35, by Representative Clarke: AN ACT relating to death.

HB 36, for the Interim Joint Committee on Education with a recommendation for passage, by Representatives Richards and Moberly: AN ACT relating to instructional programs.

HB 37, by Representative Van Horn, with a recommendation for passage by the Interim Joint Committee on State Government: AN ACT relating to a pledge of allegiance to the flag of the Commonwealth of Kentucky.

HB 38, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Pearman and Crupper: AN ACT relating to registration fees for trailers and semitrailers.

HB 39, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Pearman and Little: AN ACT relating to motor carriers.

HB 40, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives McBee and Cyrus: AN ACT relating to airports.

HB 41, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives McBee and Cyrus: AN ACT relating to salary supplements for public employes.

HB 42, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives McBee and Cyrus: AN ACT relating to airports.

HB 43, by Representatives Bendl, Clark, Hines, Petty and P. Richardson, with a recommendation for passage by the Interim Joint Committee on Health and Welfare: AN ACT relating to boarding homes.

HB 44, by Representative Foster: AN ACT relating to motor vehicles.

HB 45, for the Special Task Force on Small Business with a recommendation for passage, by Representatives Morris, Turner, List, Arnold, LeMaster, Craddock, Moberly and Barrows: AN ACT relating to sales and use taxes.

HB 46, by Representatives Blandford, Morris, Rattliff, Turner, Arnold and Craddock, with a recommendation for passage by the Special Task Force on Small Business: AN ACT relating to taxation.

HB 47, by Representative F. Smith, with a recommendation for passage by the Interim Joint Committee on Energy: AN ACT relating to income taxes.

HB 48, by Representative Brown: AN ACT relating to the Kentucky School Building Authority.

HB 49, by Representative Brown: AN ACT relating to the Kentucky School Building Authority.

HB 50, by Representative Morris, with a recommendation for passage by the Interim Joint Committee on State Government: AN ACT relating to administrative regulations.

HB 51, by Representative F. Smith, with a recommendation for passage by the Interim Joint Committee on Energy: AN ACT relating to alternate energy development projects.

HB 52, by Representatives Bruce, O'Brien and Morris, with a recommendation for passage by the Interim Joint Committee on State Government: AN ACT relating to reorganization.

HB 53, by Representative Farrow, with a recommendation for passage by the Interim Joint Committee on Judiciary: AN ACT relating to actions for alimony or divorce.

HB 54, by Representative Farrow, with a recommendation for passage by the Interim Joint Committee on Judiciary: AN ACT relating to children.

HB 55, by Representative Williams: AN ACT relating to firearms.

HB 56, by Representative Williams: AN ACT relating to handgun purchase permits.

HB 57, by Representative Williams: AN ACT relating to elections.

HB 58, by Representative Donnermeyer: AN ACT relating to public nuisances.

HB 59, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Stone and Farrow: AN ACT relating to fiscal courts.

HB 60, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to textbooks.

HB 61, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to the duties of the superintendent of public instruction.

HB 62, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to suspension and removal of school officers and employes.

HB 63, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to proprietary education.

HB 64, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to school districts.

HB 65, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to school district finances.

HB 66, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to transfer of school district territory.

HB 67, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to school attendance districts.

HB 68, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to school truancy.

HB 69, for the Interim joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to salary payments for school employes.

HB 70, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to the duties of a school superintendent.

HB 71, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to school taxes.

HB 72, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to student teachers.

HB 73, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to the duties of school employes.

HB 74, for the Interim Joint Committee on Education with a recommendation for passage, by Representantive Hines: AN ACT relating to sick leave for teachers.

HB 75, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to penalties for violating school statutes.

HB 76, for the Interim Joint Committee on Education with a recommendation for passage, by Representatives Hines: AN ACT relating to school discipline.

HB 77, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to teachers' retirement.

HB 78, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to school districts.

HB 79, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to boards of education.

HB 80, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to school employes.

HB 81, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Hines: AN ACT relating to higher education.

HB 82, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Little and Haering: AN ACT relating to roads.

HB 83, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Blandford: AN ACT relating to ginseng and making an appropriation therefor.

HB 84, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Blandford: AN ACT relating to the state board of agriculture.

HB 85, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Blandford: AN ACT relating to poultry and rabbit inspection.

HB 86, for the Interim Joint Committee on Banking and Insurance with a recommendation for passage, by Representatives Foster and Kidd: AN ACT relating to insurance.

HB 87, for the Interim Joint Committee on Banking and Insurance with a recommendation for passage, by Representatives Kidd and Foster: AN ACT relating to insurance companies operating under the cooperative or assessment plan.

HB 88, by Representative Priddy: AN ACT relating to controlled substances.

HB 89, for the Interim Joint Committee on Elections and Constitutional Amendments with a recommendation for passage by Representatives Bennett and Dunn: AN ACT relating to elections.

HB 90, for the Interim Joint Committee on Elections and Constitutional Amendments with a recommendation for passage by Representatives Dunn and Bennett: AN ACT relating to elections.

HB 91, by Representative Pearman: AN ACT granting functions relating to water purification to the department for human resources.

HB 92, by Representative Stumbo: AN ACT relating to transportation of coal.

HB 93, by Representative Pearman: AN ACT relating to revenue and taxation.

HB 94, by Representative White: AN ACT relating to surface mining.

HB 95, by Representative White: AN ACT relating to teachers' retirement.

HB 96, by Representative Williams:AN ACT relating to crimes and punishments.

HB 97, by Representative Noe: AN ACT relating to mental health and making an appropriation therefor.

HB 98, by Representative Barrows: AN ACT relating to hazardous duty retirement for probation and parole officers.

HB 99, by Representative Stone: AN ACT relating to eminent domain.

HB 100, by Representative Stone: AN ACT relating to waste disposal.

HB 101, by Representative Stone: AN ACT relating to self-proved wills.

HB 102, by Representative Noe: AN ACT relating to income taxes.

HB 103, by Representative Stone: AN ACT relating to land surveys.

HB 104, by Representative Stone: AN ACT relating to insurance.

HB 105, for the Interim Joint Committee on Judiciary with a recommendation for passage, by Representatives Williams and Guenthner: AN ACT relating to probation and parole.

HB 106, the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representatives Bendl, Hines, Priddy, Noe and Clark: AN ACT relating to long term care facilities.

HB 107, by Representative Stumbo: AN ACT relating to county treasurers.

HB 108, for the Small Business Task Force with a recommendation for passage, by Representatives Morris, Turner, Arnold, Craddock, Fryman and Pearman: AN ACT relating to corporate income tax.

HB 109, for the Small Business Task Force with a recommendation for passage, by Representatives Morris, Turner, Arnold, Fryman, Pearman and Craddock: AN ACT relating to property tax.

HB 110, for the Task Force on Small Business with a recommendation for passage, by Representatives Craddock, Arnold, Pearman and Fryman: AN ACT relating to business licensing.

HB 111, for the Task Force on Small Business with a recommendation for passage, by Representatives Morris, Turner, Fryman, Craddock and Pearman: AN ACT relating to sales and use taxes.

HB 112, for the Task Force on Small Business with a recommendation for passage, by Representatives Morris, Arnold, Pearman, Craddock, Bruce, LeMaster and Fryman: AN ACT relating to costs.

HB 113, for the Interim Joint Committee on Banking and Insurance with a recommendation for passage, by Representatives Kidd and P. Richardson: AN ACT relating to the Kentucky housing corporation.

HB 114, for the Interim Joint Committee on Banking and Insurance with a recommendation for passage, by Representatives P. Richardson and Holbrook: AN ACT relating to bank installment loans.

HB 115, by Representative Yates: AN ACT relating to volunteer firemen.

HB 116, by Representative Yates: AN ACT relating to metropolitan sewer districts.

HB 117, for the Interim Joint Committee on Elections and Constitutional Amendments with a recommendation for passage, by Representatives Bennett and Dunn: AN ACT proposing to amend the Constitution of Kentucky and relating to property exempt from taxation.

HB 118, by Representative Holbrook, with a recommendation for passage by the Interim Joint Committee on Cities: AN ACT relating to police and fire departments.

HB 119, by Representative Holbrook: AN ACT relating to local government retirement systems.

HB 120, by Representatives List, LeMaster, Boswell, Morris and Arnold: AN ACT relating to administrative regulations.

HB 121, by Representatives List, Morris, Arnold and Fryman: AN ACT relating to child day care.

HB 122, by Representatives List, Boswell and Morris: AN ACT relating to administrative regulations.

HB 123, by Representative Yates: AN ACT relating to waste disposal.

HB 124, by Representative Burch: AN ACT relating to public accountancy.

HB 125, by Representative Bendl: AN ACT relating to the protection of adults.

HB 126, by Representative Allen: AN ACT relating to the community work experience programs.

HB 127, by Representative F. Smith: AN ACT proposing an amendment to the Constitution of Kentucky relating to the General Assembly.

HB 128, by Representative Noe: AN ACT relating to infants.

HB 129, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Brinkley: AN ACT relating to water.

HB 130, by Representative White: AN ACT relating to surface coal mining.

HB 131, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representatives Brinkley and Deskins: AN ACT relating to septic tank servicing.

HB 132, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representatives Stumbo and Deskins: AN ACT relating to the pollution abatement authority.

HB 133, for the Interim Joint Committee on Cities with a recommendation for passage, by Representatives McNutt and Richards: AN ACT relating to state and local fiscal coordination.

HB 134, for the Interim Joint Committee on Cities with a recommendation for passage, by Representatives McNutt, Bendl, Holbrook, Nett and Caldwell: AN ACT relating to local government.

HB 135, by Representative Heleringer: AN ACT relating to death benefits.

HB 136, by Representative Curd: AN ACT relating to higher education.

HB 137, by Representative Patrick: AN ACT relating to education.

HB 138, by Representative Burch: AN ACT relating to local government.

HB 139, by Representatives McNutt, Rapier and Boswell: AN ACT relating to consumer protection.

HB 140, by Representative Long: AN ACT relating to waste disposal.

HB 141, by Representative Bendl: AN ACT relating to court costs.

HB 142, by Representative Maggard: AN ACT relating to the development of coal-using facilities and electric generating plants in Kentucky's coalfields, and containing an appropriation therefor.

HB 143, for the Interim Joint Committee on Business Organizations and Professions with a recommendation for passage, by Representatives Burch and Williams: AN ACT relating to thoroughbred racing.

HB 144, by Representative Maggard: AN ACT relating to the department of library and archives and making an appropriation therefor.

HB 145, by Representatives Pearman and Morris: AN ACT relating to inheritance taxes.

HB 146, by Representative McNutt: AN ACT relating to capital construction.

HB 147, by Representatives Barrows, Moberly and Hancock: AN ACT relating to water.

HB 148, by Representative Seum: AN ACT relating to crimes and punishments.

HB 149, by Representative Seum: AN ACT relating to the compensation of crime victims.

HB 150, for the Interim Joint Committee on Elections and Constitutional Amendments with a recommendation for passage, by Representatives Bennett and Dunn: AN ACT relating to the levy and assessment of property taxes.

HB 151, by Representative Lundergan: AN ACT relating to certification of teachers.

HB 152, by Representative Lundergan: AN ACT providing for the instruction of county officials.

HB 153, by Representatives R. Jones, Stumbo and Lefevers: AN ACT relating to skiers and ski area operators.

HB 154, by Representative Holbrook: AN ACT relating to enforcement of judgments.

Representative LeMaster moved that a committee be appointed to wait upon the Governor. Agreed.

Recess

Representative LeMaster moved that the House recess for five minutes for a meeting of the Committee on Committees. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative LeMaster moved that the rules be suspended for Report of Committees. Agreed.

Committee Appointments

The Clerk read the following committee appointments by the Committee on Committees:

AGRICULTURE AND SMALL BUSINESS

Democrats

Donald J. Blandford, Chairman
Clay Crupper, Vice Chairman
Virgil L. Pearman, Vice Chairman
Adrian Arnold
David E. Boswell
Jerry Bronger
Ward (Butch) Burnette
Freed Curd
J. R. Gray
Roy Joe Head
Jim Maggard
Dan (Malano) Seum
Billy Ray Smith

Republicans

Richard Fryman, Vice Chairman
Danny R. Ford
Tommy Todd
Richard A. Turner

APPROPRIATIONS AND REVENUE

Democrats

Joe Clarke, Chairman
H. Ramsey Morris, Jr., Vice Chairman
Carl A. Nett, Vice Chairman
Thomas J. Burch
Fred Cowan
Allene A. Craddock
William (Bill) Donnermeyer
Lewis Foster
C. M. (Hank) Hancock
Robert A. (Bob) Jones
Marshall Long
Jerry Lundergan
Harry Moberly, Jr.
Roger Noe
David H. Thomason
Pete Worthington

Republicans

Arthur L. Schmidt, Vice Chairman
Willard (Woody) Allen
Barry G. Caldwell
Edward L. Holloway
Albert Robinson

BANKING AND INSURANCE

Democrats

James E. Bruce, Chairman
Charles O. Petty, Vice Chairman
Paul W. Richardson, Vice Chairman
Ward (Butch) Burnette
L. E. (Gene) Cline
Hoover Dawahare
Herbert (Herbie) Deskins, Jr.
Lewis Foster
Benny (Ben) Handy
Mae Street Kidd
Jerry Lundergan
Joseph U. Meyer
Billy Ray Smith

Republicans

Edward L. Holloway, Vice Chairman
Keither Endicott, Jr.
Kenneth F. Harper
Charles R. Holbrook III

BUSINESS ORGANIZATIONS AND PROFESSIONS

Democrats

Sam B. Thomas, Chairman
Kenny Rapier, Vice Chairman
James Bernard Yates, Vice Chairman
Al Bennett
Walter Blevins, Jr.
Jerry Bronger
Thomas J. Burch
James R. Dunn
William K. (Bill) McBee
Alice H. (Dolly) McNutt
Frank J. Smith
Jimmy White
Aubrey Williams

Republicans

Richard A. Turner, Vice Chairman
Danny R. Ford
Clarence D. Noland, Jr.
Arthur L. Schmidt

CITIES

Democrats

Henry Clay (Hank) List, Chairman
Freed Curd, Vice Chairman
Alice H. (Dolly) McNutt, Vice Chairman
Gerta Bendl
Benny (Ben) Handy
Louis E. Johnson
Mae Street Kidd
Joseph U. Meyer
Carl A. Nett
Kenny Rapier
Jody Richards
James Bernard Yates

Republicans

Kenneth F. Harper, Vice Chairman
Barry G. Caldwell
Louie R. Guenthner, Jr.
Charles R. Holbrook

COUNTIES AND SPECIAL DISTRICTS

Democrats

Adrian Arnold, Chairman
Ray O. Brown, Vice Chairman

Philip Stone, Vice Chairman
Lloyd Edward Clapp
Clay Crupper
Mark Farrow
Lewis Foster
C. M. (Hank) Hancock
Thomas M. Jones
Marshall Long
Virgil L. Pearman
Charles O. Petty
Tom Riner

Republicans

Willard (Woody) Allen, Vice Chairman
Bob Heleringer
Bill Lile
Randy Moore

EDUCATION

Democrats

Jody Richards, Chairman
Joel Ellington, Vice Chairman
Carl R. Hines, Vice Chairman
Joe Barrows
Ray O. Brown
Freed Curd
Thomas M. Jones
N. Clayton Little
Terry L. Mann
Carl A. Nett
Harry Moberly, Jr.
Kenny Rapier
Jimmy White

Republicans

Pat Freibert, Vice Chairman
Richard Fryman
Pearl Ray Lefevers
Bill Lile

ENERGY

Democrats

Terry L. Mann, Chairman
Jerry Bronger, Vice Chairman
Gregory D. Stumbo, Vice Chairman
Donald J. Blandford
David Boswell
William T. (Bill) Brinkley
Lloyd Edward Clapp
Robert A. (Bob) Jones
William K. (Bill) McBee
Mark D. O'Brien
Charles O. Petty

David H. Thomason
James Bernard Yates

Republicans

Ronny Layman, Vice Chairman
Kenneth F. Harper
Raymond Overstreet
Albert Robinson

HEALTH AND WELFARE

Democrats

Gerta Bendl, Chairman
Paul Clark, Vice Chairman
Walter Blevins, Jr.
Ward (Butch) Burnette
Fred Cowan
Joel Ellington
Benny (Ben) Handy
Carl R. Hines, Sr.
Roger Noe
Carl C. Perkins
Paul W. Richardson
Tom Riner

Republicans

Raymond Overstreet, Vice Chairman
Pat Freibert
Bob Heleringer
Tommy Todd

JUDICIARY-CIVIL

Democrats

Mark Farrow, Chairman
Dottie Priddy, Vice Chairman
David L. Van Horn, Vice Chairman
Ray O. Brown
Fred Cowan
Thomas M. Jones
Louis E. Johnson
Mae Street Kidd
Joseph U. Meyer
Philip Stone
Gregory D. Stumbo
Mary Ann Tobin

Republicans

Charles R.Holbrook, III, Vice Chairman
Barry G. Caldwell
Louis R. Guenthner, Jr.
Harold Haering

JUDICIARY-CRIMINAL

Democrats

Aubrey Williams, Chairman
Thomas J. Burch, Vice Chairman
Harry Moberly, Jr., Vice Chairman
Joe Barrows
Walter Blevins, Jr.
Paul Clark
Carl R. Hines, Sr.
Alice H. (Dolly) McNutt
H. Ramsey Morris, Jr.
Dottie Priddy
Tom Riner
Dan (Malano) Seum
David L. Van Horn

Republicans

Bob Heleringer, Vice Chairman
Richard Fryman
Ronny Layman
Raymond Overstreet

LABOR AND INDUSTRY

Democrats

Al Bennett, Chairman
Jerry Lundergan, Vice Chairman
Frank J. Smith, Vice Chairman
Paul Clark
Allene A. Craddock
Ronald R. Cyrus
Joel Ellington
J. R. Gray
Robert A. (Bob) Jones
Marshall Long
Dottie Priddy
Mary Ann Tobin
David L. Van Horn

Republicans

Louie R. Guenthner, Jr., Vice Chairman
Edward L. Holloway
Elvin Elmer Patrick
Richard A. Turner

NATURAL RESOURCES AND ENVIRONMENT

Democrats

Herbert (Herbie) Deskins, Jr., Chairman
Roy Joe Head, Vice Chairman

J. R. Gray
William T. (Bill) Brinkley
Ronald R. Cyrus
Hoover Dawahare
Henry Clay (Hank) List
Jim Maggard
Carl C. Perkins
Philip Stone
Gregory D. Stumbo
Jimmy White
Pete Worthington

Republicans

Elvin Elmer Patrick, Vice Chairman
Keither Endicott, Jr.
Pearl Ray Lefevers
Randy Moore

STATE GOVERNMENT

Democrats

Mark D. O'Brien, Chairman
Lloyd E. Clapp, Vice Chairman
Roger Noe, Vice Chairman
Mary Ann Tobin, Vice Chairman
Joe Barrows
William T. (Bill) Brinkley
James E. Bruce
L. E. (Gene) Cline
William (Bill) Donnermeyer
James R. Dunn
H. Ramsey Morris, Jr.
Carl C. Perkins
Billy Ray Smith
Frank J. Smith
Pete Worthington

Republicans

Herman W. Rattliff, Vice Chairman
Pat Freibert
Harold Haering
Elvin Elmer Patrick
Albert Robinson

TRANSPORTATION

Democrats

N. Clayton Little, Chairman
Hoover Dawahare, Vice Chairman
Ronald R. Cyrus, Vice Chairman
David E. Boswell
L. E. (Gene) Cline
Clay Crupper
C. M. (Hank) Hancock
Roy Joe Head
Jim Maggard
William K. (Bill) McBee
Virgil L. Pearman

Dan (Malano) Seum
Sam B. Thomas

Republicans

Harold Haering, Vice Chairman
Ronny Layman
Clarence Noland, Jr.
Herman W. Rattliff

RULES COMMITTEE

Democrats

Speaker Bobby H. Richardson, Chairman
Adrian Arnold
Ward (Butch) Burnette
Lloyd E. Clapp
Allene A. Craddock
Clay Crupper
Willliam (Bill) Donnermeyer
James R. Dunn
Robert A. (Bob) Jones
Mae Street Kidd
Jim LeMaster
William K. (Bill) McBee
Mark D. O'Brien
Charles O. Petty
Paul W. Richardson

Republicans

Willard (Woody) Allen
Charles R. Holbrook III
Edward L. Holloway
Herman W. Rattliff
Arthur L. Schmidt

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 7, HB 45, HB 46, HB 83, HB 84, HB 85, HB 108, HB 109, HB 110, HB 111, HB 112.**

Appropriations and Revenue: **HB 2, HB 8, HB 12, HB 16, HB 27, HB 93, HB 102, HB 145.**

Banking and Insurance: **HB 6, HB 11, HB 86, HB 87, HB 104, HB 113, HB 114, HB 143.**

Business Organizations and Professions: **HB 13, HB 103, HB 124, HB 139, HR 5.**

Cities: **HB 5, HB 118, HB 119, HB 133, HB 134, HB 138, HR 1.**

Counties and Special Districts: **HB 22, HB 24, HB 59, HB 107, HB 116, HB 135.**

Education: **HB 29, HB 30, HB 36, HB 48, HB 49, HB 60, HB 61, HB 62, HB 63, HB 64, HB 65, HB 66, HB 67, HB 68, HB 69, HB 71, HB 72, HB 73, HB 74, HB 75, HB 76, HB 77, HB 78, HB 79, HB 80, HB 81, HB 95, HB 136, HB 137, HB 70.**

Energy: **HB 28, HB 47, HB 51, HB 142, HB 150, HR 3, HR 4.**

Health and Welfare: **HB 1, HB 32, HB 34, HB 43, HB 91, HB 97, HB 106, HB 121, HB 125, HB 126, HB 128.**

Judiciary-Civil: **HB 14, HB 21, HB 35, HB 53, HB 58, HB 99, HB 101, HB 141, HB 149.**

Judiciary-Criminal: **HB 20, HB 25, HB 26, HB 33, HB 54, HB 55, HB 56, HB 88, HB 96, HB 105, HB 148.**

Natural Resources and Environment: **HB 15, HB 19, HB 94, HB 100, HB 123, HB 129, HB 130, HB 131, HB 132, HB 140, HB 147, HR 6, HR 8.**

State Government: **HB 3, HB 4, HB 9, HB 10, HB 17, HB 23, HB 37, HB 52, HB 57, HB 89, HB 90, HB 98, HB 117, HB 120, HB 122, HB 127, HB 144, HB 146, HR 2**

Transportation: **HB 18, HB 31, HB 38, HB 39, HB 40, HB 41, HB 42, HB 44, HB 50, HB 82, HB 92, HB 115**

Motions, Petitions and Communications

Representative LeMaster moved the adoption of the following **HR 7:**

HR 7, A RESOLUTION in loving memory of Speaker William G. Kenton.

In kindest respect we pay tribute to our loved and loving friend.

WHEREAS, the great Stream of Life flows onward toward that final union with Almighty God, to pass eternity in His embrace; and

WHEREAS, William Kenton, servant to the humble and counsel to the mighty, has crossed that bourne from which no traveler returns, to rise toward such final union like the mist at morning; and

WHEREAS, many are called but few are chosen to assist, to advise, to lift up sagging spirits, to console, to dream great dreams, to lead, to be wise yet humble, to fight the good fight, to strive toward the ideal and to be as a beacon for all to follow, and so it was with William Kenton; and

WHEREAS, this warmest of kinsmen, this compassionate sojourner among his less fortunate fellows will be ever so sorely missed by all those of his fellow Kentuckians fortunate enough to have known and loved him; and

WHEREAS, as each sunset bears the promise of morning, and each raindrop the promise of a blossom, so does the departure from life bear the promise of eternal fulfillment among the angels, and there resides Bill Kenton;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does express hereby its utter sense of loss and bereavement upon the death of William Kenton, and does extend to his family its heartfelt sympathy and condolences.

Section 2. That when the House of Representatives does adjourn this day, January 5, 1982, it does so in loving memory of Speaker William Kenton.

Section 3. That a copy of this resolution be sent to the family of William Kenton.

On the roll call the vote was yeas 89-Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Haering, Hancock, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington. Nays-0.

HR 7 was adopted.

Representative LeMaster moved that the rules be suspended to allow a call of the roll to show co-sponsors of **HR 7.** Agreed.

The following members requested that their names be added as co-sponsors of **HR 7**-Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White.

Announcements

The following meetings were announced:

Education: Tomorrow, regular time.

Natural Resources and Environment: Tomorrow, 12 noon.

Business Organizations and Professions: Cancelled tomorrow.

Transportation: Cancelled tomorrow.

Banking and Insurance: Cancelled tomorrow.

Administrative Regulations: Meets first Wednesday of each month.

The Speaker announced the following members of the Committee to wait upon the Governor: Representatives McNutt, Crupper and Brown.

The Speaker announced a memorial service for former Speaker William G. Kenton in the House Chamber at 3:00 p.m.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, January 6, 1982.

On the roll call the vote was yeas 82-Arnold, Barrows, Bendl, Bennett, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, RobinsonSchmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White. Nays 2-Deskins, Overstreet.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 6, 1980

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend J. Williamson Brown, Jr., Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 5, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 155, by Representatives Patrick, Dawahare, Brown, Caldwell, Cline, Craddock, Cyrus, Endicott, Ford, Foster, Fryman, Guenthner, Head, Hines, Holloway, Layman, Lefevers, Maggard, Noland, Robinson, Schmidt, Stone, Todd, Turner, and White: AN ACT relating to payment of a bonus to certain veterans who served during the Viet Nam conflict and certain persons deriving from them, providing for funding thereof, and appropriating funds for administration.

HB 156, by Representative Rattliff: AN ACT relating to public recreational facilities.

HB 157, by Representative Rattliff: AN ACT relating to retirement.

HB 158, by Representative Farrow: AN ACT relating to cities.

HJR 11, by Representatives LeMaster, B. Richardson, Donnermeyer, Thomason and Dunn: A JOINT RESOLUTION making an appropriation to the Legislative Research Commission for special expenses incurred in connection with sessions of the General Assembly and declaring an emergency.

HB 159, by Representative Stumbo: AN ACT relating to transportation of coal.

HB 160, by Representative Donnermeyer: AN ACT relating to petition signatures.

HB 161, by Representative Donnermeyer: AN ACT relating to territorial exclusivity in the distribution of malt beverages.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Business Organizations and Professions: **HB 153.**

Counties and Special Districts: **HB 152.**

Education: **HB 151.**

Judiciary-Civil: **HB 154.**

Motions, Petitions and Communications

The Speaker announced a meeting of the committee chairmen on adjournment.

The following committee meetings were announced: Appropriations and Revenue, 30 minutes after adjournment; State Government, 12 noon, January 7.

Representative Boswell moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Bronger, **HB 115, HB 116, HB 121;** Representative Burnette, **HB 88;** Representative Endicott, **HB 25, HB 26;** Representative Farrow, **HB 25, HB 26;** Representative Fryman, **HB 25, HB 26;** Representative Ford, **HB 25, HB 26;** Representative Hancock, **HB 98, HB 147;** Representative Harper, **HB 25, HB 26;** Representative Lefevers, **HB 25, HB 26;** Representative Lile, **HB 25, HB 26;** Representative McBee, **HB 25, HB 26;** Representative Moore **HB 25, HB 26;** Representative Morris, **HB 88;** Representative Noland, **HB 25, HB 26;** Representative Petty, **HB 25, HB 26;** Representative Riner, **HB 25, HB 26;** Representative Todd, **HB 25, HB 26.**

Representative LeMaster announced the hours of meeting for the House as follows: Mondays, 4 p.m.; Fridays, 10 a.m.; 2 p.m. on remaining days.

Representative Clarke filed the following Floor Amendment No. 1 to **HB 35:**

Amend printed copy of **HB 35,** page 1, after line 8, add the following sentence as a separate paragraph, "A determination of death must be made in accordance with accepted medical standards."

The Speaker announced the contest of election on the seat for Jefferson #38. The Speaker drew from a list of all House members to choose those nine members to serve on the Board of this contested election. The following members will serve in this capacity: Representatives List, Holbrook, Overstreet, Freibert, Petty, McBee, Bennett, Turner and Long. The oath was administered to the members of this Board by Speaker Richardson. This group will meet on adjournment in the Speaker's office.

Representative Rattliff announced that all members wishing to co-sponsor **HB 25** and **HB 26** are granted permission to do so.

The chairman announced the meeting of the Committee on Agriculture and Small Business has been cancelled for January 7.

The chairman announced a meeting of the Committee on Labor and Industry for 9:00 a.m., January 7, Room 104.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 162, by Representative Little: AN ACT relating to teachers' contracts.

HB 163, by Representative Little: AN ACT relating to sick leave for teachers.

HB 164, by Representative Pearman: AN ACT relating to attorney's fees.

HB 165, by Representative Pearman: AN ACT transferring licensing and registration responsibilities from circuit court clerks to county clerks.

HB 166, by Representative Pearman: AN ACT relating to the licensing of motor vehicles.

HB 167, by Representative Pearman: AN Act relating to state police.

HB 168, by Representative Burnette: AN ACT relating to inheritance tax.

HB 169, by Representative Burnette: AN ACT relating to railroads.

HB 170, by Representative Burnette: AN ACT relating to motor vehicles.

HB 171, by Representative Holbrook: AN ACT relating to university regents and trustees.

HB 172, by Representative List: AN ACT relating to cities.

HB 173, by Representative Heleringer: AN ACT relating to certified public accountants.

HB 174, by Representative Burch: AN ACT relating to crimes and punishments.

HB 175, by Representatives Head, Hines and Thomason: AN ACT changing the classification of the City of Fredonia in Caldwell County.

HB 176, by Representatives Van Horn and Lundergan: AN ACT relating to deputy sheriffs.

HB 177, by Representative Handy: AN ACT relating to official museums.

HB 178, by Representatives Van Horn, Bruce and Morris: AN ACT relating to state highway contracts.

HB 179, by Representatives F. Smith, Stone, Cyrus, and Noe: AN ACT relating to volunteer firefighters.

HB 180, by Representatives Guenthner and Bronger: AN ACT relating to motor carriers.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, January 7, 1982.

On the roll call the vote was yeas 81-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Worthington, Yates. Nays 7-Deskins, Fryman, Guenthner, Hancock, Heleringer, Overstreet, Perkins.

The motion to adjourn was adopted.

THURSDAY, JANUARY 7, 1982

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Billy G. Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Stone.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 6, 1982 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 181, by Representatives Clarke an O'Brien: AN ACT relating to revenue and taxation.

HB 182, by Representatives Morris and Bruce: AN ACT relating to controlled substances.

HB 183, by Representatives Clarke and O'Brien: AN ACT relating to revenue and taxation.

HB 184, by Representatives Morris and Blandford: AN ACT relating to taxation.

HB 185, by Representatives Cyrus and F. Smith: AN ACT relating to insurance.

HB 186, by Representatives Cline, Brinkley, Brown, Cyrus, P. Richardson, Worthington, Blevins, Freibert, and Perkins: AN ACT relating to elections.

HB 187, by Representatives Farrow and Van Horn: AN ACT relating to county police officers.

HB 188, by Representatives McBee and Petty: AN ACT relating to liability of persons donating items of food to nonprofit organizations.

HR 12, by Representative LeMaster: A RESOLUTION directing appointment of a committee to wait upon the Governor.

HJR 13, by Representative Barrows: A RESOLUTION directing the department of education to develop and implement a pilot program to determine the actual cost per pupil of programs funded through the foundation program.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 155, HB 168.**

Business Organizations and Professions: **HB 161, HB 173.**

Cities: **HB 158, HB 172, HB 175.**

Counties and Special Districts: **HB 176.**

Education: **HB 162, HB 163, HB 171.**

Judiciary-Civil: **HB 164.**

Judiciary-Criminal: **HB 174, HB 178.**

Natural Resources and Environment: **HB 156, HB 160.**

State Government: **HB 157, HB 177.**

Transportation: **HB 159, HB 165, HB 166, HB 167, HB 169, HB 170, HB 179, HB 180.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HR 1.**

Judiciary-Civil: **HB 14, HB 53, HB 154.**

Counties and Special Districts: **HB 22, HB 24.**

Energy: **HB 51, HB 47, HR 3, HR 4.**

Motions, Petitions and Communications

HR 12, by Representative LeMaster: A RESOLUTION directing appointment of a committee to wait upon the Governor.

Representative LeMaster moved the adoption of the following **HR 12:**

HR 12, A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform him that the General Assembly is prepared to receive any message he may care to deliver.

HR 12 was adopted by voice vote.

The Speaker announced the following members of the committee to wait upon the Governor: Representatives McNutt, Crupper, Brown, and P. Richardson.

Representative LeMaster moved that the Committee Chairmen be allowed to request that bills incorrectly referred to their committees be re-referred. Agreed.

Representative Boswell moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Bronger, **HB 123;** Representative Burch, **HB 25, HB 26;** Representative Caldwell, **HB 25, HB 26;** Representative Ford, **HB 15;** Representative Foster, **HB 25, HB 26;** Representative Fryman, **HB 15;** Representative Haering, **HB 25, HB 26;** Representative Lile, **HB 9, HB 43, HB 106;** Representative Morris, **HB 185;** Representative Perkins, **HB 159;** Representative Turner, **HB 25, HB 26.**

Representative Bronger requested that his name be withdrawn as co-sponsor of **HB 121.**

Representative Bendl moved that **HB 91** be reassigned to the Committee on Natural Resources and Environment. Agreed.

Representative Little moved that **HB 50** be reassigned to the Committee on State Government. Agreed.

Representative Little moved that **HB 167** be reassigned to the Committee on State Government. Agreed.

The following meetings were announced:

Board of Elections Contest Committee: January 8, Speaker's Office.

Second Congressional District Meeting: Monday, January 11, 2:00 p.m.

Budget Subcommittee, Appropriations and Revenue: 15 minutes after adjournment, Room 12.

First District: Tuesday, January 12, 9:00 a.m., Lounge.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 189, by Representatives Van Horn, Bennett, Patrick and Little: AN ACT relating to education.

HB 190, by Representatives R. Jones and Clarke: AN ACT relating to state employes.

HB 191, by Representative Johnson: AN ACT relating to court costs.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 38, HB 39, HB 40, HB 41, HB 42.**

Health and Welfare: **HB 128, HB 34.**

Judiciary-Criminal: **HB 20, HB 25, HB 26, HB 88.**

Banking and Insurance: **HB 113.**

Recess

Representative LeMaster moved that the House recess until 8:30 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative LeMaster moved that the rules be suspended for Report of Committees. Agreed.

Report of Committees

The Committee on Committees reported **HJR 11** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 11, A JOINT RESOLUTION making an appropriation to the Legislative Research Commission for special expenses incurred in connection with sessions of the General Assembly and declaring an emergency.

WHEREAS, additional personnel are necessary to expedite properly the business of the Senate and the House of Representatives; and

WHEREAS, the present appropriation of the Legislative Research Commission is insufficient to provide adequate clerical services to the General Assembly;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That there be appropriated from the General Expenditure Fund to the Legislative Research Commission the sum of ten thousand six hundred seventy-four dollars ($10,674) per calendar day during all regular and special sessions of the General Assembly. This appropriation shall be available for expenditure during the 1981-82 and 1982-83 fiscal years.

Whereas, the General Assembly is now in session and it is necessary that these funds be available immediately, an emergency is declared to exist and this resolution shall become effective upon its passage and approval by the Governor, and shall be retroactive to include payment of compensation to such personnel from and including January 5, 1982.

The Committee appointed to wait upon the Governor reported that the Governor was ready to address the Joint Session.

The Honorable Joseph W. Prather, President Pro Tempore of the Senate, and the members of the Senate entered upon the floor of the House.

Representative LeMaster moved that the House and Senate now resolve into Joint Session. Agreed.

The House Sergeant at Arms introduced the Honorable Joseph W. Prather, President Pro Tempore of the Senate.

Joint Session

The Speaker vacated the Chair, whereupon the Honorable Joseph W. Prather, President Pro Tempore of the Senate, assumed the Chair and called the Joint Session to order.

Representative LeMaster moved to dispense with a call of the roll. Agreed.

Prayer by Reverend Dennis W. Jones, First Presbyterian Church, Frankfort.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort him to the House to address the Joint Session, appeared with the Governor.

The Honorable Joseph W. Prather introduced the Honorable John Y. Brown, Jr., Governor of the Commonwealth of Kentucky.

Governor Brown addressed the Joint Session of the General Assembly as follows:

Lieutenant Governor Collins
Speaker Richardson
Members of the General Assembly
My Fellow Kentuckians

We are meeting here tonight to begin what is the most important session of the Kentucky General Assembly in modern times.

When I presented you a budget two year ago, neither the Executive nor the Legislative Branches could have anticipated in the winter of 1980 the dramatic events which have occurred in the last 18 months. The economic recession which gripped the nation had an unprecedented impact on Kentucky state government and its revenue collections. To make matters worse, the federal budget cuts cost Kentucky over $400 million in funding the public services. As a direct result of the recession and reduced federal funding, actual revenue collections during the biennium were over $1 billion less than the spending you authorized in the enacted budget. The shortfall in this year's General Fund alone exceeded 12 percent of the budget you enacted two years ago.

The Executive Branch had two choices in meeting these shortfalls: either reduce the level of state spending to live within our means or ask you to consider tax increases. I chose to reduce the level of state spending as you authorized and directed me to do by law. These reductions were achieved in part by reducing the level of state employment so that today we have nearly 6,000 fewer state employees, or 16 percent less than we had just two years ago. Because Education and Human Services accounted for 80 percent of the budget, we were forced to make some reductions in these areas. Yet I am convinced that the reductions we made, while difficult, were done in a fair and equitable manner and were sensitive to the needs of our people. As a result, our budget is now balanced — essential state services are still being provided — and we have not had to raise taxes.

I am happy to report that Kentucky is in good shape as a State — much better shape, in my view, than most other states during this recessionary period and in much better shape than when we met on this same occasion two years ago. At that time, I talked to you about the plight of our state — both fiscally and structurally. Government in general, and State government in Kentucky in particular, had grown too big. Our state was spending more money than it was taking in. State employment was far too large. Many new programs had been announced and popularly promoted that we simply could not afford.

Because we have reduced the size, scope, and cost of state government, I am able to present to you tonight a budget for the 1982-84 biennium that is balanced and provides the essential services of our state. And it does not burden Kentuckians with new or increased taxes.

This is a responsible budget. A sensitive budget. It is a budget with a heart that shows our concern for the needy. And considering the economic times we're in, I think you will find this budget a positive, forward-thinking approach to managing this state in the best interests of Kentuckians throughout the Commonwealth.

The budget you have before you reflects the best judgment of the Executive Branch of government as to the proper expenditure of existing tax resources. And I am presenting this budget in the first week of your Session so that you will have an unprecedented amount of time to carefully review each and every spending recommendation. The budget I am recommending provides for less than a one percent increase in total spending over the 1980-82 budget you enacted two years ago. In the General Fund specifically, this budget actually provides for $18 million less spending in 1983 than was contained in the original 1982 budget.

I think that's worth repeating — You have on your desks, for your consideration and with my firm recommendation, a two-year budget that is less than one percent higher than the budget we enacted two years ago, and with substantially fewer General Fund dollars in 1983 than we once thought was necessary to operate government in 1982.

This budget is basically the same size as the budget we enacted two years ago, with less than one percent difference. Previously, government had been growing at a rate of 25 percent or more each biennium over the past decade. The enacted budget in 1980 went from $7.5 billion to $9.9 billion, an increase of over 30 percent.

From the beginning, we concentrated on cutting out waste, unnecessary programs and duplication and literally challenged every department of state government to justify its existence. Over the last two years the state has experienced a shortfall of $1 billion.

We now have a smaller base and are prepared to move forward providing the essential services of state government.

In this budget, we now have clearly established our top priorities of education and human services, and I think we have a more effective delivery system for the services of state government with a smaller and more dedicated and better trained and directed state work force.

I'm proud of the way in which everyone associated with state government has responded to these difficult times, particularly state employees and educators who have worked so hard to maintain and even improve services during these difficult times.

Everyone in state government is thinking cost. And I think that's healthy.

Before making these recommendations to you, I personally reviewed the budget of every major agency, each of which was mandated to live within existing revenues. That wasn't easy. It meant that, in order to come up with more money for our essential programs, some worthwhile programs could not be funded in this budget. These programs may have been affordable in times of economic plenty — today they are simply too expense. My budget does not recommend any funding for them. There is "no free lunch." We simply could not afford everything we would liked to have done. Our focus had to be on the essential programs and services.

In this budget, education continues to be my top priority and the most important element in the education process is the classroom teacher. That is why this budget before you includes salary increases for teachers that will keep their pay comparable to that of teachers in the other states in our region. The budget includes a $1,285 raise in 1983 and a $1,338 raise in 1984 in the average state expenditure for instructional salaries. Counting local support, the average teachers' salary will approach $20,000 over the biennium. The budget also provides a 10 percent increase each year for transportation and other operating expenses of our schools.

Another program I support is kindergarten. We've had a kindergarten program on the books and in the budget for some years now, but it has been hindered by being merely an optional program. The new budget anticipates that you will replace this option in the law with a provision requiring all children to attend kindergarten before they enter the first grade. I recommend this change to you for two reasons — one is that the present program is not working satisfactorily. Only about 75 percent of eligible children enroll, and not all of these even end up attending. Still, the major reason I support kindergarten as a prerequisite to first grade is that I'm convinced it is good — it helps the children learn and grow as young people.

The budget also provides for a cost-of-living increase for retired teachers and a $6.5 million appropriation in fiscal year 1984 to increase the state's contributions in the benefit formula for retirees.

While the budget reflects funding to continue the free textbooks program in all grades, it does not include funds for instructional fees. Legislation will be introduced by the General Assembly allowing these funds to be generated at the local level.

I am still reviewing the recommendation of the Council on Higher Education, the private management study, and the report of the Prichard Committee. I have not yet finalized my decision in this area but will make specific recommendations for higher education when I address the State of the Commonwealth later in the session.

During this period, I will be seeking the input of the General Assembly as to the appropriate mission of the individual institutions, the need to eliminate unnecessary duplication in higher education, and the distribution of higher education funds among the various institutions.

Within higher education, however, I have already made several specific recommendations. One is that we must first maintain the facilities we already have, before we even think about funding a new construction program. I also believe we have an obligation to help our college students as they strive to achieve a higher education. Federal budget cuts and tuition increases have placed a tremendous burden on our students. Therefore, I am recommending an increase in General Fund support of both the State Student Incentive Grant and Kentucky Tuition Grant programs in amounts equivalent to the increase in tuition that is expected. I am also recommending that you endorse an increase in bonding authority for the Kentucky Higher Education Student Loan Corporation. These increases will put our money and priorities into our most important resource — the minds and energies of our young people.

For too long, progress in higher education in Kentucky has been measured in terms of quantity, rather than quality. One of the recommendations in the Prichard Committee report that I wholeheartedly support is the recognition of the need for excellence in higher education. Therefore, I have included in the budget $1 million to create a Fund for Excellence to reward the achievement of excellence of faculty and students in higher education.

The long-term future for the funding of education and all other state programs depends on our ability to expand our tax base through economic development. Two years ago I asked you to give me the tools to work with in promoting our state. You responded affirmatively and we are now seeing the results. We have helped stimulate over $2.8 billion in new private investment that will create over 23,000 jobs. We have spread the word that Kentucky means business wherever we have gone, and industrial leaders are responding positively. Right now we are working with nearly 200 industrial prospects who are strongly considering locating in Kentucky.

For the 1982-84 biennium, I am asking you to renew your commitment to economic development. I am recommending that we strengthen the Economic Development Bond program with $75 million in bonding authority in the new biennium. I want to use the new authorization, with your approval, to enhance a whole range of public projects in the next two years.

Complementing our development efforts is the Kentucky Development Finance Authority. The budget includes $50 million in new bonding authority for this program which also proved its worth in making loans to manufacturing, agribusiness, and tourism projects.

Our success in economic development will not come at the expense of our environment. Our quality of life and the condition of our natural environment are inseparably bound together. We live in a state that is literally a glory to behold in its richness, diversity and beauty. We have no intention of retreating from the environmental goals established in our statutes and in the expectations of our citizens. In contrast to the federal government, we are continuing all of our environmental programs throughout the 1982-84 biennium — they are essential.

Of all of our natural resources, none is more basic, and more important, than our land and what it offers us. The agricultural products grown in Kentucky, and the agribusinesses profiting from these products, mean millions of dollars and thousands of jobs to Kentuckians. We have always recognized the importance of agribusiness, but we have not always used our advantage to the fullest. Historically, we, as a state government, have been weak in the area of export market development and sales. We are making significant progress in this area and have already entered into important trade agreements with Italy and Mexico. The new budget funds an expanded effort in this international arena.

The same can be said for our energy development, and synfuels programs. For the better part of a decade, Kentucky has led the nation in synfuels development. My predecessors, both in the Governor's Office and General Assembly, have acted wisely in promoting this use of our coal. The budget before you tonight builds on that record in important ways by promoting the use and sale of Kentucky coal, and by funding our Energy Research and Demonstration Trust Fund. We are already looking at over $14 billion in proposed synthetic fuels investments in Kentucky. That is a record you can be proud of — you backed it, you passed it, and you funded it when it was new and innovative. Today it is beginning to fulfill its promise and the future is bright.

An underlying problem with state government for many years has been the level of compensation of our state employees. The budget addresses this problem by initiating a Competitive Pay Structure Fund which will realign our state pay structure to be comparable with the private sector. I have supported, and this budget reflects, my personal view that fewer, better paid employees are the best way to get the job done.

No category of state employees has earned more public support and respect than our State Police. The orientation of the State Police has been broadened in the past two years to concentrate more than ever before on white collar crime, public integrity, and economic fraud. The budget recognizes the need to strengthen these efforts by funding new state trooper positions.

Even in a tight budget there are some problems that must be addressed. For example, we have been working under a Federal Court Order concerning our state prison system. While I know it may not be popular to say so, I am supporting that Court Order and the budget reflects it. We are embarking on a program of prison modernization, job training for inmates, and basic constitutional standards unprecedented in Kentucky's history.

In this same vein, many of you have no doubt been hearing a lot about your county jails. I know Representative Arnold, as well as members of my Administration, have looked long and hard at this issue. The same problems facing our state prison system are confronted by local governments when they look at their jails.

I just signed an Executive Order creating a Jail Standards Commission to help resolve this problem. Fiscally, the time is not right for the state to offer much more in the way of assistance to local jails. But the need is there. I recognize it and you do too. I'm willing to work with you on legislation this Session to make some positive changes in statute and administration of our present jails programs.

Additionally, we cannot ignore the problem in the medical examiner system. Therefore, this budget reflects a substantial increase in the funding for the medical examiners program to provide improved access to state laboratories and professional support for all 120 county coroners.

In the last two years, we have also experienced major shortfalls in funds available for roads and highways, and their maintenance and upkeep. We haven't had a good year in the Road Fund since 1976, and last year's receipts were the lowest we've received since 1977. Even though modest increases are estimated for the next two years, they in no way compare with the need and demand for highway maintenance and construction.

I thought you, as a General Assembly, took a courageous and far-sighted stand last session when you approved the adjustment in our gasoline tax base. I still think that was the proper course, and you are to be commended for having accepted this challenge. Many other states did not have that wisdom or courage.

Unfortunately, however, the adjustments made last time have not solved our problem. More stability in gas prices and better public conservation efforts worked together to hold down the revenues we expected.

So far, we've been able to cope with the shortfall by better management. We have in place a five-year Highway Plan that is without precedent in this state. As a result, roads are being built and maintained on the basis of need and priority.

As we are experiencing the changing role of the federal government, sometimes called the new Federalism, the areas most drastically affected are local governments and human services. Basically, this new Federalism involves the shifting of previous federal responsibilities to state and local governments, but without the funding needed to support these responsibilities.

When I presented to you in the 1980 Session the Local Government Economic Assistance Act, I did so because I truly feel that local government is the most important level of government. Little did we realize at that time that this severance tax revenue sharing program, which will provide $120 million in the next two years, would enable many of our cities and counties to continue the essential services previously funded by the federal government.

Similarly, I presented to you in the 1980 Session a gas tax revenue sharing plan for local governments. Last fiscal year over $40 million was sent to local governments under this program, a $12 million increase over what would have gone back under the old formula. In the next biennium, we estimate local governments will receive $89 million under this program.

I've been extolling the merits of our Kentucky revenue sharing programs with local governments. They are good, sound programs because they reflect the priorities of people at the receiving end of the services. Where we conferred additional responsibility on local governments, we, the Legislature and the Executive, provided them with the fiscal resources, the dollars, to carry them out. I am committed to maintaining our support for the program. Unlike the federal government, which is cutting revenue sharing to local governments at a time when they most need it, we must honor our commitment and obligation to the people.

As a result of the federal budget cuts, the Kentuckians who have suffered the most are the aged, the handicapped, and the disadvantaged. It is for this reason that in the budget I present to you tonight I have recommended the Department for Human Resources receive the largest percentage increase of any major area of the government.

The much publicized federal block grants arrived as thinly disguised budget cuts with cuts up to 30 percent in some areas. The federal government contrived to merge longstanding categorical assistance programs into so-called block grants. Then they reduced the dollars available in the block grants. And then, they came back and mandated that state governments continue to provide the services for which they had just cut the funding.

Our Human Resources Department has taken a pounding from these cuts. We accepted the federal block grants, even with the reduced funding, in an effort to set our own priorities, rather than have Washington dictate them.

On a priority basis, we have tempered the effects of some of these cuts. For example, we could not let our Comprehensive Care Centers suffer the full extent of federal cuts. The mental health, mental retardation, alcohol and drug abuse programs provided by these centers treat about 70,000 Kentuckians. The impact of federal cuts will be made up by realigning priorities in state government. Clearly, these were not easy decisions, but they were affordable, and they were sharply focused on our top priorities.

The elderly citizens of Kentucky will receive the benefits of a strengthened and revitalized In-home Services program. The recommended budget would expand the program to include home-delivered meals, homemaker, and home health aide services directed toward helping our elderly citizens to remain in their homes and out of institutions.

The primary health care program will get the largest percentage increase of anything in the budget. I am proposing that the chronically underserved communities of this state be targeted for primary care center development, including local fund raising drives, the purchase of technology, and one-time low interest loans to purchase land or refurbish existing buildings.

As much as we may hate to admit it, child abuse and neglect, and spouse abuse are all too common in society today. The victims often have no place to turn, but unless there is a suitable alternative, the abuse continues. The budget for the next two years will greatly increase state funding for family crisis centers, which include spouse abuse and related programs.

The largest part of the human services budget is Medicaid, a program which, in my view, is essential for providing health care to people who cannot afford it. However, health costs have been out of control. As a result, we had to initiate a Medicaid Cost Containment program to dramatically reduce the rate of increase of the Medicaid budget. The dollars involved are mind-boggling, jumping over 20 percent per year so that by 1980, Medicaid took over $300 million from the budget. Even with our cost containment efforts, Medicaid costs to the state will increase by $70 million over the biennium. However, I believe it is essential that the General Assembly concur with my budget recommendation for Medicaid so that adequate health care remains available for our citizens.

You have my budget recommendations. I have instructed the entire Executive Branch to be at your disposal to assist you as you start your work. The decisions you will make during the next ninety days will chart the course of state government in Kentucky and have a direct effect on the lives of every person in our Commonwealth, not only this biennium but for decades to come.

I would like to leave you tonight with the words of one of our greatest Presidents, a man whose compassion for the needy and disadvantaged is legendary, Franklin Delano Roosevelt, who stated: "The strength of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little." I am confident that you and I, working together, will provide a financial plan that will reflect the sensitivity and compassion that the citizens of the Commonwealth expect and deserve.

Representative LeMaster moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Representative LeMaster moved that the rules be suspended to adjourn by voice vote. Agreed.

Adjournment

Representative LeMaster moved that the House adjourn until 10:00 a.m., Friday, January 8, 1982.

The House adjourned by voice vote.

FRIDAY, JANUARY 8, 1982

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Donald Nunnelley, First Christian Church, Frankfort.
The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Bennett, Heleringer, and Stone.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 7, 1982 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 192, by Representatives Haering, Clark, Burnette, Riner, Moore, Burch and Johnson: AN ACT relating to fish and wildlife.

HB 193, by Representative Schmidt: AN ACT relating to liquidation of university property.

HB 194, by Representatives Bruce, Morris, Brinkley, Bendl, Bennett, Bronger, Caldwell, Cowan, Dunn, Guenthner, Harper, Heleringer, Holbrook, Holloway, Little, McNutt, Petty, Richards, Schmidt, B. Smith, Thomason, and Williams: AN ACT relating to banks.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 181, HB 183, HB 184.**

Banking and Insurance: **HB 185.**

Counties and Special Districts: **HB 187.**

Education: **HJR 13.**

Judiciary-Civil: **HB 188, HB 191.**

Judiciary-Criminal: **HB 182.**

State Government: **HB 186, HB 190.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **HB 35.**

Education: **HB 60, HB 61, HB 62, HB 63, HB 64, HB 65, HB 66, HB 67, HB 68, HB 69, HB 70, HB 71, HB 72, HB 73, HB 74, HB 75, HB 76, HB 77, HB 78, HB 79, HB 80, HB 81, HB 136.**

Counties and Special Districts: **HB 135.**

Calendar

HJR 11 taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Committee Appointments

The Speaker announced the Committee on Committees has appointed the following members to serve on the Enrollment Committee for the 1982 session: Representatives Kidd, Chairman; Priddy, Vice Chairman; Foster, Harper and Handy.

Motions, Petitions and Communications

Representative Clarke announced that all members wishing to co-sponsor **HB 181** and **HB 183** may have permission to do so.

Representative LeMaster moved that the Proposed Regulations be sent to the Committee on Committees for referral. Agreed.

Representative Boswell moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Bendl, **HB 181, HB 183;** Representative Burnette, **HB 27;** Representative Clark, **HB 181, HB 183;** Representative Crupper, **HB 181, HB 183;** Representative Donnermeyer, **HB 34;** Representative Foster, **HB 181;** Representative Foster, **HB 183;** Representative Fryman, **HB 27;** Representative Hancock, **HB 147;** Representative Lile, **HB 26, HB 135, HB 183;** Representative Little, **HB 25;** Representative Rapier, **HB 181, HB 183;** Representative P. Richardson, **HB 181, HB 183.**

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 195, by Representatives Cyrus, Little and Deskins: AN ACT relating to the issuance of motor vehicle registration plates and drivers' licenses.

HB 196, by Representatives Little, Deskins and Cyrus: AN ACT relating to housing, building and construction.

HB 197, by Representatives Dunn and Bronger: AN ACT relating to watchmakers.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 143.**

Announcements

Representative Clarke announced a meeting for budget briefing, Monday, January 11, 1:30 p.m., Room 109.

Adjournment

Representative LeMaster moved that the House adjourn until 4:00 p.m., Monday, January 11, 1982.

On the roll call the vote was, YEAS: 69-Allen, Arnold, Barrows, Blandford, Boswell, Brinkley, Bronger, Burch, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Endicott, Farrow, Ford, Gray, Hancock, Handy, Head, Hines, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McNutt, Meyer, Moore, Noe, Noland, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams. Nays: 5-Deskins, Foster, Guenthner, Holbrook, Overstreet.

The motion to adjourn was adopted.

MONDAY, JANUARY 11, 1982

FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Donald Nunnelley, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Endicott.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 8, 1982 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 32.**

Introduction of Bills and Resolutions

HB 198, by Representatives Petty, Holbrook and Meyer: AN ACT relating to depository of school boards.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 194.**

Business Organizations and Professions: **HB 197,** Proposed Regulations 810 KAR 1:018, 810 KAR 1:009.

Cities: Proposed Regulation 815 KAR 7:050.

Education: **HB 193.**

Energy: **HB 196.**

Natural Resources and Environment: **HB 192.**

State Government: **HB 189.**

Transportation: **HB 195.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 153, HB 161, HR 5.**

Recess

Representative LeMaster moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to Order.

Motions, Petitions and Communications

Representative Boswell moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Layman, **HB 25, HB 26;** Representative Little, **HB 26;** Representative Moore, **HB 7, HB 135;** Representative Thomas, **HB 155.**

Announcements

Representative Donnermeyer announced a meeting of the Democratic caucus one-half hour after adjournment, Wednesday, January 13, Room 109.

The Chairmen of the following Committees announced meetings as follows:
Appropriations and Revenue, Energy Subcommittee: Budget Review, organizational meeting, Tuesday, January 12, 9 a.m., Room 106.

Cities: Tuesday, January 12, 8:30 a.m., Room 104.

Counties and Special Districts: Tuesday, January 12, 8:30 a.m., Room 105.

Energy: Tuesday, January 12, 12 noon, Room 103.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Committee Consideration. Agreed.

Introduction of Bills and Resolutions

HB 199, by Representative Noe: AN ACT relating to school board members.

HB 200, by Representatives Yates and Mann: AN ACT relating to offices and officers.

HB 201, by Representative Clarke: AN ACT relating to teacher certification.

HR 14, by Representative F. Smith: A RESOLUTION relating to the Kentucky Frog Jumping Championship.

HB 202, by Representatives Cyrus and Rattliff: AN ACT relating to railroads.

HB 203, by Representative White: AN ACT relating to the status of disabled teachers and superintendents.

HB 204, by Representatives Stone, Hancock, Cyrus, Brinkley, Gray and Clapp: AN ACT relating to motor vehicle operator's licenses.

HB 205, by Representatives P. Richardson, Bendl, Bronger, Clarke, Crupper, Curd, Farrow, Guenthner, Hancock, Handy, Hines, Maggard, Noe, Perkins, Rapier and Turner: AN ACT relating to admittance to public places.

HB 206, by Representatives Noe, LeMaster, Bendl, Blevins, Brinkley, Burch, Cline, Cyrus, Dawahare, Donnermeyer, Gray, Hancock, Hines, Holbrook, T. Jones, Kidd, Lefevers, Little, Long, Lundergan, Maggard, Mann, Moberly, Moore, Perkins, Priddy, Rapier, P. Richardson, F. Smith, Stumbo, Stone, Thomas, White and Williams: AN ACT relating to community action agencies.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

Appropriations and Revenue: **HB 181, HB 183.**

Agriculture and Small Business: **HB 83, HB 84, HB 85, HB 110, HB 112.**

Report of Committees

The Committee on Rules reported **HR 11** has been posted for passage in Orders of the Day, January 12, 1982.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, January 12, 1982.

On the roll call the vote was yeas 87-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Hancock, Harper, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 6-Deskins, Guenthner, Handy, Heleringer, Overstreet, Perkins.

The motion to adjourn was adopted.

TUESDAY, JANUARY 12, 1982

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Donald Nunnelley, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Endicott.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 11, 1982 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 207, by Representative Guenthner: AN ACT relating to the sale and merchantability of motor vehicles.

HB 208, by Representative Guenthner: AN ACT relating to cruelty to animals.

HB 209, by Representatives Bruce, Brinkley and Thomason: AN ACT relating to reorganization.

HB 210, by Representatives Stone, Brinkley, Cyrus, Hancock, Noe, Crupper, Farrow, Rapier, Long. T. Jones and Barrows: AN ACT relating to retirement.

HB 211, by Representative Pearman: AN ACT relating to capital construction.

HB 212, by Representative Guenthner: AN ACT changing the classification of the City of Meadowvale, in Jefferson County.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Counties and Special Districts: **HB 206.**

Education: **HB 198, HB 199, HB 201, HB 203.**

Health and Welfare: **HB 205.**

State Government: **HB 200, SB 32.**

Transportation: **HB 202, HB 204.**

Report of Committees

The Committee on Cities reported **HR 1** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 1, A CONCURRENT RESOLUTION urging the cities of the Commonwealth of Kentucky to consider the feasibility of municipal insurance pooling.

WHEREAS, the recent proliferation of legal actions against cities has increased the number and amount of judgments against those cities; and

WHEREAS, the increased potential liability of cities has precipitated an increase in liability insurance premiums that in some instances has been prohibitive; and

WHEREAS, cities are suffering a current economic crisis and often do not have sufficient funds to risk an adverse liability judgment or to pay increased insurance premiums; and

WHEREAS, KRS 65.150 specifically provides that cities may associate for the purpose of insuring themselves;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the cities of the Commonwealth of Kentucky undertake serious consideration of the possible financial benefits to be derived from the formation of one or more associations to purchase municipal liability insurance.

Section 2. That a copy of this resolution be sent to the Executive Director of the Municipal League, Suite 203, Bradley Hall, University of Kentucky, Lexington, Kentucky 40506.

The Committee on Counties and Special Districts reported **HB 135** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 135, AN ACT relating to death benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every full-time police officer, sheriff, or deputy sheriff, who works not less than forty (40) hours per week, elected to office or employed by any county or city or by the state; "fire fighter" means every *fire fighter employed for compensation or on a volunteer basis by the state, or any county, city, fire district or by any other organized fire department recognized, pursuant to KRS 17.250, by the commissioner of insurance as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth* [~~full-time fire fighter who works not less than forty (40) hours per week, employed by any county or city or by the state~~].

(2) The spouse of any police officer, sheriff, deputy sheriff or fire fighter whose death occurs as a direct result of an act in the line of duty shall receive a lump sum payment of twenty-five thousand dollars ($25,000), which sum shall be paid by the state treasurer from the general expenditure fund of the state treasury. If there is no surviving spouse, the payment shall be made to the surviving children.

(3) The benefits payable under this section are in addition to any benefits now or hereafter prescribed under any police, sheriff or fire fighter's retirement or benefit fund established by the state, county, or any municipality.

The Committee on Health and Welfare reported **HB 34** and **HB 128** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 34, AN ACT providing for the establishment of the commission on the deaf and hearing impaired and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

Hearing impaired are persons who have hearing disorders, including deafness. They are people who cannot hear and understand, clearly, speech through the ear alone, with or without hearing aids.

SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

The commission on the deaf and hearing impaired shall consist of one (1) member of the house of representatives appointed by the speaker, one (1) member of the senate appointed by the president pro tem, the secretary of education or his designee, the president of the Kentucky association of the deaf, the president of the Kentucky registry of interpreters for the deaf, and three (3) hearing impaired or deaf persons appointed by the governor from a list of six (6) nominated by the Kentucky association of the deaf and who shall be representative of all deaf and hearing impaired citizens of the Commonwealth. The commission thus constituted shall then appoint one (1) parent of a hearing impaired or deaf child, one (1) representative of a private organization providing consistent services to the deaf and hearing impaired, and one (1) member at large. The commission shall be authorized to fill any vacancy with a person having the qualifications to fill that position. State officials shall serve during their terms of office. The three (3) deaf or hearing impaired persons and the parent of a deaf or hearing impaired child and the representative of a private organization serving the deaf and hearing impaired shall serve three (3) years except that the first appointments shall be for terms of one (1) year for one (1) of these members, two (2) years for three (3) of these members, and three (3) years for one (1) of these members. All members of the commission shall receive twenty-five dollars ($25.00) per day for attending each meeting. Each commission member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.

SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall advise the governor and the general assembly concerning policy and programs to enhance the quality and coordination of services for the deaf and hearing impaired.

(2) The commission shall cooperate with and assist local, state and federal governments and public and private agencies in the development of programs for the deaf and hearing impaired.

(3) The commission shall review legislative programs relating to services to deaf and hearing impaired persons and shall conduct studies of conditions affecting the health and welfare of the deaf and hearing impaired.

(4) The commission shall oversee the provision of interpreter services to the deaf and hearing impaired, and may provide such services if necessary.

SECTION 4. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall employ an executive director who shall serve at the pleasure of the commission. The executive director shall be familiar with the problems of the deaf and hearing impaired.

(2) Subject to the approval of the commission, the executive director shall:

(a) Employ clerical and other staff assistance;

(b) Prepare an annual report on the status of services to the deaf and hearing impaired;

(c) Promote the training of interpreters for the deaf and hearing impaired;

(d) Identify public and private agencies that provide services to the deaf and hearing impaired and cooperate in the coordination and development of these services;

(e) Survey the needs and compile a census of the deaf and hearing impaired.

SECTION 5. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

All departments, divisions, boards, bureaus, commissions or agencies of state government shall provide the commission data necessary to carry out its duties under this Act.

Section 6. There is hereby appropriated the sum of $268,500 for the fiscal year beginning July 1, 1982 and $297,000 for the fiscal year beginning July 1, 1983.

HB 128, AN ACT relating to infants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 214.155 is amended to read as follows:

(1) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.050(1) shall register the birth of a child, and cause to have administered to every such infant or child in its or his care *tests* [~~a test~~] for inborn errors of metabolism, *including but not limited to phenylketonuria (PKU),* in accordance with rules or regulations prescribed by the secretary for human resources. Testing and the recording of the results of such tests shall be performed at such times and in such manner as may be prescribed by the secretary for human resources or his designee.

(2) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of such child on that ground.

The Committee on Energy reported **HR 3** and **HB 47** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 3, A JOINT RESOLUTION extending the tenure of the Special Solar Energy Advisory Committee and directing certain state agencies to report to that committee.

WHEREAS, the Special Solar Energy Advisory Committee has set in motion several activities which are new to the Commonwealth; and

WHEREAS, many of these activities will need continuing oversight; and

WHEREAS, this committee offers valuable expertise and interest in solar activities;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Special Solar Energy Advisory Committee continue its existence through the 1982-1985 legislative interim.

Section 2. That all state agencies directly affected by the actions of the Special Solar Energy Advisory Committee report periodically to that body regarding the progress and the results of its directives.

HB 47, AN ACT relating to income taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

As used in Section 2 of this Act, "qualifying energy property" means property used to generate power from solar radiation, wind, or hydrothermal energy. The term includes the components of active solar systems, passive solar systems, wind energy systems and hydrothermal energy systems, as defined in subsections (1) through (4) of this section.

(1) "Active solar system" means a system of equipment capable of collecting and converting solar radiation into thermal, mechanical or electrical energy, and of transferring these forms of energy to storage or the point of use. It includes water heating, space heating or cooling, and the generation of electrical or mechanical energy. Transfer or storage components are included, except for those which would be required regardless of the energy source being used.

(2) "Passive solar system" means a direct thermal system which utilizes the structure of a building and its operable components to collect, store and distribute heating or cooling during the appropriate times of the year, by utilizing the climate resources available at the site. It includes those portions or components of a building that are expressly designed and required for the collection, storage and distribution of solar energy. Structural components of a building which also are used as part of the energy system, such as supporting walls used also for heat storage, are included only if and to the extent that their cost exceeds that of conventional construction. Multi-purpose components shall include but not be limited to windows or attached greenhouses, if designed as part of a solar system and if south facing. Multi-purpose components shall be included for half of their cost.

(3) "Wind energy system" means a system of equipment capable of intercepting and converting wind energy into mechanical or electrical energy and of transferring these forms of energy to the point of use or storage. It does not include those storage or transfer components which would be required regardless of the energy source being used. Wind equipment used to produce power for transportation is excluded.

(4) "Hydrothermal energy system" means a system of equipment necessary to transmit or use energy from ground or surface water to heat or cool a building or provide hot water for use within the building. It does not include those storage or transfer components which would be required regardless of the energy source being used.

SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) There shall be allowed as a credit against the taxes imposed by KRS 141.020 and 141.040 an amount equal to thirty percent (30%) of the expenditures (including installation cost but excluding any

finance charges) for qualifying energy property installed on premises in Kentucky which are owned or controlled by the taxpayer. The maximum credit which may be claimed by any taxpayer shall be three thousand dollars ($3,000) during the period specified in subsection (13) of this section. In no case shall a system or component or piece of equipment be eligible more than once for the credit provided in this section.

(2) The credit in this section may be claimed for the taxable year in which the installation is completed. The credit may be claimed only for expenditures made during the taxable year for which the credit is claimed or during the immediately preceding taxable year, but in no case for expenditures made before January 1, 1981.

(3) In the case of a husband and wife who file separate returns, the credit may be taken by either, or divided equally, but the combined credit shall not exceed three thousand dollars ($3,000).

(4) In the case of a partnership, of which one or more of the partners are liable for the tax imposed under KRS 141.020, the amount of the credit each partner may claim shall be allocated in the same ratio as profits and losses are shared in the partnership, but the combined credit shall not exceed three thousand dollars ($3,000).

(5) A builder who installs qualifying energy property in a building constructed for resale may elect himself to claim the credit allowed in this section, or may provide the purchaser with necessary documentation or certification so that the purchaser may claim the credit. In no case, however, shall the credit be claimed by both the builder and the purchaser.

(6) In the case where the credit allowed in this section exceeds the tax due for the taxable year, that portion of the credit which exceeds the tax due may be carried over to the succeeding taxable years until the allowable credit has been fully exhausted, or until the credit has been claimed for three (3) successive years, whichever comes first. If a taxpayer qualifies for a credit less than three thousand dollars ($3,000), he may claim part or all of the unused portion of the credit for a later taxable year if he installs additional qualifying property.

(7) This tax credit shall not apply to trusts or estates.

(8) Before any tax credit can be claimed under the provisions of this section, the department of energy must certify that the taxpayer's system is a viable system for using solar, wind or hydrothermal energy and documentation must be provided that the system has been completely installed. Any fee charged by the department of energy for review and certification of a system shall not exceed ten dollars ($10.00).

(9) The department of energy may promulgate such rules and regulations as necessary to maintain commonly accepted energy equipment standards, to effectively conform to the definition of qualifying energy property in Section 1 of this Act and to administer the certification requirements in this section. The regulations (including those describing the application procedure) shall be written in nontechnical language understandable to lay citizens untrained in engineering, architecture, or other technical fields.

(10) With the exception of the certification requirements delegated to the department of energy by this section, the department may promulgate such rules and regulations as necessary to effectively administer the requirements of this Act.

(11) All regulations necessary to implement this Act shall be filed with the legislative research commission in accordance with KRS 13.087 by September 1, 1982.

(12) The department shall report as to the impact of this Act to the 1984 and 1986 General Assemblies and to the appropriate interim committee preceding those General Assemblies. Such report shall include the number and amount of the qualifying energy credits claimed, an estimate of the distribution by income group, the net revenue gain or loss to the Commonwealth attributable to the credits, and such other information as the department deems pertinent to an analysis of this Act.

(13) The provisions of this Act shall apply to all taxable years beginning on or after January 1, 1982, and ending on or before December 31, 1986, and no credit shall be allowed for any taxable year ending after December 31, 1986.

Motions, Petitions and Communications

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Bronger, **HB 106, HB 125**; Representative Donnermeyer, **HB 181, HB 183**; Representative Ellington, **HB 194**; Representative Hancock, **HB 106**; Representative Handy, **HB 106, HB 125**; Representative Hines, **HB 125**; Representative Kidd, **HB 194**; Representative Nett, **HB 106**; Representative Patrick, **HR 2.**

Orders of the Day

HR 11 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 89-Arnold, Barrows, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nay 1-J. Clarke.

HR 11 was adopted and the title agreed to.

Representative LeMaster moved that the vote by which **HR 11** was adopted be reconsidered and said motion be placed on the table. Agreed.

Announcements

The following meetings were announced:

Committee Chairmen: Room 103, on adjournment.

Judiciary/Civil: Wednesday, January 13, Room 103, 9:00 a.m.

Fifth Congressional District, Subcommittee on Redistricting: Room 20, Wednesday, January 13, on adjournment.

Central Kentucky Caucus: Room 20, on adjournment.

Budget Review Hearing on Justice: Wednesday, January 13, Room 103.

Second Congressional District, Subcommittee on Redistricting: Wednesday, January 13, Room 100-101, 10:00 a.m.

Education: Wednesday, January 13, Plaza Tower, 3:30 p.m., joint meeting with Superintendent Barber.

Education: Wednesday, January 13, 10:00 a.m.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees.

Introduction of Bills and Resolutions

HR 15, by Representatives Deskins and Little: A RESOLUTION commending the employes and management of Mine No. 25 of the Beth-Elkhorn Corporation.

HB 213, by Representatives R. Jones and List: AN ACT relating to personal services contracts.

HB 214, by Representatives Clark, Bennett, Rapier, B. Smith, Bronger and Turner: AN ACT relating to discrimination against employes.

HB 215, by Representative Lundergan: AN ACT relating to amateur radio operator's license plates.

HB 216, by Representatives Burnette and Haering: AN ACT relating to crimes and punishments.

HB 217, by Representatives Priddy, Bennett and Lile: AN ACT relating to waste disposal facilities.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 172, HB 118, HB 158, HB 119, HB 133, HB 134.**

Education: **HB 171.**

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, January 13, 1982.

On the roll call the vote was yeas 78-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Foster, Freibert, Fryman, Gray, Haering, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, List, Little, Long, Lundergan, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington. Nays 9-Deskins, Ford, Guenthner, Handy, Heleringer, Lile, Maggard, Overstreet, Perkins.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 13, 1982

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Donald Nunnelley, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Endicott.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 12, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HJR 16, by Representative Stumbo: A JOINT RESOLUTION authorizing and directing a study of the need for and feasibility of establishing within the Commonwealth one or more respiratory clinics for persons suffering from work-related pulmonary diseases and making an appropriation therefor.

HB 218, by Representative R. Jones: AN ACT relating to plumbing.

HB 219, by Representative Mann: AN ACT relating to alcoholic beverage control and making conforming amendments related thereto.

HB 220, by Representative Stumbo: AN ACT relating to the school building authority.

HB 221, by Representative Stumbo: AN ACT relating to the Court of Justice.

HB 222, by Representative Mann: AN ACT relating to leaves of absence for teachers.

HB 223, by Representative R. Jones: AN ACT relating to teacher certification.

HB 224, by Representative Mann: AN ACT relating to local option.

HB 225, by Representative Richards: AN ACT relating to insurance.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Cities: **HB 212.**

Judiciary-Criminal: **HB 208, HB 216.**

Labor and Industry: **HB 207.**

Natural Resources and Environment: **HB 217.**

State Government: **HB 209, HB 210, HB 211, HB 213, HB 214.**

Transportation: **HB 215.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 124.**

Banking and Insurance: **HB 194, HB 114, HB 87, HB 86, HB 11.**

Report of Committees

The Committee on Banking and Insurance reported **HB 113,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 113, AN ACT relating to the Kentucky housing corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation under this chapter but shall not include any fund notes;

(2) "Commonwealth" means the Commonwealth of Kentucky;

(3) "Corporation" means the Kentucky housing corporation created by this chapter;

(4) "Sponsors" means persons, corporations, associations, partnerships or other entities, consumer housing cooperatives and limited dividend housing corporations, associations, partnerships or other entities organized pursuant to the Kentucky Revised Statutes for the primary purpose of providing housing to persons and families of lower *and moderate* income, and shall include without limitation, organizations engaged in the production, origination and development of residential housing units intended to qualify for financial assistance pursuant to Section 8 of the United States Housing Act of 1937, as amended;

(5) "Development costs" means the costs approved by the corporation as appropriate expenditures and credits which may be incurred by sponsors of residential housing, prior to commitment and initial advance of the proceeds of a construction loan or of a mortgage loan, including but not limited to:

(a) Payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the corporation, payments for the purchase of such properties;

(b) Legal and organizational expenses, including payments of attorney's fees, project manager, clerical and other staff salaries, office rent and other incidental expenses;

(c) Payment of fees for preliminary feasibility studies and advances for planning, engineering and architectural work;

(d) Expenses for tenant surveys and market analyses;

(e) Necessary application and other fees; and

(f) Credits allowed by the corporation to recognize the value of service provided at no cost by the sponsors, builders and/or developers;

(6) "Fund notes" means the notes authorized to be issued by the corporation under the provisions of KRS 198A.080;

(7) "Governmental agency" means any city, county, or other political subdivision of the Commonwealth, the Commonwealth and any department, division or public agency thereof, the federal government or any political subdivision of any other state, any public housing authority or any nonprofit corporation or other entity legally empowered to act on behalf of any of the foregoing to perform the duties of a public housing authority, or any two (2) or more thereof;

(8) "Housing development fund" means the housing development fund created by KRS 198A.080;

(9) "Insured construction loan" means a construction loan for land development or residential housing which is secured by a mortgage either insured or guaranteed by or for which there is a commitment to insure or guarantee by (a) the United States of America or any agency or instrumentality thereof; or (b) any other entity which has been duly approved for the insuring of such loans by the United States of America or by the Commonwealth of Kentucky or any agency or instrumentality thereof;

(10) "Insured mortgage" or "insured mortgage loan" means a mortgage loan for land development for residential housing or for residential housing either made, insured or guaranteed by or for which there is a commitment to make, insure and guarantee by (a) the United States of America or any agency or instrumentality thereof; or (b) any other entity which has been duly approved for the insuring of such loans by the United States of America or by the Commonwealth or any agency or instrumentality thereof and shall also refer to and mean any loan for residential housing not secured by mortgage which is insured or guaranteed to at least eighty-five percent (85%) of its principal amount by the United States of America or any agency or instrumentality thereof;

(11) "Land development" means the process of acquiring land primarily for residential housing construction for persons and families of lower *and moderate* income and making, installing or constructing nonresidential housing improvements, including water, sewer and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities and other installations or works, whether on or off the site, which the corporation deems necessary or desirable to prepare such land primarily for residential housing construction;

(12) "Obligations" means any bonds, bond anticipation notes or fund notes authorized to be issued by the corporation under the provisions of this chapter;

(13) "Persons and families of lower *and moderate* income" means persons and families of insufficient personal or family income to afford decent, safe and sanitary residential housing without the financial assistance of the corporation as determined from time to time by the standards established by the corporation acting by and through its board of directors;

(14) "Residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations for persons and families of lower *and moderate* income, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, and such other non-housing facilities as may be incidental or appurtenant thereto; and

(15) "Tenant programs and services" means services and activities for persons and families living in residential housing, including the following:

(a) Counseling on household management, housekeeping, budgeting, and money management;

(b) Child care and similar matters;

(c) Access to available community services related to job training and placement, education, health, welfare, and other community services;

(d) Guard and other matters related to the physical security of the housing residents;

(e) Effective management-tenant relations, including tenant participation in all aspects of housing administration, management and maintenance;

(f) Physical improvements of the housing, including buildings, recreational and community facilities, safety measures, and removal of code violations;

(g) Advisory services for tenants in the creation of tenant organizations which will assume a meaningful and responsible role in the planning and carrying out of housing affairs;

(h) Procedures whereby tenants, either individually or in a group, may be given a hearing on questions relating to management policies and practices, either in general or in relation to an individual or family.

Section 2. KRS 198A.020 is amended to read as follows:

(1) The general assembly hereby finds and declares that as a result of the spread of slum conditions and blight to formerly sound urban and rural neighborhoods and as a result of actions involving highways, public facilities and urban renewal activities there exists in the Commonwealth a serious shortage of decent, safe and sanitary residential housing available at prices or rentals which can be afforded by persons and families of lower *and moderate* income. This shortage is severe in certain urban areas of the state, is especially critical in the rural areas, and is inimical to the health, safety, welfare and prosperity of all residents of the Commonwealth and to the sound growth of Kentucky communities.

(2) The general assembly hereby finds and declares further that private enterprise and investment have not been able to produce, without assistance, the needed construction of decent, safe and sanitary residential housing at low prices or rentals which persons and families of lower *and moderate* income can afford, or to achieve the urgently needed rehabilitation of much of the present supply of residential housing available for persons and families of lower *and moderate* income. It is imperative that the supply of residential housing for persons and families of lower *and moderate* income affected by the spread of slum conditions and blight and for persons and families of lower *and moderate* income displaced by public actions or natural disaster be increased; and that private enterprise and investment be encouraged to sponsor, build and rehabilitate residential housing for such persons and families, to help prevent the recurrence of slum conditions and blight and assist in their permanent elimination throughout the Commonwealth.

(3) The general assembly hereby finds and declares further that the purposes of this chapter are to provide financing for development costs, land development and residential housing construction, new or rehabilitated, for sale or rental to persons and families of lower *and moderate* income.

(4) The general assembly hereby finds and declares further that in accomplishing this purpose, the Kentucky housing corporation shall be and constitute a de jure municipal corporation and political subdivision

of the Commonwealth of Kentucky created for the performance of essential public functions and the serving of public purposes in improving and promoting the health, welfare and prosperity of the people of the Commonwealth of Kentucky by the production of residential housing.

Section 3. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower *and moderate* income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky housing corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease and sublease residential housing for persons and families of lower *and moderate* income and to enter into agreements or other transactions with any federal, state or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers and such other consultants and employes as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor;

(23) To invest any funds held in reserve or in sinking fund accounts or any monies not required for immediate disbursement in obligation guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the internal revenue service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance or waiver shall be made only upon the determination by the corporation (a) that such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonable equivalent terms and conditions; and (b) that such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities and to owners of residential housing for the development, construction, rehabilitation or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower *and moderate* income; and

(28) The Kentucky housing corporation shall be exempt from the regulations of the department of insurance and the laws of the Commonwealth relating thereto.

Section 4. KRS 198A.050 is amended to read as follows:

(1) In the administration of the programs authorized by or receiving benefits under KRS 198A.040, the Executive Director of the Kentucky Housing Corporation shall require:

(a) That to the greatest extent feasible opportunities for training and employment arising in connection with the planning, construction, rehabilitation, and operation of housing assisted under such programs shall be given to persons of lower *and moderate* income residing in the area of such housing; and

(b) That to the greatest extent feasible contracts for work to be performed pursuant to such programs shall be awarded to business concerns, including but not limited to individuals or firms doing business in the fields of design, architecture, building construction, rehabilitation, maintenance or repair, located in or owned in substantial part by persons residing in the area of such housing.

(2) In the administration of rental residential housing assisted under this chapter, the Executive Director of the Kentucky Housing Corporation shall require maximum feasible tenant participation and responsibility in tenant programs and services.

(3) The Executive Director of the Kentucky Housing Corporation shall establish standards of performance for materials, methods and design which meet the minimum requirements of appropriate federal or state agencies.

Section 5. KRS 198A.060 is amended to read as follows:

(1) The articles of incorporation, association, partnership or other governing documents of any sponsor, builder or developer assisted under this chapter shall contain, in addition to other requirements of law:

(a) That the corporation, cooperative or association has been organized to provide housing facilities and such social, recreational, commercial and community facilities as may be incidental or appurtenant thereto for persons or families of lower *and moderate* income;

(b) That the operations of the corporation, cooperative or association may be supervised by the Kentucky housing corporation and that the corporation, cooperative or association shall enter into such agreements with the Kentucky housing corporation as the Kentucky housing corporation from time to time requires, providing for regulation by the Kentucky housing corporation of the planning, development and management of any residential housing undertaken by the corporation, cooperative or association and their disposition of the property and franchises;

(c) That the Kentucky housing corporation shall have the power to appoint to the board of directors of the corporation, cooperative or association a number of new directors, which number shall be sufficient to constitute a majority of the board, if the corporation, cooperative or association has received a loan or advance under this chapter and the Kentucky housing corporation determines that the loan or advance is in jeopardy of not being repaid, or that the residential housing for which the loan or advance was made is in jeopardy of not being constructed.

(2) The articles of incorporation, association, partnership or other governing documents of any limited dividend corporation, association or entity of any sponsor, builder or developer assisted under this chapter shall provide, in addition to other requirements of law, that every stockholder or member shall be deemed to have agreed that he shall not receive from the corporation, association or entity in repayment of his investment any sums in excess of the face value of the investment attributable to his respective interest plus cumulative dividend payments at such rate as the Kentucky housing corporation deems to be reasonable and proper.

Section 6. KRS 198A.080 is amended to read as follows:

(1) There is hereby created and established a special revolving loan fund to be known as the housing development fund and to be administered by the corporation as a trust fund separate and distinct from any other moneys or funds administered by the corporation.

(2) The housing development fund shall be comprised of and the corporation is hereby authorized to receive and accept for the housing development fund the proceeds of grants, contributions, appropriations, repayment of loans made from the fund, the proceeds of fund notes and any other monies which may be made available to the corporation for the purposes of the housing development fund from any other source. The corporation is hereby authorized to receive and accept from any source whatever any grants or contributions for the housing development fund. The corporation is further authorized to provide for the issuance, at one time or from time to time, of housing development fund notes for the purpose of providing funds for such fund; provided, however, that not more than $5,000,000 fund notes shall be outstanding at any one time. The principal of and the interest on any such fund notes shall be payable solely from the housing development fund. The fund notes of each issue shall be dated, shall mature at such time or times not exceeding ten years from their date or dates, and may be made redeemable before maturity, at the option of the corporation, at such price or prices and under such terms and conditions as may be determined by the corporation. The corporation shall determine the form and manner of execution of the fund notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state or any agent, including the lender. In case any officer whose signature or a facsimile of whose signature shall appear on any fund notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The fund notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon fund notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon fund notes of any fund notes registered as to both principal and interest, and for the interchange of registered and coupon fund notes. Any such fund notes shall bear interest at such rate or rates as may be determined by the corporation and may be sold in such manner, either at public or private sale, and for such price as the corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter.

(3) The proceeds of any fund notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions, if any, as the corporation may provide in the resolution authorizing the issuance of such fund notes. The corporation may provide for the replacement of any fund notes which shall become mutilated or shall be destroyed or lost.

(4) Fund notes may be issued under the provisions of this section without obtaining the consent of any department, division, commission, board, body, bureau or agency of the state, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by this chapter and the provisions of the resolution authorizing the issuance of such fund notes.

(5) The purpose of the housing development fund is to provide a source from which the corporation may make loans and grants, and the corporation is authorized to make loans and grants from the housing development fund, at such interest rate or rates as may be determined by the corporation to be for the best interest of the corporation and best effectuate the purpose of this chapter, and with such security for repayment as the corporation deems reasonably necessary and practicable, to:

(a) Defray development costs of sponsors, builders and developers of residential housing, or

(b) Provide to persons and families of lower *and moderate* income who are applying for mortgages, either for purchase or rehabilitation of residential housing the amounts required to make down payments, pay closing costs, or make interest payments, or

(c) Make or participate in the making of construction loans which are not federally insured to sponsors, builders and developers of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

(6) No temporary loans shall be made by the corporation from the housing development fund except in accordance with a written agreement which shall include, without limitation, the following terms and conditions:

(a) The proceeds of such loan shall be used only for the purpose for which such loan shall have been made as provided in the agreement;

(b) Such loan shall be repaid in full as provided in the agreement;

(c) All repayments in connection with a loan to defray development costs shall be made concurrent with receipt by the borrower of the proceeds of a construction loan or mortgage loan, as the case may be, or at such other times as the corporation deems reasonably necessary or practicable; and

(d) Such security for repayment shall be specified and shall be upon such terms and conditions as the corporation deems reasonably necessary or practicable to insure all repayments.

(7) No funds from the housing development fund shall be used to carry on propaganda or otherwise attempt to influence legislation.

(8) (a) Notwithstanding other provisions of this section, the corporation may make loans secured by a mortgage from the housing development fund to enable a person sixty-two (62) years of age or older who owns the home in which he resides, whose income combined with his spouse does not exceed six thousand dollars ($6,000), and who meets any other reasonable standards established by the corporation to make repairs to his home including but not limited to siding, weatherstripping, roofing, gutters, electrical wiring, plumbing, and installation of sewers.

(b) The maximum principal amount of such loans shall not exceed seven thousand dollars ($7,000) and the maximum interest rate shall not exceed three percent (3%). All loans shall be repayable over a period of thirty (30) years. Upon the death of the borrowers prior to maturity, the unpaid balance shall be paid in full by the person to whom the house has passed by devise or descent.

(c) The corporation shall make loans under this section in an equal number in each of the seven (7) congressional districts.

Section 7. KRS 198A.090 is amended to read as follows:

(1) The corporation is hereby authorized to provide for the issuance, at one (1) time or from time to time, of not exceeding *one billion one hundred twenty-five million dollars ($1,125,000,000)* [~~seven hundred million dollars ($700,000,000)~~] bonds of the corporation to carry out and effectuate its corporate purposes and powers. In anticipation of the issuance of such bonds the corporation also is hereby authorized to provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on such bonds or notes shall be payable solely from the funds herein provided for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or assets of the corporation. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at such price or prices and under such terms and conditions as may be determined by the corporation. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the corporation. Notes shall mature at such time or times not exceeding ten (10) years from their date or dates and bonds shall mature at such time or times not exceeding forty (40) years from their date or dates, as may be determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation, authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as said corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter provided that such sale shall be approved by the corporation.

(2) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions if any, as the corporation may provide in the resolution authorizing the issuance of such bonds or notes or in the trust agreement hereinafter mentioned securing the same.

(3) Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such

bonds shall have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(4) Bonds or notes may be issued under the provisions of this chapter only upon obtaining the approval of the state property and buildings commission, pursuant to the provisions of KRS Chapter 56.

(5) The department of finance shall provide to the corporation such fiscal consultant services regarding revenue bond management as may be necessary.

Committee Amendment No. 1 to **HB 113** is as follows:

Amend printed copy of **HB 113,** page 23, line 3, by placing brackets and strike through around the words "not exceeding";

lines 5 and 6 by placing brackets and strikethrough around the words "bonds of the corporation to carry out and effectuate its corporate purposes and powers.";

line 3 after the word "exceeding" by inserting the words: *"bonds of the corporation to carry out and effectuate its corporate purposes and powers; provided, however, that not more than"*;

line 5 after the bracket by inserting the words *"in bonds shall be outstanding at any one time."*

Committee Amendment No. 2 to **HB 113** is as follows:

Amend printed copy of **HB 113,** page 25, after line 25, by adding the words:

"Section 8. Whereas, because the capacity for Kentucky Housing Corporation to issue bonds has reached the limit provided for in KRS 198A.090, as amended, an emergency is delcared to exist and this Act shall become effective on its passage and approval by the Governor."

Committee Amendment No. 3 to **HB 113** is as follows:

Amend printed copy of **HB 113,** page 5, line 8, after "directors" and before ";" by inserting the words:

"and approved by the Regulations Review Subcommittee of the Legislative Research Commission".

The Committee on Business Organizations and Professions reported **HB 153** and **HR 5** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 153, AN ACT relating to skiers and ski area operators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 231 IS CREATED TO READ AS FOLLOWS:

When used in this Act, unless the context otherwise requires:

(1) "Skier" means any person who is wearing skis or any person who for the purpose of skiing is on a designated and clearly marked ski slope or ski trail that is located at a ski area, or any person who is a passenger or spectator at a ski area.

(2) "Passenger" means any person who is being transported or is awaiting transportation, or being conveyed on a passenger tramway or is moving from the disembarkation point of a passenger tramway or is in the act of embarking upon or disembarking from a passenger tramway.

(3) "Passenger tramway" means any device used to transport passengers uphill on skis, or in cars on tracks, or suspended in the air, by the use of steel cables, chains, belts or ropes. Such definition shall include such devices as a chair lift, J Bar, or platter pull, rope tow, and wire tow.

(4) "Ski area" means all the ski slopes, ski trails, and passenger tramways, that are administered or operated as a ski area enterprise within this state.

(5) "Ski area operator" means a person, corporation, or organization that is responsible for the safe operation and maintenance of the ski area.

(6) "Competitor" means a skier actually engaged in competition or in practice therefor with the permission of the ski area operator on any slope or trail or portion thereof designated by the ski area operator for the purpose of competition.

SECTION 2. A NEW SECTION OF KRS CHAPTER 231 IS CREATED TO READ AS FOLLOWS:

(1) The department or agency which administers the state elevator inspection program shall administer the passenger tramway inspection program, and shall promulgate rules and regulations it deems necessary for its administration.

(2) A ski area operator's responsibility regarding passenger tramways shall include, but not be limited to, insuring operating personnel are adequately trained and are adequate in number; and meeting all rules and regulations regarding the safe operation and maintenance of all passenger lifts and tramways, including all necessary inspections and record keeping.

SECTION 3. A NEW SECTION OF KRS CHAPTER 231 IS CREATED TO READ AS FOLLOWS:

(1) A skier and a passenger shall have the following responsibilities:

(a) To know the range of his own abilities to negotiate any ski slope or trail and to ski within the limits of such ability;

(b) To maintain control of his speed and course at all times when skiing and to maintain a proper lookout so as to be able to avoid other skiers and visible objects;

(c) To stay clear of snow-grooming equipment, all vehicles, lift towers, signs, and any other equipment on the ski slopes and trails;

(d) To heed all posted information and other warnings and to refrain from acting in a manner which may cause or contribute to the injury of the skier or others;

(e) To wear retention straps, ski brakes, or other devices to prevent runaway skis;

(f) Before beginning to ski from a stationary position or before entering a ski slope or trail from the side, to avoid moving skiers already on the ski slope or trail;

(g) To not move uphill on any passenger tramway or use any ski slope or trail while such person's ability to do so is impaired by the consumption of alcohol or by the use of any narcotic or other drug or while such person is under the influence of alcohol or any narcotic or any drug;

(h) If involved in a collision with another skier or person, to not leave the vicinity of the collision before giving his name and current address to an employe of the ski area operator, a member of the ski patrol, or the other skier or person with whom the skier collided, except in those cases when medical treatment is required; in which case, said information shall be provided as soon as practical after the medical treatment has been obtained. If the other person involved in the collision is unknown, the skier shall leave the personal identification required by this subsection with the ski area operator;

(i) Not to embark upon or disembark from a passenger tramway except at an area that is designated for such purpose;

(j) Not to throw or expel any object from a passenger tramway;

(k) Not to perform any action that interferes with the operation or running of a passenger tramway;

(l) Not to use such tramway unless he has the ability to use it with reasonable safety;

(m) Not to engage wilfully or negligently in any type conduct that contributes to or causes injury to another person or his properties; and

(n) Not to embark upon a passenger tramway without the authority of the ski area operator.

(2) A ski area operator shall have the following responsibilities:

(a) To mark all trails and maintenance vehicles and to furnish such vehicles with flashing or rotating lights that shall be in operation whenever the vehicles are working or moving in the ski area;

(b) To mark with a visible sign or other warning implement the location of any hydrant or similar equipment that is used in snowmaking operations and located anywhere in the ski area;

(c) To indicate the relative degree of difficulty of a slope or trail by appropriate signs. Such signs are to be prominently displayed at the base of a slope where skiers embark on a passenger tramway serving the slope or trail, or at the top of a slope or trail. The signs must be of the type that have been approved by the national ski areas association and are in current use by the industry;

(d) To post at or near the top of or entrance to, any designated slope or trail, signs giving reasonable notice of unusual conditions on the slope or trail;

(e) To provide adequate ski patrols;

(f) To mark clearly any hidden rock, hidden stump, or any other hidden hazard known by the ski area operator to exist; and

(g) Not to engage wilfully or negligently in any type conduct that contributes to or causes injury to another person or his properties.

SECTION 4. A NEW SECTION OF KRS CHAPTER 231 IS CREATED TO READ AS FOLLOWS:

A violation of any responsibility placed on the skier, passenger or ski area operator as set forth in Section 3 of this Act, to the extent such violation proximately causes injury to any person or damage to any property, shall constitute negligence on the part of the person violating the provisions of that section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 231 IS CREATED TO READ AS FOLLOWS:

The ski area operator shall, prior to the beginning of a competition, allow each competitor a reasonable visual inspection of the course or area where the competition is to be held. The competitor shall be held to assume risk of all course conditions including, but not limited to, weather and snow conditions, course construction or layout, and obstacles which a visual inspection should have revealed. No liability shall attach to a ski area operator for injury or death of any competitor proximately caused by such assumed risk.

SECTION 6. A NEW SECTION OF KRS CHAPTER 231 IS CREATED TO READ AS FOLLOWS:

The operation of a passenger tramway shall not constitute the operation of a common carrier.

Section 7. KRS 411.190 is amended to read as follows:

(1) As used in this section:

(a) "Land" means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty.

(b) "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises.

(c) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

(d) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land.

(2) The purpose of this section is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

(3) Except as specifically recognized by or provided in subsection (6), an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.

(4) Except as specifically recognized by or provided in subsection (6), an owner of land who either directly or indirectly invites or permits without charge any person to use such property for recreation purposes does not thereby:

(a) Extend any assurance that the premises are safe for any purpose.

(b) Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.

(c) Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

(5) Unless otherwise agreed in writing, the provisions of subsections (3) and (4) shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.

(6) Nothing in this section limits in any way any liability which otherwise exists:

(a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

(b) For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that in the case of land leased to the state or a subdivision thereof, any consideration received by the owner for such lease shall not be deemed a charge within the meaning of this section.

(7) Nothing in this section shall be construed to:

(a) Create a duty of care or ground of liability for injury to persons or property.

(b) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of such land and in his activities thereon, or from the legal consequences of failure to employ such care.

(8) The provisions of this section do not apply to ski area operators, defined in Section 1 of this Act.

Section 8. Whereas, Kentucky's first ski area is now in operation, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

HR 5, A CONCURRENT RESOLUTION recognizing the Kentucky Small Business Development Center and encouraging participation of state universities and the Commerce Cabinet.

WHEREAS, the University of Kentucky has received a $224,900 federal grant to establish a Small Business Development Center (SBDC); and

WHEREAS, one common reason for the failure of small businesses is the lack of managerial expertise; and

WHEREAS, the stated purpose of the Kentucky SBDC is to provide a unified service that makes available management and technical assistance to small businesses and small business entrepreneurs throughout the Commonwealth to stimulate the development and growth of existing and new small business enterprises;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the University of Kentucky contract with the other state universities to expand the services offerred by the Kentucky SBDC to all areas of the Commonwealth based upon the conditions of the grant.

Section 2. That participating universities are encouraged to provide cash or in-kind services as required to provide the state match of the grant.

Section 3. That the Commerce Cabinet is encouraged to participate in implementing the program including the referral of prospective clients and in publicizing the availability of the service.

Section 4. That the Clerk of the House is directed to send a copy of this resolution to the Secretary of the Commerce Cabinet and the president of each of the state universities.

The Committee on Education reported **HB 60, HB 61, HB 62, HB 63, HB 64** with Committee Amendment attached thereto, **HB 65, HB 66, HB 67, HB 68, HB 69, HB 70, HB 71, HB 72, HB 73, HB 74, HB 75, HB 76, HB 77, HB 79, HB 80, HB 81,** and **HB 136** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 60, AN ACT relating to textbooks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.435 is amended to read as follows:

(1) The state textbook commission shall, not later than September 20 of any adoption year, select, approve, and publish a list of ten (10) books or programs in each subject and grade, taking into account the needs of the various types of school organizations. The commission shall not list more than one (1) book or program for the same subject and grade from the same person, firm, or corporation.

(2) The state textbook commission shall have the authority to reject any book which contains subversive material or information that is offered for listing or adoption. If the commission finds on the multiple list any book which contains subversive material or information, Provided the publisher of such a book has been given written notice by the secretary of the commission not less than thirty (30) days prior to the meeting, the textbook commission shall have authority to remove the book from the state multiple list.

(3) The state textbook commission shall have the authority to add books to the state list when the number of books on the list is less than ten (10) per subject and grade or when the list does not contain books for subjects added to the state courses of study.

(4)[~~(3)~~] The superintendent of public instruction shall make and execute contracts for the selected books with the publishers on or before January 1 following the approval of the books selected by the commission. Except as described heretofore in KRS 156.400, all contracts shall run for five (5) years.

(5)[~~(4)~~] The state textbook commission, on or before May 1, shall designate books or programs on the state multiple list for each subject and grade for use in the school district or districts that decline or fail to make textbook adoptions on or before April 15.

(6)[~~(5)~~] The superintendent of public instruction shall prepare a multiple list of the selected books or programs and publish same and send a copy to the superintendents of each county and independent school district in Kentucky on or before October 15 of each adoption year.

Section 2. KRS 156.437 is amended to read as follows:

[~~(1) The state board for elementary and secondary education, upon the recommendation of the superintendent of public instruction, may designate subjects in the state courses of study for which programs may be listed by the state textbook commission and adopted by the county and independent school districts in lieu of the number of books as stipulated in subsection (1) of KRS 156.435; subsections (2) and (3) of KRS 156.440; subsections (1) and (2) of KRS 156.474 and KRS 156.476.~~

~~(2)~~] The state board for elementary and secondary education, upon the recommendation of the superintendent of public instruction, shall have the authority to prescribe rules and regulations for the listing by the state textbook commission, adoption by local adoption units, *and* the purchase of subject programs for the pupils in the [~~state~~] public schools.

Section 3. KRS 156.450 is amended to read as follows:

If sufficient state funds are not available for the superintendent of public instruction to purchase textbooks for all public schools grades pursuant to KRS 157.100, each board of education may appoint one or more dealers to act as official retail agents for the sale of books for use in the school district, or any school unit may purchase and distribute books to its own patrons. Persons whose books have been adopted under these provisions shall furnish the books, either through the official retail agents or through respective boards of education, at the lowest wholesale price and the lowest exchange price listed with the superintendent of public instruction f.o.b. the publisher's nearest shipping point. Each official retail agent shall give a reasonable bond, if required, to the persons who have contracts to furnish adopted texts. All orders given by the retail agent or board of education shall be promptly filled. The official retail agent shall sell the books at not more than twenty per cent (20%) in excess of the listed wholesale price. Where old books, displaced by new adoption, are offered by pupils in exchange for the corresponding new books, the new books shall be offered at a price not more than twenty per cent (20%) in excess of the listed exchange price. If any agent violates the requirements of this section, or fails to give reasonable bond requested by any person who has a contract to furnish adopted texts, the board of education that appointed the agent may, by giving notice prior to May 1 in any year, revoke the appointment on July 1 of that year. When an agent's permit is revoked or terminated, all textbooks as per inventory of the agent must be paid for at wholesale price by the person from whom the textbooks were purchased, if the textbooks are of the lawful adoption.

Section 4. KRS 156.455 is amended to read as follows:

When a pupil removes from any school district, the board of education of the district, shall, if requested, purchase from the pupil *any state-adopted* [~~the~~] textbooks *that have been purchased by the pupil and are* in actual use by him at the time. The price shall be based upon the condition of the books. The books may be sold by the board of education, or furnished to indigent children in the district.

Section 5. KRS 156.470 is amended to read as follows:

A copy of each textbook listed by [~~Textbooks submitted to~~] the state textbook commission [~~for examination~~] shall remain in the office of the superintendent of public instruction *as an official sample* for the period of the adoption. After the adoption period *such samples* [~~they~~] shall be sold by the state board for elementary and secondary education.

Section 6. KRS 156.474 is amended to read as follows:

(1) The state board for elementary and secondary education, upon the recommendation of the superintendent of public instruction, shall have the authority to prescribe the conditions whereby a school district may make multiple textbook adoptions for the different school subjects by grades.

(2) The state board for elementary and secondary education, upon the recommendation of the superintendent of public instruction, shall have the authority to prescribe the rules and regulations to govern the purchase of the multiple-adopted textbooks for the school district. The superintendent of public instruction, subject to the approval of the state board for elementary and secondary education, may purchase the textbooks from the publishers whose books have been adopted by the school district for grades kindergarten through twelve (12) and distribute them without cost to the pupils attending the [~~free~~] public schools in the school district.

Section 7. KRS 156.476 is amended to read as follows:

The state board for elementary and secondary education, upon the recommendation of the superintendent of public instruction, may select suitable textbooks and other materials printed in clear type of 18 to 24 points in the different subject areas for children with impaired vision who are attending the [~~free~~] public schools of the commonwealth of Kentucky in grades kindergarten through twelve (12). Such textbooks and materials shall not be subject to the official textbook bids, filing fees, textbook sampling, and the stipulated list prices, lowest wholesale prices, exchange prices, and the standards and specifications required for the textbooks approved and listed by the state textbook commission for regular use by the pupils attending the [~~free~~] public schools of the state of Kentucky. The state board for elementary and secondary education, upon the recommendation of the superintendent of public instruction, shall have the authority to prescribe rules and regulations for determining the pupils eligible for such books, the number of books to be purchased, and the general administration of the program. The superintendent of public instruction, subject to the approval of the state board for elementary and secondary education, may purchase these books and distribute them without cost to the pupils with impaired vision attending the [~~free~~] public schools of the state. All textbooks purchased under this section for the pupils with impaired vision are the property of the state.

Section 8. KRS 157.100 is amended to read as follows:

The superintendent of public instruction, subject to the approval of the state board for elementary and secondary education, shall purchase textbooks from the publishers whose books have been adopted by the state textbook commission and may purchase from any publisher other related media not approved by the state textbook commission and distribute them without cost to pupils attending grades kindergarten through twelve (12), of the [~~free~~] public schools of the state, in the manner and upon the conditions set out in KRS 156.447, 157.110 and 157.180.

Section 9. KRS 157.190 is amended to read as follows:

(1) The superintendent of public instruction, subject to the approval of the state board for elementary and secondary education, shall provide basally adopted textbooks without cost to all children between the ages of six (6) and eighteen (18) who are confined in any state correctional institution in this state and who are regularly enrolled in classes of elementary grades. The textbooks shall be provided upon requisitions made by the person or persons in charge of the correctional institution.

(2) The superintendent of public instruction may have an investigation made, at any time, to determine the need for the number and kinds of books requisitioned and to determine if the books are being properly taken care of. If he finds anything that is improper about the requisitioning and use of such books he shall report it to the state board for elementary and secondary education.

(3) The books provided pursuant to this section shall be paid for out of the appropriations for the purchase of free textbooks for pupils attending [~~free~~] public schools.

HB 61, AN ACT relating to the duties of the superintendent of public instruction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.220 is amended to read as follows:

The superintendent of public instruction shall, *upon written request, render advice,* [~~decide~~] without expense to the parties concerned, *relative to any controversy or dispute* [~~all controversies and disputes~~] involving the proper administration of the public schools *according to law,* but in all such matters he shall freely consult the attorney general.

HB 62, AN ACT relating to suspension and removal of school officers and employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.132 is amended to read as follows:

(1) The superintendent of public instruction or the state board for elementary and secondary education shall recommend, by written charges to the proper school authorities having immediate jurisdiction, the removal of any superintendent of schools, principal, teacher or other public school officer who in his or their opinion is guilty of immorality, misconduct in office, incompetency or wilful neglect of duty.

(2) The superintendent of public instruction shall recommend by written charges the suspension by the state board for elementary and secondary education of any district board member or superintendent of schools who in his opinion is guilty of immorality, misconduct in office, incompetency or wilful neglect of duty. The state board for elementary and secondary education shall, after a summary hearing as provided by regulations, suspend any district board of education member or superintendent of schools, who in the opinion of the majority of the state board for elementary and secondary education is guilty of [~~gross~~] immorality, misconduct in office, incompetence or wilful neglect of duty. Such action by the state board for elementary and secondary education may be taken upon a recommendation of the superintendent of public instruction, or such action may be taken by a majority vote of the state board for elementary and secondary education without recommendation from the superintendent of public instruction.

(3) The state board for elementary and secondary education may suspend a district superintendent of schools under subsection (2) of this section only if after thirty (30) days of receipt of the written charges specified in subsection (1) of this section, the district board of education has refused to act, has acted in bad faith, arbitrarily or capriciously, or if a recommendation to the district board would have been futile.

HB 63, AN ACT relating to proprietary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 165A.310 is amended to read as follows:

(1) *"Proprietary school" or "school" means any privately owned educational institution, establishment, agency, organization, or person offering or administrating a plan, course, or program of instruction in business, trade, technical, industrial or related areas for which a fee or tuition is charged whether conducted in person, by mail, or by any other method* [~~"Business college," "proprietary school," "proprietary college," "independent business school," "business school," "technical or trade school or institute," or "school" means an educational institution privately owned and operated by an individual, partnership, association or corporation offering training in business, trade, technical, industrial or related areas through residence, extension or correspondence for which tuition is charged~~].

(2) "Board" means the state board for proprietary education.

(3) "Agent" means any person employed by an institution to act as agent, solicitor, broker or independent contractor to procure students for such school by solicitation of enrollment in any form made at any place other than the main office or principal place of business of the school.

(4) "Degree" means associate degree.

(5) *"Person" means an individual, corporation, business trust, estate, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest or any other legal or commercial entity.*

(6) "School year" is beginning the first day of July and ending the thirtieth day of June next following except when said approval shall be suspended or cancelled pursuant to the provisions herein.

(7) The definition of a proprietary school shall not include the following:

(a) A school or educational institution supported entirely or partly by taxation from either a local or state source;

(b) A parochial, denominational, or eleemosynary school or institution;

(c) A school or training program which offers instruction *solely* [~~primarily~~] in the field of an avocation, recreation, or entertainment, as determined by the state board;

(d) A course or courses of instruction or study sponsored by an employer for the training and preparation of its own employes for the benefit of the employer and without charge to the employe;

(e) A school or educational institution licensed or approved by or a course or courses of study or instruction sponsored by the Kentucky board of barbering established by KRS 317.430, the Kentucky board of hairdressers and cosmetologists established by KRS 317A.030, the Kentucky board of nursing education and nurse registration established by KRS 314.121, and the state board of embalmers and funeral directors of the state of Kentucky established by KRS 316.170.

Section 2. KRS 165A.320 is amended to read as follows:

KRS 165A.310 to *Section 10 of this Act* [~~165A.400~~] shall not apply to any institution offering a four (4) year college level course recognized by the council on higher education nor shall it apply to any religious [~~and/~~]or nonprofit institution exempt from taxation under the laws of this state, or which is subject to the provisions of KRS 164.945. KRS 165A.310 to *Section 10 of this Act* [~~165A.400~~] is intended to apply to and regulate proprietary *schools including but not limited to correspondence schools* [~~educational institutions~~] which are operated as or are organized for profit, *whether profit is ever realized.*

Section 3. KRS 165A.330 is amended to read as follows:

(1) No person shall conduct, operate, maintain or establish *a proprietary school* [~~an institution~~] as herein defined or use any words which designate or tend to designate to the public that the operator of such *school* [~~institution~~] is qualified to conduct, operate and maintain such *school* [~~institution~~], unless he holds a valid current license from the board.

(2) No person shall in any way solicit any person or group of persons in this state to enroll at or attend any such *school* [~~institution~~] unless such person holds a valid license as agent of the school for which he is soliciting.

Section 4. KRS 165A.350 is amended to read as follows:

(1) No person shall solicit or perform the services of an agent in this state for a proprietary school, located either within or without this state, unless said *school shall have been issued by the board a certificate of approval or a certificate of registration pursuant to KRS 165A.310 to Section 10 of this Act and said* person shall have been issued an agent's permit for said proprietary school.

(2) No person shall be issued an agent's permit unless he is an individual of good moral character as determined by the board.

(3) Except as otherwise provided, no person shall be issued an agent's permit unless he shall make application upon forms to be provided by the board, and unless said application shall be accompanied by a fee as established by the board and a good and sufficient surety bond or other collateral as required by the board but not less than five thousand dollars ($5,000).

(4) (a) The surety bond or other collateral shall be conditioned to provide indemnification to any student or enrollee who shall suffer loss or damage as a result of fraud or misrepresentation to said student or enrollee in procuring his enrollment in a course or courses of instruction or study offered or maintained by said proprietary school. The amount of liability on said surety bond or other collateral shall cover each

agent each school year, as the term "school year" is defined herein. Regardless of the number of years that an agent's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.

(b) Any claimant may file with the board a duly verified claim against an agent. The board may consider a claim after ten (10) days' written notice by certified mail, return receipt requested, to such licensee of said complaint giving time and place of hearing thereon and if such claim is found to be correct and due to the claimant, and if the board cannot effect a settlement by persuasion and conciliation, the board shall make a demand upon the principal on such bond and the surety thereon, and if not paid shall bring an action on such bond in any court of record within the state of Kentucky.

(5) The surety bond may be of blanket form to cover more than one (1) agent for a proprietary school, but it shall provide the required minimum coverage for each agent.

(6) A surety on said bond may be released therefrom after said surety shall make a written notice thereof directed to the board at least thirty (30) days prior to said release.

(7) The surety bond shall cover the period of the agent's permit except when a surety shall be released in the manner as provided herein.

(8) Notwithstanding the provisions of other sections, the board may issue an agent's permit to each person who is an owner of more than ten percent (10%) legal interest in a proprietary school located in this state and who is a resident of this state, and no such owner shall be required to pay the agent's permit fee or execute an agent's surety bond as otherwise required by this section; provided, that said proprietary school shall have been issued a certificate of approval pursuant to the provisions of KRS 165A.310 to *Section 10 of this Act* [~~165A.400~~].

(9) An agent's permit shall be suspended by operation of law when said agent is no longer covered by a surety bond or other collateral is withdrawn as required by KRS 165A.310 to *Section 10 of this Act* [~~165A.400~~]; but the board shall cause said agent to receive at least ten (10) days' written notice prior to the release of his surety to the effect that said permit shall be suspended by operation of law until another surety bond or other collateral shall be filed in the same manner and like amount as required by the board.

(10) An agent's permit shall be valid for a period of one (1) school year as herein defined, except when suspended or cancelled pursuant to these provisions. An agent's permit may be renewed in the same manner and under the same conditions prescribed for the issuance of an initial agent's permit.

Section 5. KRS 165A.360 is amended to read as follows:

(1) No person[~~, company, firm, corporation, association, society, or partnership~~] shall maintain *or* [~~and~~] operate a proprietary school located *and* [~~or~~] doing business within this state until said school shall have been issued a certificate of approval by the board pursuant to the provisions of KRS 165A.310 to *Section 10 of this Act* [~~165A.400~~]. *No person shall maintain or operate a proprietary school located without this state and do business within this state until said school shall have been issued a certificate of approval or a certificate of registration by the board pursuant to the provisions of KRS 165A.310 to Section 10 of this Act.* No certificate of approval shall be issued by the board to any proprietary school which denies enrollment in said school to any pupil, on account of race, color, or creed. The Kentucky commission on human rights shall have power to make investigation as to discriminatory practices of any proprietary school, and shall report thereon to the board, and said board shall, upon report that any such school is engaging in discriminatory practices, deny or suspend a certificate [~~of approval~~] of such school, in accordance with the provisions of this section and after notice and public hearing as required herein.

(2) No proprietary school shall be issued a certificate [~~of approval~~] unless it shall make application, through its officers or an owner, upon forms to be provided by the state board, and unless said application shall be accompanied by a fee as established by the board and a good and sufficient surety bond or other collateral in a penal sum of not less than twenty thousand dollars ($20,000).

(3) (a) The surety bond or other collateral shall be conditioned to provide indemnification to any student or enrollee or his parent or guardian suffering loss or damage as a result of any fraud or misrepresentation used in procuring his enrollment or as a result of any fraud or misrepresentation as represented by the application for the certificate [~~of approval~~], or as a result of the student being unable to complete the course or courses because the school ceased operations. Such indemnification shall, in no case, exceed the advanced tuition paid or to be paid by said student or students or any such parent or guardian and regardless of the number of years that a school's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.

(b) Any claimant may file with the board a duly verified claim against a proprietary school. The board may consider such claim after ten (10) days' written notice by certified mail, return receipt requested, to such school of said complaint giving time and place of hearing thereon and if such claim is found to be correct and due to the claimant, and if the board cannot effect a settlement by persuasion and conciliation, the board shall make a demand upon the principal on such bond and the surety thereon, and if not paid may bring an action on such bond in any court of record within the state of Kentucky.

(4) A surety on said bond may be released therefrom after said surety shall have made a written notice thereof directed to the board at least thirty (30) days prior to said release.

(5) The surety bond shall cover the period of the certificate [~~of approval~~] except when said surety shall be released in the manner as provided by this section.

(6) (a) The certificate [~~of approval~~] shall be suspended by operation of law when said proprietary school is no longer covered by a surety bond or other collateral as required by this section; but the board shall cause said proprietary school to receive at least ten (10) days' written notice prior to the release of said surety to the effect that said approval shall be suspended by operation of law until another surety bond shall be filed in the same manner and like amount as required for the initial surety bond.

(b) The certificate [~~of approval~~] shall be suspended by operation of law at any time any certified proprietary school shall deny enrollment in said school to any pupil, on account of race, color, or creed.

(7) The application for a certificate [~~of approval~~] shall be accompanied by such supporting documents as the board may require. The application and accompanying data shall be certified as true and correct in content and policy by the chief executive officer of said proprietary school.

(8) A certificate [~~of approval~~] shall be valid for a period of one (1) school year[~~, beginning the first day of July and ending the thirtieth day of June next following, except when said approval shall be suspended or cancelled pursuant to the provisions herein~~]. A certificate [~~of approval~~] may be renewed in the same manner and under the conditions prescribed by the board.

(9) *Certificates are transferable to another owner. If a change of ownership occurs, the new owner shall within ten (10) days, re-execute and affirm the application for certificate of approval or certificate of registration and the information therein, governing said certificate in effect at the time of sale. The board may establish a reasonable fee for the recording and processing of such changes.*

(10) The bonding or other collateral requirements herein set forth may be reduced at the sole discretion of the board upon a showing by the proprietary school that they are excessive in the case of any particular proprietary school.

(11) (a) Contracts by and between a proprietary school operating or doing business within this state and a student are voidable at the option of the student unless said school has been previously issued a certificate by the board.

(b) No proprietary school operating or doing business within this state shall be entitled to any money collected from students, in whatever manner collected, unless said school has been previously issued a certificate by the board.

(c) Contracts by and between a proprietary school operating or doing business within this state which are entered into prior to the issuance of a certificate by the board, shall be voidable at the option of the student notwithstanding any subsequent issuance of a certificate to the school by the board.

(d) Restitution of any money paid by a student under a contract voided pursuant to this section, may be obtained through action brought by the student in either district court or circuit court in the county of the student's residence or other appropriate court, at the option of the student.

Section 6. KRS 165A.370 is amended to read as follows:

(1) No proprietary school located *or doing business* in this state shall be issued a certificate [~~of approval~~] under these provisions until the board shall have determined that said proprietary school is maintained, operated, or, in the event of a new proprietary school, that said school can be reasonably maintained and operated, in substantial compliance with the following minimum standards:

(a) That the instructional quality and content of each course or program of instruction or study shall be adequate to provide reasonable education and training to each enrolled student, and that such quality and content shall be consistent with the public interest.

(b) That the proprietary school has adequate space, equipment, instructional materials, and instructor personnel to provide training and preparation of the quality specified in paragraph (a) of this subsection.

(c) That the educational and experience qualifications of directors, administrators, supervisors, and instructors are satisfactory in terms of the quality of instruction specified in paragraph (a) of this subsection.

(d) That a copy of the course outline and a schedule of tuition be furnished each student applicant prior to enrollment.

(e) That, *as defined by board regulation* [~~upon satisfactory completion of training, the student shall be awarded~~] a diploma, associate degree, certificate or other appellation, *shall be awarded to the student upon satisfactory completion of training* by said proprietary school which indicates that said course or courses of instruction or study had been satisfactorily completed by said student.

(f) That adequate records shall be maintained and available for inspection.

(g) That the proprietary school shall be maintained and operated in compliance with all local, city, and county ordinances and state law, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises.

(h) That the proprietary school is financially sound and reasonably capable of fulfilling commitments to students for training and preparation.

(i) That the proprietary school does not utilize advertising of any type which is untrue, deceptive, or misleading.

(j) That the chief executive officer, directors, owners, administrators, supervisors, and instructors are of good moral character as determined by the board.

(k) That the proprietary school adheres to a tuition refund schedule as presented in published form prior to enrollment in the event the student shall discontinue the training or be excluded therefrom.

(l) That the proprietary school adheres to such other requirements consistent with the public interest as the board shall determine are necessary to improve the courses or programs of instruction or study offered by such school, and to prevent misrepresentation, fraud, and collusion in the offering thereof.

(2) The board shall have the power to investigate, appraise, and evaluate from time to time any proprietary school now located, or which may be hereafter located, in this state. The investigation, appraisal, and evaluation shall be for the purpose of determining whether the proprietary school is maintained and operated or, in the event of a new proprietary school, whether such new proprietary school can be reasonably maintained and operated, in compliance with the provisions of this section. *Said investigation, appraisal, and evaluation shall include but is not limited to inspection of all records, books, and facilities at reasonable times and places without notice.*

(3) If the board shall determine upon investigation, appraisal, and evaluation that a proprietary school located within this state is maintained and operated, or, in the event of a new proprietary school, that said school can be reasonably maintained and operated, in compliance with the minimum standards prescribed by this section, the board shall issue a certificate [~~of approval~~] to said proprietary school.

(4) If the board shall determine that any school is not maintained and operated, or cannot be reasonably maintained and operated, in compliance with the minimum standards prescribed by this section and the minimum requirements determined by the board, the board, after notice and an opportunity for a hearing may deny the issuance of a certificate [~~of approval~~] or may establish conditions in conformity with these provisions which shall be met by said school prior to issuance of such a certificate.

Section 7. KRS 165A.380 is amended to read as follows:

All fees collected pursuant to these provisions shall be deposited in the state treasury, trust and agency account of the state board for proprietary education and be applied to the cost of administering KRS 165A.310 to *Section 10 of this Act* [~~165A.400~~].

Section 8. KRS 165A.390 is amended to read as follows:

(1) An agent's permit may be revoked by the board for fraud or misrepresentation in procuring or soliciting a student or prospective student for enrollment in a course or courses of instruction or study offered or maintained by a proprietary school located within or without this state. An agent's permit may be revoked by the board for a false or misleading written or oral statement in the application therefor submitted by the applicant with the intent to mislead or conceal the truth.

(2) In the event that the certificate of approval of the proprietary school designated upon an agent's permit shall be suspended or revoked, or in the event said agent shall leave the employ of said approved proprietary school, the agent's permit shall be suspended by operation of law; provided, that the agent shall be given at least ten (10) days' written notice of said suspension, and of the suspension or revocation of the certificate of approval of said proprietary school; and provided further, that said agent shall be entitled to obtain a reissue of his agent's permit for the remaining unexpired period of time, without an additional fee, with another approved proprietary school designated thereon.

(3) A certificate of approval issued to a proprietary school may be suspended or revoked for the failure to maintain and operate a course or courses of instruction or study in compliance with the standards prescribed herein. A certificate of approval may be suspended or revoked by the board for a false or misleading written or oral statement submitted by the applicant proprietary school with the intent to mislead or conceal the truth.

(4) An agent's permit or the certificate of approval of a proprietary school may be suspended or revoked by the board for other valid reasons.

(5) A licensed proprietary school, prior to discontinuance of operation, shall convey all student records as required by the board to a location designated by the board. Said records may be retained in such a manner and for such a time as the board may designate.

Section 9. KRS 165A.990 is amended to read as follows:

(1) Any person, company, firm, corporation, association, society, or partnership, or any officer or employe thereof, who shall violate the provisions of KRS 165A.310 to *Section 10 of this Act* [~~165A.400~~] shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed one hundred dollars ($100), or by imprisonment in the county jail not to exceed six (6) months, or by both such fine and imprisonment. Each day's failure to comply with the provisions of KRS 165A.310 to *Section 10 of this Act* [~~165A.400~~] shall be a separate violation.

(2) No note, negotiable instrument, or contract relating to payment for a course or courses of instruction shall be enforceable by any proprietary school in the courts of this state, unless said proprietary school and its agents shall have complied with the provisions of KRS 165A.310 to *Section 10 of this Act* [~~165A.400~~].

SECTION 10. A NEW SECTION OF KRS CHAPTER 165A IS CREATED TO READ AS FOLLOWS:

The attorney general at the request of the state board for proprietary education or on his own motion, may bring in a circuit court appropriate action for the enforcement of the provisions of this chapter. Any such action under this section may be at the discretion of the attorney general, be brought either in the county in which the violation occurred or in the Franklin circuit court, or other appropriate court.

HB 64, AN ACT relating to school districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.160 is amended to read as follows:

Each school district shall be under the management and control of a board of education consisting of five (5) members, except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished which shall have seven (7) members elected from the divisions and in the manner prescribed by KRS 160.210*(5)*[~~(3)~~], to be known as the "board of education of ...., Kentucky." Each board of education shall be a body politic and corporate with perpetual succession. It may sue and be sued; make contracts; expend funds necessary for liability insurance premiums and for the defense of any civil action brought against an individual board member in his official or individual capacity, or both, on account of an act made in the scope and course of his performance of legal duties as a board member; purchase, receive, hold and sell property; issue its bonds to build and construct improvements; and do all things necessary to accomplish the purposes for which it is created. *Each board of education shall elect a chairman and vice-chairman from its membership in a manner and for a term prescribed by the board.*

Section 2. KRS 160.200 is amended to read as follows:

(1) All elections for members of boards of education shall be in even numbered years, for a term of four (4) years, except as provided in KRS 160.210*(5)*[~~(3)~~]. Except as provided in subsection (3) of this section, the elections shall be held at the regular November election. In all county districts and in those independent districts embracing cities of the second or third class, two (2) members shall be elected in 1942 and three (3) in 1944. In all other school districts three (3) members shall be elected in 1942 and two (2) in 1944.

(2) In each even numbered year thereafter, there shall be held an election in every county and independent district to fill the membership of the boards of education for the terms that will expire on the first Monday in January following, and the regularly elected members shall hold office for four (4) years and until their successors are elected and have qualified.

(3) Any independent school district embracing a city of the fifth class may, at the discretion of its board of education, hold its election of board members at its public school building on the first Saturday in May. The election shall be held by three (3) officers appointed by the board of education and the expenses of the election shall be paid from the treasury of the school district. In all other respects the provisions of this chapter relating to holding elections for board members shall apply.

(4) In counties containing a city of the first class, wherein a merger pursuant to KRS 160.041 shall have been accomplished, the terms of the members shall be as provided in KRS 160.210*(5)*[~~(3)~~]. Elected members of such boards, excepting those boards of education representing ten percent (10%) or less of the student population of the county serving at the effective date of such a merger shall continue to serve until their term expires, but no appointments shall be made to fill vacancies. The terms of office of members of boards of education representing ten percent (10%) or less of the student population of the county shall expire on the effective date of the merger.

Section 3. KRS 160.210 is amended to read as follows:

(1) In independent school districts, the members of the school board shall be elected from the district at large. In county school districts, members shall be elected from divisions.

(2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five (5) divisions as nearly equal in population and containing integral voting precincts insofar as is practicable. In first dividing the county district into divisions the board shall, if more than one (1) of its members reside in one (1) division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200 and 160.220 to 160.250.

(3) No change shall be made in the boundary lines of the present division of the county school district until January 1, 1959, except in case of merger of districts or change in territory due to annexation. Any changes made in division boundary lines shall be such as will make divisions as nearly equal in population and containing integral voting precincts insofar as is practical. No change may be made in division boundary

lines more frequently than five (5) years after the last change in any division lines, except in case of merger of districts *or* a change in territory [~~is~~] due to annexation. [~~In counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions. To be eligible to be elected from a division, a candidate must reside in that division. The divisions, based upon 1970 United States Census Bureau Reports on total population by census tracts for Jefferson County, Kentucky shall be as follows: Division One shall include census tracts 1-28; Division Two shall include census tracts 29-35, 47-53, 57-74, 80-84, 93, 129, 130; Division Three shall include census tracts 75-79, 85-88, 98-106, 107.01, 108; Division Four shall include census tracts 121.01, 123-128; Division Five shall include census tracts 36-46, 56, 90, 120, 121.02, 122; Division Six shall include census tracts 54, 55, 91, 92, 94, 95, 110.02, 113, 114, 117.01, 117.02, 118, 119; Division Seven shall include census tracts 89, 96, 97, 107.02, 109, 110.01, 111, 112, 115, 116, 117.03, 131, 132. The terms of the members to be elected, KRS 160.044 not withstanding, shall be four (4) years and the election for the initial four (4) year terms shall be as follows: The election of the members from Divisions Two, Four and Seven shall be held at the next regular November election following the effective date of the merger pursuant to KRS 160.041, and the election of the members from Divisions One, Three, Five and Six shall be held at the regular November election two (2) years thereafter.~~

~~(4) In counties containing cities of the first class, responsibility for the establishment or the changing of school board division boundaries shall be with the county board of elections. Where division and census tract boundaries do not coincide with existing election precinct boundaries, school board divisions shall be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute must be completed on or before January 1, 1979, and on or before January 1 in any succeeding year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the county board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the superintendent of public instruction within ten (10) days following its publication.~~]

(4)[~~(5)~~] (a) Notwithstanding the provisions of subsection (3) of this section, if one hundred (100) residents of a county school district division petition the state board for elementary and secondary education stating that the school district divisions are not divided as nearly equal in population as can reasonably be expected, the superintendent of public instruction shall cause an investigation to determine the validity of the petition, said investigation to be completed within thirty (30) days after receipt of the petition.

(b) If the investigation reveals the school district to be unequally divided according to population, the state board for elementary and secondary education, upon the recommendation of the superintendent of public instruction, shall order the local board of education to make such changes in school district divisions as are necessary to equalize population within the five (5) school divisions.

(c) If any board fails to comply with the order of the state board for elementary and secondary education within thirty (30) days or prior to August 1 in any year in which any members of the board are to be elected, members shall be elected from the district at large until the order of the state board for elementary and secondary education has been complied with.

(d) No change shall be made in the boundary of any division under the provisions of this subsection after August 1 in the year in which a member of the school board is to be elected from any division.

(5) Notwithstanding the provisions of subsection (2) of this section, in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions. To be eligible to be elected from a division, a candidate must reside in that division. The divisions, based upon 1970 United States Census Bureau Reports on total population by census tracts for Jefferson County, Kentucky shall be as follows: Division One shall include census tracts 1-28; Division Two shall include census tracts 29-35, 47-53, 57-74, 80-84, 93, 129, 130; Division Three shall include census tracts 75-79, 85-88, 98-106, 107.01, 108; Division Four shall include census tracts 121.01, 123-128; Division Five shall include census tracts 36-46, 56, 90, 120, 121.02, 122; Division Six shall include census tracts 54, 55, 91, 92, 94, 95, 110.02, 113, 114, 117.01, 117.02, 118, 119; Division Seven shall include census tracts 89, 96, 97, 107.02, 109, 110.01, 111, 112, 115, 116, 117.03, 131, 132. The terms of the members to be elected, KRS 160.044 not withstanding, shall be four (4) years and the election for the initial four (4) year terms shall be as follows: The election of the members from Divisions Two, Four and Seven shall be held at the next regular November election following the effective date of the merger pursuant to KRS 160.041, and the election of the members from Divisions One, Three, Five and Six shall be held at the regular November election two (2) years thereafter.

(6) In counties containing cities of the first class, responsibility for the establishment or the changing of school board division boundaries shall be with the county board of elections. Where division and census tract boundaries do not coincide with existing election precinct boundaries, school board divisions shall

be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute must be completed on or before January 1, 1979, and on or before January 1 in any succeeding year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the county board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the superintendent of public instruction within ten (10) days following its publication.

Section 4. KRS 160.280 is amended to read as follows:

(1) Members of boards of education shall receive no salaries, but members of boards of education may receive a per diem of twenty dollars ($20) in any calendar year, and their actual expenses for each regular or special meeting attended[~~, except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished and members elected from the divisions and in the manner prescribed by KRS 160.210(3), shall receive a per diem of forty dollars ($40), and may be reimbursed for other actual and necessary expenditures incurred in the district in the performance of their duties authorized by the board~~]. In no case shall the expenses incurred within the district or per diem of any member exceed four hundred dollars ($400) in any calendar year[~~, except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished and members elected from the divisions and in the manner prescribed by KRS 160.210. Members of boards of education may be reimbursed for actual and necessary expenditures incurred outside the district in the performance of their duties authorized by the board. In no case shall the expenses incurred within the district or per diem of any member exceed one thousand dollars ($1,000) per calendar year. All claims shall be made out according to law and filed with the secretary of the board and shall be approved and paid as other claims against the board~~].

(2) Notwithstanding the provisions of subsection (1) of this section, members of boards of education in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished and members elected from the divisions and in the manner prescribed by KRS 160.210(5) shall receive a per diem of forty dollars ($40.00), and may be reimbursed for other actual and necessary expenditures incurred in the district in the performance of their duties authorized by the board. In no case shall the expenses incurred within the district or per diem of any member exceed one thousand dollars ($1,000) per calendar year.

(3) Members of boards of education may be reimbursed for actual and necessary expenditures incurred outside the district in the performance of their duties authorized by the board.

(4) All claims shall be made out according to law and filed with the secretary of the board and shall be approved and paid as other claims against the board.

Committee Amendment No. 1 to **HB 64** is as follows:

Amend printed copy of **HB 64,** page 2, line 2, after the word "Board" insert the following:

"not to exceed two (2) years or beyond the term of any member of the present Board."

HB 65, AN ACT relating to school district finances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.593 is amended to read as follows:

(1) Any board of education of a school district may, after compliance with the public hearing requirement contained in KRS 160.603, levy one (1) of the school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648. The imposition of any tax levied under the provisions of 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 shall be limited to the territory of the school district except as provided in subsection (2) of this section.

(2) Two or more boards of education may agree in writing[~~, which shall be approved by the state board for elementary and secondary education,~~] to levy identical school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633. After the levying in each district so agreeing of a tax under the terms of such agreement, the receipts from said tax shall be held in a common fund and disbursed therefrom to each district on the basis of average daily attendance, as set forth in KRS 160.644. Any districts levying taxes under the terms of such an agreement shall be deemed to constitute a combined taxing district for the purposes of reference in KRS Chapter 160.

HB 66, AN ACT relating to transfer of school district territory.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.045 is amended to read as follows:

(1) If seventy-five percent (75%) of either the registered voters or property owners in an area adjacent to either a county or independent school district petition the respective school boards for a transfer of said property to the school board district other than that in which it is located or if either board initiates such action, the school boards may effect such transfer by agreement, duly spread upon the minutes of their respective boards.

(2) In the event that the boards fail to agree within ninety (90) days from the filing of petitions for such a transfer, either board may petition the superintendent of public instruction for approval or disapproval of the transfer of the property involved. In his consideration for giving approval or disapproval, he shall be governed by any policies and rules and regulations of the state board for elementary and secondary education which may be affected by the transfer of the property and shall give due consideration to the following: the ratio of the wealth of the territory involved in its relation to the total wealth of the district from which the territory will be annexed; the effect of the proposed territorial loss or gain on the educational programs of the respective districts; extent of and effect on the physical plant, facilities and equipment available in each of the affected districts; the indebtedness and bonded or rental obligations of the respective districts; any contemplated indebtedness or obligation arising out of the proposed transfer; and such other factors as may have a bearing upon the determination of the desirability of the proposed annexation from the vantage point of all interested persons.

(3) In those instances where the requested transfer will result in a surplus of physical plant, facilities or equipment in the transferring school district, the superintendent of public instruction shall determine an equitable plan for the transfer of any such surplus to the annexing district as his plan may determine will be needed. His plan shall be based on the fair value of such property on a replacement basis, taking into consideration its age and condition. In any considerations and suggestions which he may propose for the settlement of the differences between the boards of education, he shall be bound by any agreements outstanding between the boards of education of the school districts upon the effective date of this law.

(4) In the event the superintendent of public instruction is unable to arrive at a satisfactory agreement with the two (2) boards of education concerning the transfer of the involved property within one hundred twenty (120) days from the time it is presented to him, either board may request that he bring the matter on for hearing before the state board for elementary and secondary education at its next regularly scheduled meeting. In that event, he shall file with the state board for elementary and secondary education all the facts which he has gathered, the recommendation he has made, and the basis for his recommendation, for their consideration. *In those instances where, after giving consideration to the factors set forth in subsection (2), the superintendent of public instruction determines that a transfer of only a portion of the territory in question is in the best interest of the respective districts, he may recommend to the state board of education a modified plan of transfer of territory.*

(5) Within at least ten (10) days before the holding of any hearing provided for in subsection (2) or subsection (4) of this section, the superintendent of public instruction shall serve written notice thereof, by registered mail, or by certified mail, return receipt requested, on the respective boards fixing the time and place at which the hearing shall be conducted. All hearings provided for herein shall be open to the public, and any interested person may appear and be heard in accordance with such rules and regulations as the state board for elementary and secondary education may prescribe with reference thereto.

HB 67, AN ACT relating to school attendance districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.070 is amended to read as follows:

Each school district shall constitute a separate attendance district unless two (2) or more contiguous school districts, with the approval of the state board for elementary and secondary education, unite to form one (1) attendance district. Controversies arising in attendance districts relating to attendance matters shall be submitted to the state board for elementary and secondary education for settlement, and in case an agreement suitable to all parties cannot be reached the state board for elementary and secondary education may dissolve a united district. In case of dissolution, each school district involved may unite with other contiguous school districts in forming a united attendance district or may act as a separate attendance district. [~~Within the appropriate school district attendance area, parents or legal guardians shall be permitted to enroll for attendance their children in the public school nearest their home.~~]

HB 68, AN ACT relating to school truancy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.150 is amended to read as follows:

Any child who has been absent from school without valid excuse for [~~more than~~] three (3) *or more* days, or tardy on [~~more than~~] three (3) *or more* days, is a truant. Any child who has been reported as a truant [~~more than~~] three (3) *or more* times is an habitual truant. Being absent for less than half of a school day shall be regarded as being tardy.

HB 69, AN ACT relating to salary payments for school employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.291 is amended to read as follows:

(1) All school employes working on a continuing, regular basis, [~~except those employed on a twelve (12) months basis~~] shall be paid regularly, on dates determined by the employing board of education[~~, during the school year~~]. The gross salary received on each pay date will be an amount equal to the school employe's annual salary divided by the number of pay dates.

(2) [~~Said~~] Salary amounts shall be paid on the prescribed pay dates without deduction for days on which schools were closed; provided, however, any time not worked for which pay is received must be made up prior to the end of that current school year, or pay so received shall be withheld from the final salary payment of that school year.

(3)[~~(2)~~] Gross salary payments under subsection (1) of this section need not, but may, include pay for extra duties or services. Payment for such extra duties or services must be paid pursuant to a payment plan adopted by the board of education prior to the beginning of the school year.

(4)[~~(3)~~] Payments made by the board of education under the authority of this section are deemed to be for services rendered and for the benefit of the common schools; the payments do not affect the eligibility of any school system to participate in the foundation program as established in KRS Chapter 157. Nor shall any individual board member or administrator be held liable where additional payments for such service become necessary. Provided, however, that nothing in this section authorizes or requires the payment of salaries to personnel when schools are closed as a result of a strike or other work stoppage or when schools are open and personnel fail to render services. No part of this section shall be law if any part is declared unconstitutional.

(5) Subsection (2) of this section does not apply to those employed on a twelve (12) month basis.

HB 70, AN ACT relating to the duties of a school superintendent.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.370 is amended to read as follows:

The superintendent shall be the executive agent of the board that appoints him and shall meet with the board except when his own tenure, salary, or the administration of his office is under consideration. As executive officer of the board, the superintendent shall see that the laws relating to the schools, the bylaws, rules and regulations of the state board for elementary and secondary education, and the regulations and policies of the district board of education are carried into effect. [~~He may administer the oath required by the board of education to any teacher or other person.~~] He shall be the professional adviser of the board in all matters. He shall prepare, under the direction of the board, all rules, regulations, bylaws and statements of policy for approval and adoption by the board. He shall have general supervision, subject to the control of the board of education, of the general conduct of the schools, the course of instruction, the management of teachers, the discipline of pupils, and the management of business affairs.

HB 71, AN ACT relating to school taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.609 is amended to read as follows:

Any order or resolution of a *school district* [~~fiscal court~~] in a county containing a city of the first class levying either or both of the taxes authorized by KRS 160.613 to 160.617 and 160.621 to 160.633 under KRS 160.608 may be recalled as provided in subsections (2) and (3) of KRS 160.485, provided that the petition for recall shall be effective upon the signature of a number of registered and qualified voters as described therein equal to five per cent (5%) instead of the percentage provided therein.

HB 72, AN ACT relating to student teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.042 is amended to read as follows:

(1) The state board for elementary and secondary education shall provide through regulation for the utilization of the common schools for the preparation of teacher education students from the colleges and universities.

(2) Within the provisions established by the state board for elementary and secondary education, local boards of education are authorized to enter into cooperative agreements, including financial arrangements, with colleges and universities for the purpose of providing professional laboratory experiences and student teaching experiences for students preparing for the education profession.

(3) A student teacher who is jointly assigned under agreement by a teacher education institution and a local board of education shall have the same legal status and protection as a certificated teacher employed within the school district *and* [~~but~~] shall be *responsible to the administrative staff* [~~subject to the direction and supervision of the professional administrative and teaching staff~~] of the school district *and the supervising teacher to whom he is assigned.*

(4) Teacher education students, other than student teachers, may be permitted through cooperative agreements between the local school district and the teacher education institution, to engage in supplementary instructional activities with pupils under the direction and supervision of the professional administrative and teaching staff of the school district.

HB 73, AN ACT relating to the duties of school employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS section is repealed:

161.140 Duties of school employes prescribed by board of education.

HB 74, AN ACT relating to sick leave for teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state.

(b) "Immediate family" shall mean the teacher's spouse, children including stepchildren, parents and spouse's parents without reference to the location or residence of said relative.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the

teacher was ill or that the teacher was absent for the purpose of attending to a member of his immediate family who was ill. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section. Any accumulated sick leave days, not to exceed thirty (30) days, credited to a teacher shall remain so credited in the event he transfers his place of employment from one school district to another within the state *or to the Kentucky Department of Education.*

(4) Accumulated days of sick leave shall be granted to a teacher, if prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

(5) After July 1, 1981, a district board of education may compensate, at the time of retirement, a teacher for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of *the daily salary rate calculated from* the teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service. The accumulation of such days includes unused sick leave days held by the teacher at the time of implementation of such a program.

HB 75, AN ACT relating to penalties for violating school statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.990 is amended to read as follows:

(1) Any person who willfully violates any provisions of KRS 161.162 or 161.164, shall be confined in jail for not less than thirty (30) days nor more than six (6) months.

(2) Any teacher or employe of a district board of education who willfully violates any provision of KRS 161.162 or 161.164 shall be ineligible for employment in the common schools for a period of five (5) years.

(3) Any person who violates any of the provisions of KRS 161.190 shall be fined not less than *one hundred* [~~ten~~] dollars *($100)* [~~($10)~~] nor more than one *thousand* [~~hundred~~] dollars *($1,000)* [~~($100)~~].

(4) Any teacher who violates any of the provisions of subsection (2) of KRS 161.210 shall be subject to a fine of fifty dollars ($50) and upon conviction his certificate shall be revoked.

(5) A violation of any of the provisions of KRS 161.661 or KRS 161.690 is a misdemeanor and upon conviction shall be punished by a fine of not more than five thousand dollars ($5,000).

HB 76, AN ACT relating to school discipline.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.150 is amended to read as follows:

(1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools. Wilful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students or school personnel, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property as well as off school property at school sponsored activities constitutes cause for suspension or expulsion from school.

(2) A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:

(a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;

(b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and

(c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

(3) The superintendent, principal, *assistant principal* or head teacher of any school may suspend a pupil but shall report such action in writing immediately to the superintendent and to the parent, guardian or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1), but such action shall not be taken until the parent, guardian or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

HB 77, AN ACT relating to teachers' retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.380 is amended to read as follows:

(1) The state treasurer is the custodian of all cash funds of the retirement system. He shall honor and pay all vouchers drawn on the retirement funds. The treasurer shall honor and pay all vouchers drawn on the retirement funds for payment of securities purchased upon order of the board. All payments from the several funds of the retirement system shall be made only upon vouchers signed by the executive secretary, [~~or~~] the chairman of the board of trustees of the retirement system, *or persons delegated in writing by the board.*

(2) The board of trustees shall appoint a custodian or custodians of the securities acquired under authority of KRS 161.430 and the custodian or custodians shall be responsible for the safekeeping of all securities placed in his custody. The custodian shall collect dividends, interests, and payments on principal as they become due, and deposit such funds with the state treasurer for credit to the guarantee fund of the system. The custodian shall, upon delivery of the securities to him, make payment for same as authorized by the board of trustees. When securities are sold by the board of trustees, the custodian shall deliver such securities to the purchaser upon receipt of payment from said purchaser.

(3) The board of trustees may require such surety from the custodian as they deem necessary for the protection of securities held by such custodian.

Section 2. KRS 161.560 is amended to read as follows:

Each agency employing members of the retirement system shall deduct from the compensation of each member for each payroll period subsequent to the date upon which the teacher became a member such percentage of his earnable compensation as is due under the rates prescribed in KRS 161.540. No later than fifteen (15) days following the end of each payroll period the agency shall forward all amounts so deducted to the teachers' retirement system. *The retirement system may charge the employing agency interest at an annual rate not to exceed twelve percent (12%) for deductions not remitted within the specified fifteen (15) days.* Such payroll reports, contributions lists, and other data as may be required by regulation of the board of trustees shall be submitted. The deductions shall be made notwithstanding the fact that the salary as a result may be less than the minimum compensation provided by law. Every member shall be deemed to consent and agree to the deductions and the deductions shall be considered as having been paid to the member.

Section 3. KRS 161.595 is amended to read as follows:

(1) Upon service retirement, a member of the teachers' retirement system may obtain credit for all or any part of the service otherwise creditable under the Kentucky employes' retirement system, the county employes' retirement system, or in the service of the United States government for which service credit is not otherwise given, upon the payment by the member of such amount or amounts as are actuarially determined to be equal to the increased liability of the teachers' retirement system by virtue of such additional service credit.

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one (1) of these three (3) retirement systems.

[~~(4) An active member of the teachers' retirement system may obtain service credit for all or any part of full-time teaching service that was performed in a Kentucky correctional institution prior to 1956, upon the payment by the member of the required percentage based on the salary received for the initial year of employment after 1956 in a position covered by the teachers' retirement system with interest at the rate of six percent (6%) compounded annually from the date of the pre-1956 service, and by depositing in the state accumulation fund an amount equal to the above sum. Member payments for this service must be made prior to July 1, 1982.~~]

Section 4. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age at retirement may be applied as provided in this section.

(b) For retirements effective July 1, 1982, and thereafter the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after July 1, 1982, shall be valued at two and one-half percent (2 ½%) of the final average salary for all members not employed by a state university or college.

(c) If the member has five (5) years or more of Kentucky service, but less than thirty (30) years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than thirty (30) years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than eighty-eight dollars ($88) multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums shall be effective July 1, 1978, and shall apply to those members retiring on or subsequent to that date.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) [~~Effective July 1, 1980, the monthly allowance of each member retired on or before July 1, 1979, and of each recipient of a retirement option of such retired member shall be increased in the amount of three percent (3%) of the monthly allowance. Effective July 1, 1980, the monthly allowance of each member retired on or before July 1, 1975, and of each recipient of a retirement option of such retired member shall be increased in the amount of two percent (2%) of the monthly allowance. Effective July 1, 1981, the monthly allowance of each member retired on or before July 1, 1980, and of each recipient of a retirement option of such retired member shall be increased in the amount of three percent (3%) of the monthly allowance. Effective July 1, 1981, the monthly allowance of each member retired on or before July 1, 1976, and of each recipient of a retirement option of such retired member shall be increased in the amount of two percent (2%) of the monthly allowance. The above percentages shall be based on an assumed minimum allowance of two hundred dollars ($200) per month and an assumed maximum allowance of seven hundred and fifty dollars ($750) per month of annuity in effect the previous month.~~

~~(6) Effective July 1, 1980, each member retired prior to that date and each recipient of a retirement option of such member shall receive an increase in monthly benefits equal to one dollar ($1.00) for each year, up to a maximum of fifteen (15) years, of credited service prior to July 1, 1941. Effective July 1, 1980, each member who retired prior to that date and each recipient of a retirement option of such member shall receive an increase in monthly benefits equal to five dollars ($5.00) for each year, after the first fifteen (15) years, of credited service prior to July 1, 1941.~~

~~(7)~~] Effective July 1, 1980, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of such child or until such time as the mental condition creating the dependency no longer exists. Benefits under this subsection shall not apply to adopted children. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

HB 79, AN ACT relating to boards of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.440 is amended to read as follows:

Each board of education shall appoint a secretary for a term of one (1), two (2), three (3) or four (4) years. The secretary shall not be a member of the board of education. The board of education of any district may appoint its superintendent as secretary. The board may fix a reasonable salary for the secretary. The secretary shall keep the records of the board and perform other duties imposed upon him by the board. All orders of the board must be signed by the secretary and countersigned by the chairman of the board. The secretary shall be custodian of all securities, documents, title papers and other papers of the board under such conditions as the board may direct. The secretary, when other than the superintendent, shall make all records of the board available to the superintendent *and the board of education* at any time and shall furnish the superintendent of schools *and the board of education* such information as is revealed by *the* [~~his~~] records at any time upon the request of the superintendent *or the board of education.*

HB 80, AN ACT relating to school employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.190 is amended to read as follows:

No person shall *harass* [~~upbraid~~], insult or abuse any *employe* [~~teacher~~] of the public schools *or any member of a board of education on school property or at any activity sponsored by the school off school property* [~~in the presence of the school or in the presence of a pupil of the school~~].

HB 81, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.020 is amended to read as follows:

The council on higher education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the Commonwealth.

(2) Develop and transmit to the governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state colleges and universities, the community colleges, and the University of Kentucky as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in such federal legislation; provided, however, that when such federal legislation requires additional representation on any such "single state agency" the council on higher education shall establish such advisory groups as may be necessary to satisfy such federal legislative or regulatory guidelines. *The council shall serve as the state agency for such regional and interstate compacts relating to the planning and developing of education on a nationwide basis at state and local levels.*

(3) Determine the amount of entrance and/or registration fees and approve the qualifications for admission to the public institutions of higher education. In determining the entrance and/or registration fees for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and such other factors as the council may in its sole discretion deem pertinent.

(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the governor through the department of finance not later than November 15 of each odd numbered year.

(5) Review and approve all capital construction projects the cost of which exceeds one hundred thousand dollars ($100,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of such projects to the department of finance and/or state property and buildings commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs in the state-supported higher education institutions; review proposals and make recommendations to the governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in KRS 164.010, 164.020, 164.125, and 164.290 to 164.295 shall be construed to grant the council on higher education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

(9) Approve the teacher education programs in the public institutions.

(10) Elect a chairman annually from the voting membership and appoint an executive director and such staff as may be needed and fix their compensation without limitation of the provisions of KRS chapter 18 and KRS 64.640 subject to the approval of the commissioner of personnel and the secretary of the department of finance.

(11) Constitute the representative agency of the Commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one or more institutions of higher learning. Such responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment.

(12) Develop procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate after July 15, 1980. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee.

Section 2. KRS 164.050 is amended to read as follows:

The members of the council shall receive sixty-five dollars ($65) per day for each council meeting attended and shall be reimbursed for their necessary traveling and other expenses while attending the meetings of the council. [~~Each institution shall pay the expenses of its own representatives. The expenses of the members of the state board of education and of the superintendent of public instruction shall be paid by the state in the same manner as their other traveling expenses are paid.~~]

Section 3. KRS 164.060 is amended to read as follows:

The council shall meet at least four (4) times each year at such times as it determines by resolution. Special meetings may be called by the chairman. [~~Upon request of three (3) institutions represented on the council, the chairman shall call a special meeting.~~]

Section 4. KRS 164.130 is amended to read as follows:

(1) The government of the University of Kentucky is vested in a board of trustees consisting of sixteen (16) competent citizens of Kentucky appointed by the governor, two (2) members of the teaching faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The initial terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. Whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term. Four (4) of the sixteen (16) appointed members shall be appointed each year. Three (3) of the appointed members shall be representative of agricultural interests, three shall be alumni of the university, and ten (10) shall be other distinguished citizens of the state representative of the learned professions. The governor shall so make the appointments as to divide the representation on the board as equally as possible between the two (2) leading political parties of this state. Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(2) The two (2) University of Kentucky faculty members shall be teaching or research members of the rank of assistant professor, or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor and above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualify. Faculty members shall be eligible for re-election, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the teaching staff of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) The faculty member representing the community college system shall be a teaching or research member at one of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. *The student member shall serve until a successor is elected and qualified.*

(5) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment or services, with exception of compensation to the three (3) faculty members.

(6) The number of student and employe trustees of the University of Kentucky elected to the board shall not exceed four (4).

Section 5. KRS 164.288 is amended to read as follows:

Any of the state colleges or universities or the University of Kentucky or the state on behalf of any of the colleges or the universities may accept federal aid in the form of services, equipment, supplies, materials or funds by way of gift, grant or loan for the purpose of higher education including student loans. Any of the state colleges or the universities acting through its president or its governing board is hereby authorized to receive such services, equipment, supplies, materials and funds as are now available or may be made available. The colleges and the universities are hereby authorized to use funds appropriated to them [~~in the 1959-1960 fiscal year~~] in carrying out the matching provisions required by federal programs, loans or grants.

Section 6. KRS 164.320 is amended to read as follows:

(1) The board of regents for Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky University shall each consist of eight (8) members appointed by the governor, one (1) member of the teaching faculty, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairman annually.

(2) The initial terms of appointed members shall be for four (4) years, and until their successors are appointed and qualified. Whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term. Such appointments shall be made by the governor within thirty (30) days after the expiration of the term of each member. If the governor should fail to make any such appointment within thirty (30) days after the expiration of the term of any member, the remaining members of the board of regents of the particular university or college whose terms shall not have expired, shall make such appointment within sixty (60) days after the expiration of such term.

(3) Not more than two (2) appointed members of any board shall be residents of one (1) county; nor more than four (4) of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of such board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(8) The student member shall be the president of the student body of the university or college on whose board of regents he is to serve. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. *The student member shall serve until a successor is elected and qualified.*

Section 7. KRS 164.330 is amended to read as follows:

Each board of regents shall hold its first meeting within thirty (30) days after each appointment of new members. The place of meeting shall be designated by the *chairman of the board* [~~superintendent of public instruction~~]. [~~At this meeting there shall be elected a vice-chairman and a secretary for the board.~~] Each board shall *elect a vice chairman and a secretary for the board, and* appoint a treasurer, and such officers as it deems necessary but no member of any of the boards shall be appointed treasurer. No member of any board shall draw any salary for his services, but shall be reimbursed for necessary expenditures made in going to and from each meeting of the board and for other legitimate expenses. The expenses shall be paid out of the funds of the university or college.

Section 8. KRS 164.420 is amended to read as follows:

The treasurer of each board of regents shall receive and disburse all money under the control of the board, perform all acts that pertain to his office under the direction of the board, and make a report of the same to the board at its quarterly meeting. [~~In August each year the treasurer shall make and furnish to the board of regents, to be by it transmitted to the superintendent of public instruction, an abstract containing full accounts of all money received and disbursed by the school during the preceding year, stating from what source received and on what account paid out, and the amount paid to each professor, teacher or official of the school.~~]

Section 9. KRS 164.540 is amended to read as follows:

[~~(1)~~] The council on higher education in Kentucky as defined in KRS 164.010 is hereby designated as the agency of the Commonwealth of Kentucky charged with the responsibility and vested with all necessary authority, subject to the conditions and restrictions set out in subsection (2) of this section, to carry out the obligations, participate in the planning and negotiations, and administer the rights, benefits and privileges, devolving upon the Commonwealth of Kentucky and its citizens pursuant to the regional compact referred to in KRS 164.530, and to do all such other acts and things as may be necessary or desirable to implement the provisions of said regional compact efficiently and impartially for the benefit of all citizens of the Commonwealth.

[~~(2) In its participation in the regional compact, or in any other regional plan having a similar purpose, the Commonwealth of Kentucky shall not erect, acquire, develop or maintain in any manner any educational institution within its borders to which negroes will not be admitted on an equal basis with other races, nor shall any negro citizen of Kentucky be forced to attend any segregated regional institution to obtain instruction in a particular course of study if there is in operation within the Commonwealth at the time an institution that offers the same course of study to students of other races.~~]

Section 10. KRS 164.593 is amended to read as follows:

(1) The board of trustees of the University of Kentucky, (herein called board) may include Paducah Junior College in the system provided for by KRS 164.580 upon the concurrence of the board and the board of trustees of Paducah Junior College. Following the concurrence of the two (2) boards an agreement shall be executed between the board and the board of trustees providing for the conversion of the existing facilities of Paducah Junior College and containing other provisions the parties deem appropriate and desirable.

(2) The agreement required by subsection (1) may provide for the transfer to the board of any funds accruing to Paducah Junior College as the result of any contract or agreement with any agency or instrumentality of the United States or the Commonwealth of Kentucky [~~including any funds accruing pursuant to KRS 164.027~~].

(3) Upon the execution of the agreement required by subsection (1), any taxes levied under KRS 165.170 or 165.175 and paid to the trustees shall continue to be received by the board of trustees of Paducah Junior College. However, the trustees may in the agreement, provide for the expenditure of the taxes levied for such purposes as the trustees and the board may mutually agree.

Section 11. KRS 164.810 is amended to read as follows:

(1) As used in KRS 164.810 to 164.870, the following terms shall have, unless the context shall otherwise indicate, the following meanings:

(a) "University of Louisville" means the university which is situated in a city of the first class, and which has heretofore constituted a municipal university within the meaning and application of KRS 165.010, et seq;

(b) "Council" means the council on higher education in Kentucky.

(2) Consistent with the provisions of [~~KRS 164.026 and~~] chapter 239 of the 1968 Kentucky Acts, the University of Louisville shall be maintained as a state institution effective July 1, 1970, subject to its qualification to receive the benefits of such status in the manner set forth in subsection (3) of this section.

(3) The University of Louisville, having been chartered by chapter 137, Acts of 1845-6, approved February 7, 1846, effective in accordance with its terms on March 15, 1846; having become subject to the laws of the Commonwealth generally applicable to corporations of the same category according to the import of subsection seventeen of section 59 of the present constitution of the Commonwealth; and having duly filed in the office of the secretary of state its acceptance of the present constitution of the Commonwealth in accordance with section 190 thereof; may qualify to receive the benefits of its status as a state institution, as provided in KRS 164.810 to 164.870, by action of its board of trustees in adopting and causing to be filed for public record such proceedings as are required by law, amending its charter or articles of incorporation in such manner as to conform to the provisions of KRS 164.810 to 164.870.

Section 12. KRS 164.820 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees consisting of fifteen (15) competent citizens of Kentucky appointed by the governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff

senate; and a student member who shall be the president of the student body; however, if the student body president is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. *The student member shall serve until a successor is elected and qualified.* The faculty member, staff member and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring by reason of such termination shall be filled for the remainder of the respective terms in the same manner. The fifteen (15) citizen members of the board shall annually elect one of their number to serve as chairman of the board.

(2) To facilitate transition of the University of Louisville to full status as a state institution, terms of members of the board of trustees in office on July 1, 1970, shall be terminated as of that date or as of the date their successors are appointed and qualify, and their successors shall be appointed by the governor according to the following schedule:

(a) Two (2) for one (1) year terms;

(b) Two (2) for two (2) year terms, one (1) of which shall be an alumnus or alumna of the university, selected from a list of three (3) names submitted by the alumni of the university in such manner and according to rules prescribed by the board of trustees;

(c) Three (3) for three (3) year terms;

(d) Eight (8) for four (4) year terms, one (1) of whom shall be an alumnus or alumna of the university, selected as under subsection (2)(b) of this section.

(3) At the expiration of the respective terms of the citizen members of the board of trustees as prescribed in subsection (2) of this section, successors shall be appointed by the governor for terms of four (4) years each, except that whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term, and in making such appointments the governor shall observe the requirements relating to nominations by the alumni members. Subject to such requirements the governor shall make his appointments from the state at large so as to divide the citizen representation upon the board as nearly equally as possible between the two (2) leading political parties in this state.

(4) Vacancies among the citizen members of the board occurring by death, resignation, removal of residence from the Commonwealth or any other cause shall be filled by appointments made by the governor for the expiration of the term, subject to the qualifications set forth in subsection (3) of this section.

(5) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

(6) Subsection (2) of KRS 63.080 is hereby expressly made applicable to members of the board of trustees of the University of Louisville.

Section 13. The following KRS sections are repealed:

164.024 Office of geriatrics — Gerontology created in council — Administrator's qualifications — Duties.

164.026 State support for University of Louisville.

164.027 Occupational qualification development program — State payments to participating municipal junior colleges.

164.293 Northern Kentucky University recognized — Laws applicable.

HB 136, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.320 is amended to read as follows:

(1) The board of regents for Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky University shall each consist of eight (8) members appointed by the governor, one (1) member of the teaching faculty, [~~and~~] one (1) member of the student body, *and one (1) member of the staff* of the respective university or college. The members of the board shall select a chairman annually.

(2) The initial terms of appointed members shall be for four (4) years, and until their successors are appointed and qualified. Whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term. Such appointments shall be made by the governor within thirty (30) days after the expiration of the term of each member. If the governor should fail to make any such appointment within thirty (30) days after the expiration of the term of any member, the remaining members of the board of regents of the particular university or college whose terms shall not have expired, shall make such appointment within sixty (60) days after the expiration of such term.

(3) Not more than two (2) appointed members of any board shall be residents of one (1) county; nor more than four (4) of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of such board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(8) The student member shall be the president of the student body of the university or college on whose board of regents he is to serve. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(9) The staff member shall be a non-teaching employe of the university who has permanent employe status. He shall be elected by secret ballot by all non-teaching staff members of his respective university. The staff member shall serve for a term of three (3) years and until his successor is elected and qualified. The staff member shall not be eligible to continue to serve as a member of the board if he becomes a member of the teaching staff or ceases to be employed by the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections. The staff member shall have the right to vote on all matters except that of staff compensation.

The Committee on Judiciary-Civil reported **HB 14** with Committee Amendment attached thereto, **HB 53**, and **HB 154** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 14, AN ACT establishing rules relating to legislative proposals and enactments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:

In the event of a conflict between measures amending the same section of statutes, the one which passes the general assembly last shall prevail. For purposes of codification only, a house bill shall be deemed to have passed the general assembly when signed by the president of the senate and a senate bill shall be deemed to have passed the general assembly when signed by the speaker of the house of representatives.

SECTION 2. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:

In the event of a conflict between a measure amending a statute and one repealing the same statute, the bill repealing the statute shall prevail unless the bill amending the statute specifically repeals the previous repeal.

SECTION 3. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:

In the event material is placed in a bill amending a statute which is not underlined and which is not contained in the original text of the statute, the material shall be considered as extraneous and shall have no force and effect and shall be deleted from any publication of the statutes by the statute reviser.

SECTION 4. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:

In the event material which was in the original text of a statute is deleted from the statute in a bill amending the statute but is not indicated by brackets and strike through, the deletion shall be considered in error and shall have no force and effect and shall be retained in any publication of statutes by the statute reviser.

SECTION 5. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:

In the event a bill with a delayed effective date repeals a statute amended at the same session of the general assembly, the statute shall be considered to be amended at the date specified in the amending act and shall stand repealed as of the date specified in the repealing act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:

In the event a bill with a delayed effective date amends a statute repealed at the same session of the general assembly, the repeal shall prevail and the amendment shall have no force and effect.

SECTION 7. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:

When the house or senate clerk or a member of his staff makes a change or correction on the face of the bill to be presented to the governor for his approval or other action, he shall deliver a copy of the bill containing the change to the statute reviser and shall affix his signature and the date of making the change on the face of the original bill and the copy sent to the statute reviser in a position near the changed material. Any change not so indicated and signed shall be null and void and shall not be placed in the statutes by the statute reviser.

SECTION 8. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:

When the general assembly amends a section of the statutes which, due to a delayed effective date at the time of enactment, is not effective when the amendment is enacted, such amendment shall not hasten the effective date of the statute, unless the general assembly has clearly indicated that such is its intention by a change in the effective date.

Section 9. KRS 446.145 is amended to read as follows:

(1) Bills amending an existing section of the statutes shall indicate the material proposed to be deleted by brackets and by striking through the material.

(2) Bills amending an existing section of the statutes shall indicate new material by underlining.

(3) Bills creating a new section of the statutes shall begin with the phrase "A NEW SECTION OF KRS CHAPTER — IS CREATED TO READ AS FOLLOWS:" and shall contain underlining of all material in the section.

(4) Bills repealing a section of the statutes shall list the statute number and headnote [~~In any bill passed by the General Assembly that amends one or more statute sections, it is the intent of the General Assembly to delete by amendment from such statute sections all words, figures and punctuation enclosed in brackets (i.e. brackets in the text of the statute sections as set out in the bill~~].

Committee Amendment No. 1 to **HB 14** is as follows:

Amend printed copy of **HB 14,** page 4, after line 15, by inserting the following:

"Section 10. Whereas, it is necessary to clarify the rules relating to legislative proposals and enactments of the 1982 Regular Session of the General Assembly as well as those of future sessions, this Act shall become effective immediately upon passage and approval of the Governor and its provisions shall be retroactive to include any legislative proposals and enactments of the 1982 Regular Session approved prior to the effective date of this Act."

HB 53, AN ACT relating to actions for alimony or divorce.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 452.470 is amended to read as follows:

An action for alimony or divorce must be brought in the county where the *husband or* wife usually resides[~~, if she have an actual residence in this state; if not, in the county of the husband's residence~~].

HB 154, AN ACT relating to enforcement of judgments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 426.530 is amended to read as follows:

(1) If real property sold in pursuance of a judgment or order of a court, other than an execution, does not bring two-thirds of its appraised value, the defendant and his representatives may redeem it within a year from the day of sale, by paying [~~the purchaser or his representatives~~] the original purchase money and ten percent per annum interest thereon. [~~The defendant redeeming his land shall take a receipt from the purchaser and lodge it with the clerk of the court. The receipt shall be entered upon the records of the court.~~]

(2) The defendant *shall pay* [~~may tender~~] the redemption money to [~~the purchaser or his agent or attorney, if in the county where the land lies or in the county in which the judgment is obtained or order of sale made. If the money is refused, or if the purchaser does not reside in either of the counties, the defendant may, before the expiration of the year, go to~~] the clerk of the court in which the judgment was rendered or the order *of sale was* made [~~and make affidavit of the tender and refusal, or that the purchaser, or his agent or attorney do not reside in either of the counties. He may then pay to the clerk the redemption money for the purchaser, and the clerk shall give a receipt therefor and file the affidavit among the papers of the action~~]. *Upon payment by the defendant, the master commissioner shall convey the real property to the defendant.*

(3) When the right of redemption exists, *the purchaser shall receive an immediate writ of possession and a deed containing a lien in favor of the defendant, reflecting the defendant's right to redeem during the statutory period* [~~the defendant may remain in possession of the property until it expires. Real property so sold shall not be conveyed to the purchaser until the right of redemption has expired. If it is redeemed, the sale shall, from and after the redemption or from and after deposit of the redemption money with the clerk, be null and void~~].

Calendar

HR 1, HB 135, HB 34, HB 128, HR 3 and **HB 47** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

The Clerk announced the filing of the following Floor Amendment:

Floor Amendment No. 1 to **HB 143,** by Representative Heleringer:

Amend printed copy of **HB 143,** page 1, line 7, as follows:

Delete language beginning with the word "*One*" through the word "*associations*" on line 14.

On page 1, delete language beginning with the word "*,with*" on line 21, through the word "*order*" on page 2, line 3.

On page 2, delete language beginning with the word "*pursuant*" on line 4 through the word "*ments*" on line 6.

On page 6, delete language beginning with the word "*,except*" on line 7 through the word "*commission*" on line 11.

On page 8, line 4, remove the bracket before the word "and" and on line 5, remove the bracket after the word "~~held~~".

On page 12, lines 24 and 25 by deleting the following, "*a legislator appointed by the legislative research commission*", and adding in lieu thereof the following, "*a member of the general public who has no financial interests in thoroughbred racing or breeding and who lives within twenty (20) miles of a local jurisdiction where thoroughbred racing is conducted, appointed by the governor*".

On page 20, delete Section 8 in its entirety and renumber Section 9, Section 8.

Representative LeMaster moved that the Proposed Regulation 815 KAR 20:030 be sent to the Committee on Committees for referral. Agreed.

Representative Deskins moved the reading of the following **HR 15.** Agreed.

HR 15, A RESOLUTION commending the employees and management of Mine No. 25 of the Beth-Elkhorn Corporation.

WHEREAS, the employees and management of Mine No. 25 of the Beth-Elkhorn Corporation recently were awarded the coveted Sentinels of Safety Award for being the safest underground coal mine in the country; and

WHEREAS, 190 employees of Mine No. 25 worked more than 332,000 hours without a single lost workday injury; and

WHEREAS, the Sentinels of Safety Award is a highly sought award given jointly by the U.S. Mine Safety and Health Administration (MSHA) and the American Mining Congress (AMC); and

WHEREAS, this award for safety attests to the commitment by the employees and officials of Beth-Elkhorn for the highest level of safety;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the employees and management of Mine No. 25 of the Beth-Elkhorn Corporation are highly commended for their outstanding record of safety and for receiving the coveted Sentinels of Safety Award.

Section 2. That copies of this resolution be sent to the office of Beth-Elkhorn Corporation in Jenkins, Kentucky and to the office of Bethlehem Steel Corporation in Bethlehem, Pennsylvania.

Representative Deskins moved the adoption of **HR 15.**

HR 15 was adopted by voice vote.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Bennett, **HB 106, HB 125, HB 43;** Representative Blandford, **HB 106;** Representative Blevins, **HB 106, HB 125, HB 43;** Representative Burch, **HB 106, HB 125, HB 43;** Representative Clark, **HB 106;** Representative Cowan, **HB 181;** Representative Cyrus, **HB 106, HB 125;** Representative Freibert, **HB 26;** Representative Kidd, **HB 106, HB 125, HB 43, HB 141;** Representative McNutt, **HB 106, HB 125, HB 43;** Representative Perkins, **HB 106, HB 43;** Representative Schmidt, **HB 34;** Representative Tobin, **HB 106, HB 125, HB 43;** Representative Todd, **HB 91, HB 93;** Representative Yates, **HB 106, HB 125, HB 43.**

Announcements

The following meetings were announced:

Committee on Rules: On adjournment.

Democratic Caucus: Room 109, one-half hour after adjournment.

Coal Coalition: Cancelled tomorrow.

Budget Review Hearing on Corrections, Room 103, 8:00 a.m.

Budget Review Hearing on Natural Resources, Thursday, on adjournment, Room 106.

Appropriations and Revenue: Thursday, January 14, 11:00 a.m., Room 107.

Labor and Industry: Thursday, January 14, Room 105, 8:00 a.m.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 226, by Representative Richards: AN ACT relating to financing court facilities.

HB 227, by Representatives Bruce and Boswell: AN ACT relating to farm trucks.

HB 228, by Representatives Petty, Donnermeyer and Lundergan: AN ACT relating to malt beverages.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Transportation: **HB 44, HB 115.**

Representative LeMaster moved that the House stand at ease for five minutes. Agreed.

Speaker Richardson presiding.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, January 14, 1982.

On the roll call the vote was yeas 77-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Farrow, Ford, Foster, Freibert, Fryman, Haering, Hancock, Harper, Head, Hines, Holbrook, Holloway, T. Jones, Kidd, Layman, Lefevers, LeMaster, List, Little, Long, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Moore, Nett, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 7-Deskins, Guenthner, Handy, Lile, Maggard, Overstreet, Perkins

The motion to adjourn was adopted.

THURSDAY, JANUARY 14, 1982

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Donald Nunnelley, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Endicott and Petty.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 13, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 229, by Representatives Stone, Gray, Brinkley and Cyrus: AN ACT relating to the payment of wages.

HB 230, by Representative Priddy: AN ACT relating to rape examinations.

HB 231, by Representatives Handy and Dunn: AN ACT relating to dentistry.

HB 232, by Representatives Guethner, Cowan and Heleringer: AN ACT relating to the University of Kentucky and the University of Louisville's athletic programs.

HB 233, by Representatives Bronger and Yates: AN ACT relating to pensions.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 227.**

Banking and Insurance: **HB 225.**

Business Organizations and Professions: **HB 219, HB 224, HB 228.**

Education: **HB 220, HB 222, HB 223.**

Health and Welfare: **HJR 16.**

Judiciary-Civil: **HB 221, HB 226.**

Labor and Industry: **HB 218.**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 83, HB 84,** and **HB 85** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 83, AN ACT relating to ginseng and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context clearly requires otherwise:

(1) "Harvest" means to take any part of the wild ginseng plant while the plant is living.

(2) "Wild ginseng" means any ginseng plant growing as nature caused the plant to grow without any assistance from man, but includes any plant grown from seeds of a wild plant replanted within fifty (50) feet of the harvesting point using no implement other than fingers for planting.

SECTION 2. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

The department shall administer a program for wild American ginseng in Kentucky which provides a framework, including a limited harvesting season, in which wild American ginseng shall be eligible for exportation in compliance with federal requirements. The department shall promulgate regulations to carry out this program and cooperate with and enter into agreements with any other agency of this state, any other state, or the federal government to carry out this program. Any regulation promulgated under this section shall be no more restrictive than minimum federal requirements.

SECTION 3. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

No person shall harvest wild or cultivated ginseng on the land of another without the permission of the landowner.

SECTION 4. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

State agencies shall cooperate with the department in fulfilling its responsibilities under this Act, particularly in regard to assessing the condition of the wild ginseng population.

SECTION 5. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates any provisions of this Act, except Section 3, or the regulations issued by the department to conform with this Act shall be fined not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200.00) for each offense.

(2) Any person who violates Section 3 of this Act shall be guilty of theft by unlawful taking as provided in KRS 514.030.

Section 6. There is hereby appropriated out of the state's General Fund to the Department of Agriculture the sum of $10,000 for the fiscal year 1982-83 and the sum of $10,000 for the fiscal year 1983-84 to carry out the purposes of this Act, including reimbursing the University of Kentucky College of Agriculture for expenses incurred in ginseng research.

HB 84, AN ACT relating to the state board of agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 251.030, Compensation of state board, is repealed.

HB 85, AN ACT relating to poultry and rabbit inspection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS sections are repealed:

217A.010	Definitions.
217A.020	Short title.
217A.030	Legislative finding.
217A.040	Declaration of policy.
217A.050	State and federal cooperation.
217A.060	Antemortem and postmortem inspection, reinspection, and quarantine.
217A.070	Sanitation, facilities, and practices.
217A.080	Labeling and containers — Standards.

217A.090	Prohibited acts.
217A.100	Complete coverage of establishments.
217A.110	Required records and registration.
217A.120	Reporting of violations.
217A.130	Regulations.
217A.140	Exemptions.
217A.150	Limiting entry of articles into establishments.
217A.160	General provisions.
217A.170	Detention of products.
217A.180	Special judicial proceedings against articles.
217A.190	Jurisdiction of circuit court.
217A.200	Additional enforcement powers.
217A.210	Limited application of chapter.
217A.220	Cost of inspections.
217A.990	Penalties.

The Committee on Appropriations and Revenue reported **HB 183** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 183, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.810 is amended to read as follows:

(1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the department of revenue. The assessed value of property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax paid by the taxpayer is the same as if the increase had not been made.

(2) (a) Every person filing an application for exemption under the homestead exemption provision must be sixty-five (65) years of age or older during the year for which application is made *or must have been classified as totally disabled under a program authorized or administered by an agency of the United States government or by the railroad retirement system on January 1 of the year in which application is made.*

(b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.

(c) *Every person filing an application for exemption under the disability provision of the homestead exemption must have received disability payments pursuant to the disability and must maintain the disability classification through December 31 of the year in which application is made.*

(d) Every person filing for the homestead exemption who is totally disabled and is less than sixty-five (65) years of age must apply for the homestead exemption on an annual basis.

(e) Only one (1) exemption per residential unit shall be allowed *even though the resident may be sixty-five (65) years of age and also totally disabled, and* regardless of the number of residents sixty-five (65) years of age or older occupying said unit, but the $6,500 exemption shall be construed to mean $6,500 in terms of the purchasing power of the dollar in 1972. Every two (2) years thereafter, if the cost of living index of the United States department of labor has changed as much as one (1) per cent, the maximum exemption shall be adjusted accordingly.

(f)[~~(d)~~] The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

(g)[~~(e)~~] A mobile home may qualify as a residential unit for purposes of the homestead exemption provision provided the mobile home is classified as real property as defined in KRS 132.750.

(h)[~~(f)~~] When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, committee, curator or agent shall report such transfer to the property valuation administrator.

(3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead exemption provision for state, county, city or special district purposes.

(4) The provisions of this section shall become effective with the *1982* [~~1976~~] taxable year and persons eligible for a homestead exemption under this section, *who have not previously filed under the age provision of the homestead exemption,* shall file applications *by December 31 of the taxation period.* [~~:~~]

(a) *The homestead exemption for disabled persons shall terminate whenever those persons no longer meet the total disability classification or at the end of the taxation period for which the homestead exemption has been granted* [~~Any time during the 1976 taxable year~~].

(b) *Any totally disabled person granted the homestead exemption under the disability provision shall report any change in disability classification to the property valuation administrator in the county in which the homestead exemption is authorized* [~~By March 1 in any year after the 1976 taxable year~~].

(c) Any person making application and qualifying for the homestead exemption before payment of his property tax bills for the year in question shall be entitled to a full or partial exoneration, as the case may be, of the property tax due to reflect the taxable assessment after allowance for the homestead exemption.

(d) Any person making application and qualifying for the homestead exemption after property tax bills have been paid shall be entitled to a refund of the property taxes applicable to the value of the homestead exemption.

Section 2. KRS 132.990 is amended to read as follows:

(1) Any person who wilfully fails to supply the property valuation administrator or the department of revenue with a complete list of his property and such facts with regard thereto as may be required or who violates any of the provisions of KRS 132.570 shall be fined not more than five hundred dollars ($500).

(2) Any property valuation administrator who wilfully fails or neglects to perform any duty legally imposed upon him shall be fined not more than five hundred dollars ($500) for each offense, and the judgment of conviction may declare his office vacant.

(3) Any county clerk who wilfully fails or neglects to perform any duty required of him by KRS 132.480 or by KRS 132.490 shall be fined not more than fifty dollars ($50.00) for each offense.

(4) Any person who wilfully falsifies application for exemption or who fails to notify the property valuation administrator of any changes in qualifying requirements under the provision of KRS 132.810 shall be fined not more than five hundred dollars ($500).

The Committee on Rules reported **HCR 1** and **HJR 3** have been posted for passage in Orders of the Day, January 20, 1982.

The Committee on Rules reported the following Bills have been recommitted:

HB 34, HB 47 and **HB 135** to the Committee on Appropriations and Revenue.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HB 19, HCR 8.**

Judiciary-Civil: **HB 99.**

Judiciary-Criminal: **HB 174, HB 54, HB 96, HB 105.**

Business Organizations and Professions: **HB 197.**

Transportation: **HB 179.**

Calendar

HB 113, HB 153, HR 5, HB 60, HB 61, HB 62, HB 63, HB 64, HB 65, HB 66, HB 67, HB 68, HB 69, HB 70, HB 71, HB 72, HB 73, HB 74, HB 75, HB 76, HB 77, HB 79, HB 80, HB 81, HB 136,

HB 14, HB 53, and **HB 154** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage of **HJR 11, SCR 7, SB 17,** and **SB 53.**

Motions, Petitions and Communications

Representative LeMaster moved that the rules be suspended to place **SR 7** in Orders of the Day. Agreed.

Representative Harper moved the adoption of the following Legislative Citation No. 3:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes with great distinction Ken Anderson an outstanding and most creditable Quarterback of the Cincinnati Bengals and a citizen of Lakeside Park, Kentucky who is held in highest esteem by all who know you. You have distinguished yourself with the highest ideals: moral courage, personal sacrifice, self denial, sincere discipline and genuine ability. You never faltered under adverse circumstances, but exercised patience and persistence in awaiting your opportunity. Your peers, community and America applaud you vociferously for your admirable example of dedication companioned with discipline in which you translated difficulties into accomplishments. The youth of our nation will be great beneficiaries of a grand investment of your leadership, talents, untiring efforts, unique skills and noble dreams.

This prestigious body extends our best wishes for your success in the Super Bowl XVI.

Done at Frankfort this fourteenth day of January, nineteen hundred and eighty-two. (Sponsored by Representative Harper)

Agreed.

Representative Harper moved the adoption of the following Legislative Citation No. 4:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Cincinnati Bengals, their Coach Forest Gregg, Manager and Owner Paul Brown and staff for a phenomenal victory, the Championship winner of the American Football Conference Title, the first in your fourteen years' history on January 10, in subzero weather at Riverfront Stadium, Cincinnati, Ohio defeating the San Diego Chargers 27-7. A grand accomplishment, earning the honor of participation in the prestigious Super Bowl XVI. You performed with top efficiency, electrifying and thrilling all in attendance. We applaud the magnificent accomplishments of Ken Anderson, voted NFL's passing champion, Most Valuable Player and Offensive Player of the Year. You have demonstrated an undaunted spirit permeating from an atmosphere of endurance, patience and great stability in moral strength and discipline in reaching your accomplished goal despite the hardships, difficulties and delayed promotions.

It is with great admiration and respect that this body salutes and commends you and wishes that ultimate success will crown your participation in the Super Bowl XVI to be held January 24, 1982 in Pontiac, Michigan.

Done at Frankfort this fourteenth day of January, nineteen hundred and eighty-two. (Sponsored by Representative Harper)

Agreed.

The Clerk announced the filing of the following Floor Amendment No. 1 to **HB 128** by Representative Blevins:

Amend printed copy of **HB 128,** page 1, line 15, by inserting after the word "designee" the following phrase: *Provided that, positive results of tests for inborn errors of metabolism as set forth in regulation* *by the secretary shall be reported to the bureau for health services no later than two (2) weeks after the date of testing. The secretary of the department for human resources shall by regulation establish fees to cover the cost of analyzing the testing samples for inborn errors of metabolism*

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Boswell, **HB 93, HB 106;** Representative Clark, **HB 155;** Representative Head, **HB 53;** Representative Lile, **HB 32, HB 148;** Representative Richards, **HB 105, HB 113, HB 148, HB 190, HB 209;** Representative Seum, **HB 112, HB 155;** Representative Turner, **HB 99.**

Representative Bendl moved that **HB 32** be reassigned to the Committee on Judiciary-Criminal. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HR 11** had been examined and found correctly enrolled. **HR 11** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HJR 11 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions and Communications (continued)

Representative LeMaster moved the adoption of the following Legislative Citation No. 2:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the outstanding Paris High School Football team, the "Greyhounds", the excellent coach, Randy Reese and assistant coaches, Gene Sherman, Lee Johnson and Art Scuibba for winning the Class A State Championship game held at Fair and Exposition Center, Louisville, November 27, 1981 defeating Bellevue High School 19-7. Your proud team merits highest acclaim for winning this coveted state recognition. You have bestowed great honor and prestige upon your school and community. Your undefeated record 13-0 is a dramatic demonstration of your dedication, hard work, school spirit and personal sacrifice.

This prestigious body salutes you and may many more victories crown your efforts.

Done at Frankfort this fourteenth day of January, nineteen hundred and eighty-two. (Sponsored by Representative LeMaster)

Agreed.

Recess

Representative LeMaster moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

The Speaker vacated the Chair. Speaker Pro Tempore Thomason presiding.

Senate Message

Announcing passage of **SB 41.**

Orders of the Day

SCR 7 taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

SCR 7, A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That when the Senate and the House of Representatives do adjourn on Thursday, January 14, 1982, they do so to convene again on Wednesday, January 20, 1982, at a time set by motion upon adjournment.

On the roll call the vote was yeas 83-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kidd, Layman, Lefevers, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SCR 7 was adopted.

Recess

Representative LeMaster moved that the House recess for five minutes for a meeting of the Committee on Committees. Agreed.

At the appointed hour the Speaker Pro Tempore resumed the Chair and called the House to order.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions, Reference of Bills and Resolutions, and Posting of Bills and Resolutions for Committee consideration. Agreed.

Introduction of Bills and Resolutions

HB 234, by Representatives Haering and Burnette: AN ACT relating to inheritance tax.

HB 235, by Representative O'Brien: AN ACT relating to congressional districts.

HB 236, by Representative Burnette: AN ACT relating to the public service commission.

HB 237, by Representative White: AN ACT relating to traffic regulations.

HB 238, by Representatives Arnold and Worthington: AN ACT relating to public agencies.

HB 239, by Representative P. Richardson: AN ACT relating to master commissioners and receivers.

HB 240, by Representatives Farrow, Crupper, Long, Hancock, Barrows and T. Jones: AN ACT relating to unemployment insurance.

HB 241, by Representative Pearman: AN ACT relating to motor vehicle registration.

HB 242, by Representatives Moberly and F. Smith: AN ACT relating to school investigations and hearings.

HB 243, by Representatives Morris, Lundergan, Maggard, Moberly, Richards and Holbrook: AN ACT relating to petty loan companies.

HB 244, by Representatives Turner, Lefevers, B. Smith, Clark, Bennett, Williams, Van Horn, Schmidt, Todd, Ford, Brinkley, Kidd and Cline: AN ACT relating to leave of absence for adoption.

HB 245, by Representatives B. Smith, Pearman, Arnold, Richards, Lundergan, Burnette, Crupper, Bruce, Morris, Noe, Turner, B. Richardson, Brinkley, Foster, Lefevers, and Todd: AN ACT relating to the uniform commerical code.

HB 246, by Representatives Holbrook and Brown: AN ACT relating to security services for courts.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

State Government: **HB 235.**

Report of Committees

The Committee on Rules reported **HB 128, HB 14, HB 53, HB 61, HB 63, HB 64, HB 67, HB 68, HB 74, HB 75, HB 76, HB 79, HB 113, HB 154,** and **HR 5** have been posted for passage in Orders of the Day, January 20, 1982.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 235.**

Judiciary-Criminal: **HB 32.**

Counties and Special Districts: **HB 152.**

Education: **HB 193, HB 198, HB 199, HB 203.**

The Clerk announced **HB 143** has been withdrawn from consideration by the Committee on Banking and Insurance.

Announcements

The following meetings were announced:

Judiciary-Civil: January 20, 9:00 a.m., Room 104.

Appropriations and Revenue: January 19, 1:30 p.m.

Budget Review Hearing: January 20, 9:00 a.m.

Banking and Insurance: January 20, 10:00 a.m.

Counties and Special Districts: Cancelled for Tuesday, January, 19.

Education: January 20, 11:00 a.m.

Adjournment

Representative LeMaster moved that House adjourn until 2:00 p.m., Wednesday, January 20, 1982.

On the roll call the vote was yeas 81-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Farrow, Ford, Freibert, Fryman, Gray, Haering, Hancock, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, List, Little, Long, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn,White, Williams, Worthington, Yates. Nays 6-Blevins, Handy, Heleringer, Lile, Maggard, Perkins.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 20, 1982

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Donald Nunnelley, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Ellington.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 14, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 247, by Representatives Brinkley, Stumbo and Stone: AN ACT relating to insurance.

HB 248, by Representatives Cline, Brown, Stone and Cyrus: AN ACT relating to county treasurers.

HB 249, by Representatives Bennett and LeMaster: AN ACT relating to labor.

HB 250, by Representatives Richards and LeMaster: AN ACT relating to the legal status and powers of the Kentucky state boards for elementary and secondary education and occupational education.

HB 251, by Representatives Richards and LeMaster: AN ACT relating to school finance.

HB 252, by Representatives Richards and LeMaster: AN ACT relating to the establishment and maintenance of special education programs.

HR 17, by Representative Maggard: A RESOLUTION commending the Falcon Coal Company.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 53.**

Appropriations and Revenue: **HB 234.**

Banking and Insurance: **HB 243.**

Business Organizations and Professions: **HB 245.**

Cities: **HB 233.**

Education: **HB 232, HB 242.**

Energy: **HB 236.**

Health and Welfare: **HB 230, HB 231.**

Judiciary-Civil: **HB 239, HB 246.**

Labor and Industry: **HB 229, HB 240, HB 244, SB 41.**

State Government: **HB 238, HR 14, SB 17,** 815 KAR 20:030.

Transportation: **HB 237, HB 241.**

Report of Committees

The Committee on Banking and Insurance reported **HB 86, HB 87** and **HB 114** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 86, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 14 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of Sections 1 to 5 of this Act:

(a) "Applicant" means:

1. In the case of an individual medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits, and

2. In the case of a group medicare supplement policy or subscriber contract, the proposed certificate holder.

(b) "Certificate" means, for the purposes of this Act, any certificate issued under a group medicare supplement policy, which policy has been delivered or issued for delivery in this state.

(c) "Medicare Supplement Policy" means a group or individual policy of (accident and sickness) insurance or a subscriber contract (of hospital and medical service associations) which is advertised, marketed or designed primarily as a supplement to reimbursements under medicare for the hospital, medical or surgical expenses of persons eligible for medicare by reason of age. Such term does not include:

1. A policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combinations thereof, for employes or former employes, or combination thereof, or for members or former members, or combination thereof, of the labor organizations, or

2. A policy or contract of any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:

a. Is composed of individuals all of whom are actively engaged in the same profession, trade or occupation;

b. Has been maintained in good faith for purposes other than obtaining insurance; and

c. Has been in existence for at least two (2) years prior to the date of its initial offering of such policy or plan to its members.

(d) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

(2) The commissioner may make reasonable rules and regulations establishing minimum standards for medicare supplement insurance policies delivered or issued for delivery in the state. Such regulations may cover but are not limited to:

(a) Establishing specific standards for policy provisions;

(b) Prohibiting policy provisions which in the opinion of the commissioner are unjust, unfair or unfairly discriminatory to any person insured or proposed for coverage under a medicare supplement policy;

(c) Establishing minimum standards for benefits under medicare supplement policies;

(d) Prescribing the format and content of the outline of coverage required by Section 4 of this Act. For purposes of this section, "format" means style, arrangements and overall appearance, including such items as the size, color and prominence of type and the arrangement of text and captions. Such outline of coverage shall include:

1. A description of the principal benefits and coverage provided in the policy;

2. A statement of the exceptions, reductions and limitations contained in the policy;

3. A statement of the renewal provisions, including any reservation by the insurer of a right to change premiums;

4. A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(e) Prescribing a standard form and the contents of an informational brochure for persons eligible for medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate

coverage and improve the buyer's understanding of medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any prospective insureds eligible for medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insureds eligible for medicare by reason of age, but in no event later than the time of policy delivery.

(f) Establishing reasonable captions and notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not medicare supplement coverages, for all accident and sickness insurance policies sold to persons eligible for medicare by reason of age, other than:

1. Medicare supplement policies,
2. Disability income policies,
3. Basic, catastrophic, or major medical expense policies, or
4. Single premium, nonrenewable policies.

(g) Governing the full and fair disclosure of the information in connection with the replacement of accident and sickness policies, subscriber contracts or certificates by persons eligible for medicare by reason of age.

SECTION 2. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 14 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of law of this state, a medicare supplement policy may not deny a claim for losses incurred more than six (6) months from the effective date of coverage for a preexisting condition. The policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

SECTION 3. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 14 IS CREATED TO READ AS FOLLOWS:

Medicare supplement policies shall be expected to return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of medicare supplement policies on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. For purposes of regulations issued pursuant to this section, medicare supplement policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

SECTION 4. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 14 IS CREATED TO READ AS FOLLOWS:

In order to provide for full and fair disclosure in the sale of medicare supplement policies, no medicare supplement policy shall be delivered or issued for delivery in this state and no certificate shall be delivered pursuant to a group medicare supplement policy delivered or issued for delivery in this state unless an outline of coverage is delivered to the applicant at the time application is made.

SECTION 5. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 14 IS CREATED TO READ AS FOLLOWS:

Medicare supplement policies or certificates, other than those issued pursuant to direct response solicitation, shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within ten (10) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Medicare supplement policies or certificates issued pursuant to a direct response solicitation to persons eligible for medicare by reason of age shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination, the applicant is not satisfied for any reason.

Section 6. KRS 304.32-270 is amended to read as follows:

Nonprofit hospital, medical-surgical, dental and health service corporations are subject to the provisions of this subtitle, and to the following provisions of this code, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 1 — Scope of Code;
(2) Subtitle 2 — The Insurance Commissioner;
(3) Subtitle 7 — Investments;
(4) Subtitle 8 — Administration of Deposits;
(5) Subtitle 12 — Trade Practices and Frauds;
(6) Subtitle 25 — Continuity of Management;

(7) Subtitle 33 — Rehabilitation and Liquidation; [~~and~~]
(8) Subtitle 18 — KRS 304.18-110, 304.18-120 — Group Conversion*; and*
(9) Sections 1 to 5 of this Act.

Section 7. KRS 304.38-200 is amended to read as follows:

Health Maintenance Organizations are subject to the provisions of this Subtitle, and to the following provisions of Chapter 304, to the extent applicable and not in conflict with the expressed provisions of this Subtitle;

(1) Subtitle 1 — Scope of Code;
(2) Subtitle 2 — The Insurance Commissioner;
(3) Subtitle 12 — Trade Practices and Frauds;
(4) Subtitle 25 — Continuity of Management; [~~and~~]
(5) Subtitle 33 — Rehabilitation and Liquidation*; and*
(6) Sections 1 to 5 of this Act.

Section 8. KRS 304.17-400, Authority to make rules or regulations; is repealed.

Section 9. Whereas, the Baucus Amendment mandated federal regulation of minimum medicare supplement insurance standards if states do not enact such legislation by July 1, 1982, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

HB 87, AN ACT relating to insurance companies operating under the cooperative or assessment plan.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 299.460 is amended to read as follows:

The commissioner shall examine into the management of any company whenever he deems it prudent for the protection of policyholders in this state, but not *less frequently* [~~more often~~] than once in *every* four (4) years [~~unless upon the previous examination it was found that the company was not complying with all the laws applicable to it~~]. He shall also examine into the management of a company upon the application of ten (10) of its members, or twenty-five per cent (25%) of its board of directors, or its president or secretary. The company shall pay all expenses of the examination *which shall promptly be deposited in the state treasury "examination expense revolving fund" established in KRS 304.2-300.* If the commissioner finds that any officer has been or is violating the provisions of KRS 299.310 to 299.450, or the bylaws of the company, he shall proceed in like manner as with other insurance companies guilty of like violations.

Section 2. KRS 299.310 is amended to read as follows:

(1) Twenty-five (25) or more persons residing in any one or more adjoining municipalities, or in any county, or in not more than ten (10) adjoining counties, who collectively own property of the value of $50,000 or more, may organize a company for the purpose of cooperative or assessment insurance against

(a) Loss of or damage to real or personal property of every kind and interest therein, from any or all hazards or causes, and against loss consequential upon such loss or damage; and

(b) Legal liability for the death, injury, or disability of any human being, or for damage to property; and medical, hospital, surgical, and funeral expenses of persons injured, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance.

Such persons shall make and acknowledge a certificate setting forth their intention to form such a company, the counties or municipalities in which it intends to do business, its corporate name, and the place where its principal office is to be located. Every person insured in such a company who signs an application for insurance as required by the certificate of incorporation or by the bylaws of the company shall thereby become a member. Provided, however, that no such company shall insure against any of the hazards set forth in paragraph (b) of this subsection unless it has a net surplus of $2,000,000 or more or is fully reinsured as to all such hazards by a contract or contracts filed with and approved by the commissioner.

(2) No money shall be collected by any person on behalf of the company until two (2) of the members or organizers have given joint bond to the commissioner in the sum of $10,000, conditioned that all money so collected will be used as directed by law, and that the affairs of the company will be conducted according to law. The bond shall be held by the commissioner for the benefit of the members of the company until the company has become legally incorporated and its affairs have been examined by an expert accountant, appointed by the commissioner, and found to be in due and regular form, and immediately thereafter the bond shall be canceled.

(3) No company shall be formed under KRS 299.310 to 299.470 for the purpose of transacting any business of insurance other than as prescribed in those sections, and no company shall insure against any loss other than the ones permitted by those sections. Any company operating under the provisions of KRS

299.310 to 299.470 as of June 1, 1960, shall be authorized to write all types of insurance allowed under subsection (1) of this section without amendment of its charter or articles of incorporation.

(4) Insurers organized under the provisions of this section are subject to the provisions of subtitle 36 of KRS Chapter 304 to the extent applicable and not in conflict with the expressed provisions of this chapter.

Section 3. KRS 304.36-050 is amended to read as follows:

As used in this subtitle, unless the context otherwise requires:

(1) "Association" means the Kentucky Insurance Guaranty Association created under KRS 304.36-060.

(2) "Commissioner" means the commissioner of insurance of Kentucky.

(3) "Covered claim" means an unpaid claim, including one for unearned premiums, which arises out of and is within the coverage of an insurance policy to which this subtitle applies issued by an insurer, if such insurer becomes an insolvent insurer after June 16, 1972, and (a) the claimant or insured is a resident of this state at the time of the insured event; or (b) the property from which the claim arises is permanently located in this state. "Covered claim" shall not include any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise.

(4) "Insolvent insurer" means (a) an insurer licensed to transact insurance in this state either at the time the policy was issued or when the insured event occurred, and (b) against whom a final order of liquidation, with a finding of insolvency, has been entered by a court of competent jurisdiction in the company's state of domicile after June 16, 1972, and, (c) with respect to which no order, decree, or finding relating to the solvency of the insurer, whether preliminary or temporary in nature or otherwise has been issued by a court of competent jurisdiction or by any insurance commissioner, insurance department or similar official or body before June 16, 1972, or which was in fact insolvent before June 16, 1972, and such de facto insolvency was known by the chief insurance regulatory official of the state of its domicile.

(5) "Member insurer" means any person who (a) writes any kind of insurance to which this subtitle applies under KRS 304.36-030, including the exchange of reciprocal or inter-insurance contracts, and (b) is licensed to transact insurance in this state.

(6) "Net direct written premiums" means direct gross premiums written*, or in the case of an insurer organized under KRS Chapter 299, assessments, membership fees and policy fees levied and collected* in this state [~~on insurance policies to which this subtitle applies~~], less *returns* [~~return premiums~~] thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers.

(7) "Person" means any individual, corporation, partnership, association or voluntary organization.

Section 4. KRS 304.1-120 is amended to read as follows:

No provision of this code shall apply to:

(1) Fraternal benefit societies (as identified in subtitle 29), except as stated in subtitle 29.

(2) Nonprofit hospital, medical-surgical, dental and health service corporations (as identified in subtitle 32) except as stated in subtitle 32.

(3) Burial associations (as identified in KRS Chapter 303), except as stated in subtitle 31.

(4) Assessment or cooperative insurers (as identified in KRS Chapter 299)*, except as stated in KRS Chapter 299.*

(5) Insurance premium finance companies (as identified in subtitle 30), except as stated in subtitle 30.

(6) A group or association of health facility and health services institutions subject to the certificate of need and licensure provisions of KRS Chapter 216B, composed of any number of members, who join together to self insure against professional liability or comprehensive general liability risks for bodily injury or property damage, to anyone except employes for claims arising out of their employment of the members of such group, which arises out of the operation of institutions by members of the group and who comply with the following conditions:

(a) Establishment of a professional or comprehensive general liability risk management trust fund to provide adequate coverage for claims made against members of the fund for professional liability or comprehensive general liability risks;

(b) Establishment of a comprehensive loss prevention and risk management program coordinated with an effective claims management system for members of the group;

(c) Filing with the department, on a form to be provided by the department, a certification setting forth the establishment of such a trust fund, the date upon which the trust fund is to become effective, the identity of the members of the trust fund, and a copy of the programs and systems established for the members of the trust fund.

HB 114, AN ACT relating to bank installment loans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.215 is amended to read as follows:

(1) (a) In addition to the powers heretofore granted, any bank or trust company or combined bank and trust company shall have the power to lend money repayable in installments; to charge or to receive in advance interest therefor in the case of a loan having a maximum maturity of not more than five (5) years and thirty-two (32) days; to contract for a charge for a secured or unsecured installment loan, and which under its terms shall be repayable in installments over a period of not exceeding ten (10) years and thirty-two (32) days, which charge shall be at a rate not exceeding eight dollars ($8) per one hundred dollars ($100) per annum upon the principal amount of the loan which charge or charges shall be for the entire period of the loan and may be collected in advance only if the maximum maturity of the loans does not exceed five (5) years and thirty-two (32) days.

(b) If the maturity of the loan exceeds five (5) years and thirty-two (32) days but does not exceed ten (10) years and thirty-two (32) days the charge of interest may not be discounted or received in advance but may be added on to the principal amount of the loan and shall not be discounted.

(c) If any scheduled payment or deferred payments are more than twice as large as the average of the earlier scheduled payments, the debtor and creditor shall agree that the debtor has the right to finance the amount of such payment or deferred payments at the time they are due without penalty. The terms of the refinancing which are agreed to by the debtor and the creditor shall be no less favorable to the debtor than the terms of the original loan.

(2) In addition to the charge permitted by this section, no further amount shall be directly or indirectly charged, contracted for, or received on any such installment loan, except lawful fees actually paid to a public officer for filing, recording, or releasing any instrument securing the loan and delinquent charges as hereinafter set out, and except an investigation fee not exceeding one dollar ($1) for each fifty dollars ($50) or fraction thereof upon the first eight hundred dollars ($800) of the principal amount of such loans, *and except a reasonable attorney's fee for a title examination.*

(3) Delinquency charges may be made not to exceed five cents (5¢) for each dollar of each installment more than ten (10) days in arrears, and only one delinquency charge shall be made on any one installment. No delinquency charge shall exceed five dollars ($5) on any one installment. In addition to such delinquency charges, attorney's fees not exceeding fifteen percent (15%) of the unpaid balance and court costs may be collected, provided that the note is referred to an attorney not a salaried employe of the holder for collection.

(4) The lending institution shall permit the borrower to repay his loan in whole or in part at any time. If a loan is paid in full prior to maturity, the lending institution shall make a rebate at a rate not less than in accordance with the Rule of 78s if the maximum financing charge permitted hereunder has been taken. If a lesser charge has been taken, the rebate shall be at not less than a proportional rate. Provided, however, the lending institution shall be permitted in computing rebates to retain a minimum charge of ten dollars ($10) to cover its acquisition costs and where the amount of credit for anticipation of repayment is less than one dollar ($1), no rebate need be made.

(5) In the case of loans made under this section the corporation shall not take any assignment, pledge or transfer of wages to be earned or paid in the future, nor any first lien or first mortgage on real estate as security, except such lien as is created by virtue of a judgment or decree or first mortgage liens on loans on unimproved real estate not exceeding ten (10) acres in size or on real estate on which there is located or to be located a residential mobile home. Nothing in this section is intended to prevent lending institutions from making loans under the provisions of the National Housing Act or any other federal legislation, which loans are hereby authorized.

(6) No lending institution under this section shall split up or divide a loan or permit any person to become obligated to it under more than one contract of loan at the same time for the purpose of obtaining a greater charge than would otherwise be permitted by this section.

(7) Every note evidencing a loan made under this section shall contain the following information and provisions: The original principal amount of the loan excluding any charge made under this section; a statement of the total charge for the loan; the amount and the date of each installment; the date of final maturity; an agreement that the borrower may repay the loan in whole or in part at any time, and that if the loan is paid in full before final maturity, the borrower will receive a refund of the unearned portion of the charge as required by this section. At the time the loan is made, the lending institution shall give the borrower either a copy of the note, or a statement of the transaction containing the provisions and information required to be contained in the note. The lending institution shall deliver a receipt for each payment.

(8) In advertising for loans subject to this section, every advertisement shall conform to the following requirement: Any statement of the amount of the loan shall be the original principal amount showing in detail any charge made under this section.

(9) KRS 288.420, 288.620 and 360.010 shall not apply to loans made under authority of this section, but said sections shall remain in full force and effect for all other purposes. Nothing in this section shall be construed to impair the validity or effect of said sections with respect to loans other than those made pursuant to this section nor shall anything in this section be construed to impair the validity or effect of KRS 360.025.

(10) Any contract of loan in the making or collection of which any act shall have been done which constitutes a willful violation of any provision of this section shall be void, and the bank, trust company, combined bank and trust company shall have no right to collect or receive any interest or charges whatsoever on such loan, but the unpaid principal of the loan shall be paid in full to the lending institution.

The Committee on Education reported **HB 78,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 78, AN ACT relating to school districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.710 is amended to read as follows:

Each local school district in the state shall assume the following responsibilities and functions in implementing the provisions of KRS 158.660 to 158.730.

(1) Each local school district shall develop in the 1978-79 school year an educational improvement plan. In developing these plans, local districts shall involve local citizens, parents, students, teachers, and administrators through hearings held at each school level;

(2) Each local district board of education shall *submit a five-year plan for educational improvement in accordance with rules and regulations adopted by the state board of education* [~~by October 1, beginning in 1979 and annually thereafter, submit to the state department of education for approval a local plan for educational improvement~~];

(3) Local school personnel shall ascertain areas of strength and weakness in the school program as revealed by the test results and with the advice and counsel of the representatives mentioned in subsection (1) of this section, shall develop appropriate programs to address educational weaknesses for grades 4, 6, 8 and 11. These programs shall be implemented at the beginning of the 1979-80 school year and shall continue into grades 5, 7, 9 and 12 during the 1980-81 school year. These programs shall be continuous thereafter and shall be reviewed and updated annually;

(4) The educational improvement plan developed and submitted by each local school district to the department shall include the following:

(a) Process goals for educational improvement. These shall be developed under the provisions of subsection (1) of this section;

(b) Product goals applicable to the local school district. These may be the product goals adopted by the state board for elementary and secondary education or some adaptation consistent with them;

(c) A list of individuals, by occupation, or groups involved in developing the plan;

(d) The areas of weaknesses as revealed by the district assessment results;

(e) A list of priorities for program implementation;

(f) The objectives and activities deemed appropriate and necessary for alleviating the observed educational weaknesses;

(g) A calendar of events, or timeline, for implementation;

(h) A brief report, each succeeding year after submission of the initial plan, of progress made in overcoming observed weaknesses.

The Committee Substitute to **HB 78** is as follows:

HB 78, AN ACT relating to school districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.650 is amended to read as follows:

As used in KRS 158.660 to 158.730, unless the context otherwise requires:

(1) "Department" means the state department of education;

(2) "Competencies" means the possession of skills, knowledge and understandings to the degree they can be demonstrated or measured;

(3) "Basic skills" means reading, writing, spelling, [~~language arts,~~] mathematics, and *reference skills* [~~the development of learning skills~~];

(4) "Product goals" means expected student outcomes as approved by the state board *of* [~~for elementary and secondary~~] education;

(5) "Process goals" means systematic and orderly procedures to be followed in achieving product goals*; and*

(6) "Reference skills" means the library skills of locating and utilizing various sources of information.

Section 2. KRS 158.660 is amended to read as follows:

It is the intention of the general assembly in enacting KRS 158.650 to 158.740 to assure the right of each student in the public schools of this state to acquire the basic knowledge and *reference* [~~learning~~] skills essential for completing high school, pursuing a course of study in post secondary education, or entering the work force in our society. It is further the intention of the general assembly to assure each student in the public schools access to those programs and services appropriate to his educational needs in the areas of basic academic and *reference* [~~learning~~] skills development.

Section 3. KRS 158.690 is amended to read as follows:

The department shall develop and implement a statewide assessment program in accordance with the following:

(1) This program shall be for the purpose of measuring and reporting student progress and achievement in the basic skills in grades 3, 5, 7 and 10 and other product goal areas as determined by the state board *of* [~~for elementary and secondary~~] education upon recommendation of the superintendent of public instruction;

(2) Appropriate tests shall be administered annually [~~beginning in 1978-79~~];

(3) Results of these tests shall be compiled on a statewide, district and school basis by the department and be made available to the governor, the state advisory committee for educational improvement, the legislative research commission, the state board *of* [~~for elementary and secondary~~] education, and local boards of education;

(4) The results of these tests shall be used by local boards of education for the development of educational improvement plans and shall not be used for the evaluation of teachers or administrators for the purpose of promotion, demotion, transfer, or dismissal.

Section 4. KRS 158.700 is amended to read as follows:

The department shall assume the following functions in implementing the educational improvement act:

(1) The department shall[~~, in 1978-79,~~] purchase or cause to be developed tests appropriate to the Commonwealth of Kentucky for measuring student progress and achievement in the basic skills in grades 3, 5, 7 and 10. These tests shall be reviewed [~~annually~~] for appropriateness and shall be modified or revised as is necessary.

(2) The department shall[~~, in 1978-79,~~] purchase or cause to be developed tests appropriate to *3rd, 5th, 7th, and* 10th grade students in Kentucky for measuring proficiency in other product goal areas as determined by the state board *of* [~~for elementary and secondary~~] education upon recommendation of the superintendent of public instruction. These tests shall be reviewed [~~annually~~] for appropriateness and shall be modified or revised as is necessary.

(3) The department shall cause to be administered annually, [~~beginning in the 1978-79 school year,~~] all tests specified in subsections (1) and (2) of this section to all students in grades 3, 5, 7 and 10 in all of the public schools of the state;

(4) The department shall score or cause to be scored all tests specified in subsections (1) and (2) of this section, compile results for each local school district, and return these results to the appropriate district by August 1 of each year;

(5) The department shall, upon the request of a local school district, provide assistance in interpreting test results;

(6) The department shall, upon request of a local school district, provide technical assistance in the area of program development;

(7) The department shall review and approve local plans for educational improvement consistent with guidelines approved by the state board *of* [~~for elementary and secondary~~] education; and

(8) The department of education shall annually review both state process and product goals and modify when appropriate.

Section 5. KRS 158.710 is amended to read as follows:

Each local school district in the state shall assume the following responsibilities and functions in implementing the provisions of KRS 158.660 to 158.730.

(1) Each local school district shall develop *a plan to improve the education of all students in grades 1 through 12* [~~in the 1978-79 school year an educational improvement plan~~]. In developing these plans *and prior to their approval by the local board of education*, local districts shall involve local citizens, parents, students, teachers, and administrators [~~through hearings held at each school level~~];

(2) Each local district board of education shall by *May 1, 1983, and every three (3) years* [~~October 1, beginning in 1979 and annually~~] thereafter, submit to the state department of education for approval a local plan for educational improvement *which will be in effect for three (3) years or until such time as it is revised, whichever occurs first. If a plan is revised, succeeding plans will be submitted to the state department of education every three (3) years from the date of revision*;

(3) Local school personnel shall ascertain areas of strength and *areas of needed improvement* [~~weakness~~] in the school program as revealed by the test results *and other student assessments* and with the advice and counsel of the representatives mentioned in subsection (1) of this section, shall develop appropriate programs to address educational *areas of needed improvement* [~~weaknesses~~] for grades *1 through 12* [~~4, 6, 8 and 11. These programs shall be implemented at the beginning of the 1979-80 school year and shall continue into grades 5, 7, 9 and 12 during the 1980-81 school year. These programs shall be continuous thereafter and shall be reviewed and updated annually~~];

(4) The educational improvement plan developed and submitted by each local school district to the department shall include the following:

(a) Process goals for educational improvement. These shall be developed under the provisions of subsection (1) of this section;

(b) Product goals applicable to the local school district. These may be the product goals adopted by the state board *of* [~~for elementary and secondary~~] education or some adaptation consistent with them;

(c) A list of individuals, by occupation, or groups involved in developing the plan;

(d) The areas of *needed improvement* [~~weaknesses~~] as revealed by the district assessment results;

(e) A list of priorities for program implementation;

(f) The objectives and activities deemed appropriate and necessary for alleviating the observed educational *areas of needed improvement* [~~weaknesses~~];

(g) A calendar of events, or timeline, for implementation;

(5)[~~(h)~~] A brief report, each succeeding year after submission of the initial plan, *of the program status and* of progress made in *areas of needed improvement* [~~overcoming observed weaknesses~~].

Section 6. KRS 158.720 is amended to read as follows:

The local educational improvement plan will be coordinated with the master inservice educational plan and the state department of education will provide technical assistance in the planning, implementation, and evaluation of this coordination [~~The department shall upon request assist local school districts in promoting inservice education~~].

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **HB 101, HB 141.**

Calendar

HB 83, HB 84, HB 85, and **HB 183** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Todd moved the adoption of the following Legislative Citation No. 1:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Representative and Mrs. Danny Ford of Mt. Vernon, Kentucky on this most beautiful and thrilling event in your lives, the wonderful gift of God's love, a fine and lovely baby daughter "Angela Marie" who weighed nine pounds, two ounces, born January 12, 1982 at 8:30 a.m. at Richmond Hospital, Richmond, Kentucky. May this precious gift of love add perpetual joy, inspiration and happiness to your lives and home. This will always be a most memorable occasion for you in that it occurred during your service in the 1982 session of the Legislature.

This prestigious body extends our love and best wishes to you, Mother and "Darling Baby".

Done at Frankfort this thirteenth day of January, nineteen hundred and eighty-two. (Sponsored by Representative Todd)

Agreed.

Representative Hines filed the following Floor Title Amendment to the Committee Substitute to **HB 78:**

Amend printed copy of Committee Substitute to **HB 78** on page 1, line Title, by deleting the words "school districts" and inserting the words "educational improvement" in lieu thereof.

Representative Farrow moved that **HB 149** be reassigned to the Committee on Judiciary-Criminal. Agreed.

Representative Dawahare moved that the rules be suspended to allow Floor Amendments to be offered on bills in Orders of the Day for today.

Recess

Representative LeMaster moved that the House recess for five minutes to allow the roll call machine to be repaired. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to Order.

On the roll call the vote was yeas 39-Allen, Blevins, Boswell, Brinkley, Brown, Clapp, Cline, Crupper, Curd, Cyrus, Dawahare, Endicott, Ford, Foster, Fryman, Gray, Guenthner, Heleringer, Holbrook, Layman, Lefevers, Lile, Little, Maggard, Moore, Noe, Noland, Patrick, Perkins, Rattliff, Robinson, Stone, Stumbo, Thomas, Tobin, Todd, Turner, Van Horn, White. Nays 35-Arnold, Barrows, Bendl, Burch, Clarke, Cowan, Craddock, Deskins, Dunn, Farrow, Freibert, Haering, Handy, Hines, Johnson, R. Jones, Kidd, LeMaster, List, Long, Lundergan, Mann, McNutt, Moberly, Pearman, Priddy, Rapier, Richards, B. Richardson, Riner, Seum, F. Smith, Thomason, Williams, Yates.

The motion that the rules be suspended to allow Floor Amendments to be offered to bills in Orders of the Day for today was rejected.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members requested that their names be added as co-sponsors to Bills and Resolutions: Representative Clark, **HB 245;** Representative Clarke, **HB 87;** Representative Donnermeyer, **HB 64;** Representative Endicott, **HB 19;** Representative Handy, **HB 194;** Representative Lefevers, **HB 67;** Representative Mann, **HB 188;** Representative Moore, **HB 19;** Representative Noland, **HB 82;** Representative Worthington, **HB 24, HB 25, HB 26, HB 27, HB 47, HB 50, HB 93, HB 135, HB 145.**

Representative Deskins moved that **HB 160** be reassigned to the Committee on Counties and Special Districts. Agreed.

The following Announcements were made:

Appropriations and Revenue: No meeting tomorrow.

Labor and Industry: No meeting tomorrow.

Committee on Rules: Room 316, on adjournment.

Budget Hearings: Fifteen minutes after adjournment today.

House Elections Committee: Speaker's office, on adjournment.

Representative Dawahare moved that consideration of **HB 113** be deferred for twenty-four hours.

On the roll call the vote was yeas 45-Allen, Arnold, Blevins, Brinkley, Brown, Burnette, Clapp, Cline, Crupper, Curd, Cyrus, Dawahare, Deskins, Endicott, Farrow, Ford, Foster, Fryman, Gray, Guenthner, Haering, Head, Heleringer, Holbrook, Layman, Lefevers, Little, Maggard, Moore, Noe, Noland, Overstreet, Patrick, Perkins, Rattliff, Robinson, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington. Nays 43-Barrows, Bendl, Bennett, Blandford, Boswell, Bronger, Bruce, Burch, Cowan, Craddock, Donnermeyer, Dunn, Freibert, Handy, Hines, Holloway, Johnson, R. Jones, Kidd, LeMaster, Lile, List, Long, Lundergun, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, Seum, B. Smith, F. Smith, Thomas, Williams, Yates.

The motion that consideration of **HB 113** be deferred for twenty-four hours was adopted.

Representative Dawahare filed the following Floor Amendment No. 1 to **HB 113:**

Amend printed copy of **HB 113** on page 25, after line 25, by adding the following: "*(6) No United States congressional district shall receive more than twenty percent (20%) nor less than ten percent (10%) of the proceeds of any bonds issued after the effective date of this Act.*"

Senate Message

Announcing passage of **SB 11, SB 47, SB 63, SB 21,** and **SB 46.**

Orders of the Day

HCR 1 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative List moved the adoption of **HCR 1.**

On the roll call the vote was yeas 93-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HCR 1 was adopted and the title agreed to.

Representative LeMaster moved that the vote by which **HCR 1** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 3 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved the adoption of **HJR 3.**

On the roll call the vote was yeas 88-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 5-Foster, Mann, McBee, Patrick, Stumbo.

HJR 3 was adopted and the title agreed to.

Representative LeMaster moved that the vote by which **HJR 3** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 128, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of the Floor Amendment No. 1 to **HB 128.** Agreed.

Representative Noe moved that **HB 128,** as amended, be passed.

On the roll call the vote was yeas 24-Barrows, Bendl, Bennett, Blandford, Bruce, Clark, Craddock, Donnermeyer, Handy, Harper, Johnson, T. Jones, Kidd, LeMaster, Mann, McBee, Moberly, Nett, Noe, Priddy, Rattliff, Schmidt, Thomas, White. Nays 72-Allen, Arnold, Blevins, Boswell, Brinkley, Bronger, Burch, Burnette, Clapp, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, Layman, Lefevers, Lile, List, Little, Long, Lundergan, Maggard, McNutt, Meyer, Moore, Morris, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates.

HB 128, as amended, was defeated.

HB 53 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 53** be passed.

On the roll call the vote was yeas 92-Allen, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-McBee.

HB 53 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 53** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 61 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 61** be passed.

On the roll call the vote was yeas 92-Allen, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Tobin.

HB 61 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 61** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 63 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 63** be passed.

On the roll call the vote was yeas 81-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Noe, Noland, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 11-Allen, Burnette, Clapp, Ford, Fryman, Heleringer, Moore, O'Brien, Patrick, Rattliff, Turner.

HB 63 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 63** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 64, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of the Committee Amendment No. 1 to **HB 64.** Agreed.

Representative Little moved that **HB 64,** as amended, be passed.

On the roll call the vote was yeas 81-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Richards, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 10-Allen, Burnette, Clapp, Fryman, Haering, Moore, Patrick, B. Richardson, P. Richardson, Turner.

HB 64, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 64,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 154 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that **HB 154** be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McNutt, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Little, Meyer.

HB 154 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 154** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 5 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Craddock moved the adoption of **HCR 5.**

HCR 5 was adopted by voice vote.

Representative LeMaster moved that consideration of all bills remaining in Orders of the Day be deferred. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 253, by Representative Burch: AN ACT relating to theft of services.

HB 254, by Representative Worthington: AN ACT relating to county roads.

HB 255, by Representative Worthington: AN ACT relating to elections.

HB 256, by Representative Holloway: AN ACT relating to local government.

HB 257, by Representative Worthington: AN ACT relating to death benefits.

HB 258, by Representatives B. Richardson, LeMaster, Thomason, Dunn, Donnermeyer, and Schmidt: AN ACT relating to compensation of employes of the General Assembly and making an appropriation therefor.

HB 259, by Representative Donnermeyer, Hancock, and Schmidt: AN ACT relating to filing fees assessed by the Kentucky board of tax appeals.

HB 260, by Representative Crupper, Rapier, P. Richardson, Hancock, B. Smith, Turner, Arnold, and Allen: AN ACT relating to fairs.

HB 261, by Representative Lundergan: AN ACT relating to flashing lights on motor vehicles.

HB 262, by Representatives Gray, Worthington and Clapp: AN ACT relating to parent and child.

HB 263, by Representative Worthington: AN ACT relating to individual income tax.

HB 264, by Representative Worthington: AN ACT relating to roads.

HB 265, by Representative Heleringer: AN ACT relating to plumbers and plumbing contractors.

HB 266, by Representative Bennett: AN ACT relating to campaign finance regulation.

HB 267, by Representatives Haering and Burnette: AN ACT relating to absentee voting.

HB 268, by Representative Bennett: AN ACT relating to campaign finance regulation.

HB 269, by Representative Hancock: AN ACT relating to the reporting of fire losses.

HB 270, by Representatives Guenthner and Riner: AN ACT relating to traffic offenses.

HB 271, by Representatives Mann, Donnermeyer, and Petty: AN ACT proposing amendments to Sections 148, 161 and 167 of the Constitution of Kentucky relating to elections.

HB 272, by Representatives Todd, Overstreet, and Guenthner: AN ACT relating to carrying concealed weapons.

HB 273, by Representative McNutt: AN ACT relating to licensing and regulating the practice of landscape architecture.

HB 274, by Representatives Overstreet, Fryman, Deskins, and Richards: AN ACT relating to the treatment and rehabilitation of alcoholics and persons intoxicated or incapacitated by alcohol.

HB 275, by Representatives Cowan and Meyer: AN ACT relating to the enforcement of motor vehicle emissions inspection and maintenance programs.

HB 276, by Representative Thomas: AN ACT relating to harness racing.

HB 277, by Representative Bennett: AN ACT relating to campaign finance regulation.

HB 278, by Representative Burnette: AN ACT relating to traffic offenses.

HB 279, by Representatives Farrow, Crupper, Hancock, Barrows, Long, and T. Jones: AN ACT relating to retirement.

HB 280, by Representatives Burnette and Layman: AN ACT relating to ginseng and making an appropriation therefor.

HR 18, by Representatives Haering and Clark: A RESOLUTION commending the Ford Motor Company and its employes.

HB 281, by Representatives Stumbo and Deskins: AN ACT relating to appearance bonds.

HB 282, by Representatives Guenthner and Lundergan: AN ACT relating to adoption.

HB 283, by Representatives Foster, Kidd, and Holbrook: AN ACT relating to insurance.

Report of Committees

The Committee on Judiciary-Criminal reported **HB 20,** with Committee Amendments attached thereto, **HB 26,** and **HB 96** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 20, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 513.010 is amended to read as follows:
The following definition applies in this chapter unless the context otherwise requires:

(1) "Building", in addition to its ordinary meaning, *specifically includes any dwelling, hotel, commercial structure, automobile, truck, watercraft, aircraft, trailer, sleeping car, railroad car, or other structure or vehicle, or any structure with a valid certificate of occupancy. Where a building consists of separate units, such as, but not limited to, separate apartments, offices, or rented rooms, any unit not occupied by a person charged with violating this chapter is, in addition to being a part of such building, a separate building;*

(2) "Dwelling" means a building which is usually occupied by a person lodging therein at night, whether or not the person is actually present;

(3) "Night" means the period between thirty (30) minutes after sunset to thirty (30) minutes before sunrise [~~means any structure, vehicle, watercraft or aircraft:~~

~~(a) Where any person lives; or~~

~~(b) Where people assemble for purposes of business, government, education, religion, entertainment or public transportation; or~~

~~(c) Which is used for overnight accommodation of persons.~~

~~(2) Where a building consists of two or more units separately secured or occupied, each unit shall not be deemed a separate building~~].

Section 2. KRS 513.020 is amended to read as follows:

(1) A person is guilty of arson in the first degree when, *with intent to destroy or damage a building, he starts a fire or causes an explosion, and;*

(a) The building is inhabited or occupied or the person has reason to believe the building may be inhabited or occupied; or

(b) Any other person is injured directly or indirectly; or

(c) A peace officer or firefighter is at the time the fire is set, or as a result of the fire becomes, so close to such building that he is subjected to a substantial risk of bodily injury [~~he intentionally damages a building by starting a fire or causing an explosion, and when he knows or has reason to believe that another person, not an accomplice, is present in the building at the time~~].

(2) Arson in the first degree is a Class *A* [~~B~~] felony.

Section 3. KRS 513.030 is amended to read as follows:

(1) A person is guilty of arson in the second degree when he *starts a fire or causes an explosion with intent to destroy or damage a building:*

(a) Of another; or

(b) Of his own or of another, to collect or facilitate the collection of insurance proceeds for such loss [~~intentionally damages a building by starting a fire or causing an explosion~~].

(2) In any prosecution under this section, it is a defense that:

(a) No person other than the defendant had a possessory or proprietary interest in the building, or, if other persons had such an interest, all of them consented to the defendant's conduct; and

(b) The defendant's sole intent was to destroy or damage the building for a lawful purpose.

(3) Arson in the second degree is a Class *B* [~~C~~] felony.

Section 4. KRS 513.040 is amended to read as follows:

(1) A person is guilty of arson in the third degree *if he wantonly causes destruction or damage to a building of his own or of another by intentionally starting a fire or causing an explosion* [~~when he wantonly damages a building by intentionally starting a fire or causing an explosion.~~

~~(2) In any prosecution under this section, it is a defense that no person other than the defendant had a possessory or proprietary interest in the building, or, if other persons had such an interest, all of them consented to defendant's conduct~~].

(2)[~~(3)~~] Arson in the third degree is a Class *C* [~~D~~] felony.

SECTION 5. A NEW SECTION OF KRS CHAPTER 513 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of reckless burning if he intentionally starts a fire or causes an explosion, whether on his property or that of another, and thereby recklessly destroys or damages or places a building of another or a building of his own occupied as a dwelling other than by himself or his family in danger of destruction or damage.

(2) Reckless burning is a Class D felony.

Committee Amendment No. 1 to **HB 20** is as follows:

Amend printed copy of **HB 20** on page 1, line 10, to delete "*Where a building consists of separate units,*"

and on page 1, lines 11 through 14, to delete the same

and on page 2, line 18, to delete "*is injured directly or in-*"

and to insert in lieu thereof "*sustains serious physical injury as a result of the fire or explosion or the firefighting as a result thereof.*"

and on page 2, lines 19 through 22, to delete the same

and on page 2, line 23, to delete "*tial risk of bodily injury*"

and on page 4, lines 6 through 9, to delete the strike through

and on page 4, line 10, to delete the strike through and the bracket following the word "~~conduct~~"

and on page 4, line 11 to delete "*(2)*" and to remove the brackets "[ ]" from "(3)" and to delete the strike through

and on page 4, line 11 to delete "*(C)*" and delete the brackets and strike through of "[(D)]"

and on page 4, line 22 to delete "*D felony*" and to insert in lieu thereof "*B misdemeanor*".

Committee Amendment No. 2 to **HB 20** is as follows:

Amend printed copy of **HB 20** on page 4, lines 13 through 22, to delete the same.

HB 26, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug, except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell marijuana shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(5) *(a) Any person who knowingly and unlawfully plants, cultivates or harvests marijuana for the purposes of sale shall be confined to the penitentiary for not less than one (1) year nor more than five (5)*

years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000) or both.

(b) If any person knowingly and unlawfully plants, cultivates or harvests twenty-five (25) or more plants of marijuana, it shall be presumed that the plants of marijuana were planted, cultivated or harvested for the purpose of sale.

(6) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I or II which is a narcotic drug shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(7)[~~(6)~~] Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug, except marijuana, or of any controlled substance classified in schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary for human resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary for human resources or his designee prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary for human resources or his designee shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the department for human resources unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection *(7)* [~~(6)~~] of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary for human resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the department to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the department is insufficient to spare one from his regular duties or if no such service may be purchased at regular departmental rates, in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(8)[~~(7)~~] Any person who knowingly and unlawfully possesses for his own use or transfers marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection *(8)* [~~(7)~~] above may be ordered to a facility designated by the secretary for human resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250) or both. Upon discharge of the person from the facility by the secretary for human resources or his designee prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary for human resources or his designee shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the department for human resources unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(9)[~~(8)~~] Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(10)[~~(9)~~] Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(11)[~~(10)~~] Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

HB 96, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of paramilitary training for civil disorder when he:

(a) Teaches or demonstrates to any other person the use, application, or making of any firearm, explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder; or

(b) Assembles with one (1) or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, explosive, or incendiary device, or technique capable of causing injury or death to persons, intending to employ unlawfully the same for use in, or in furtherance of, a civil disorder.

(2) Paramilitary training for civil disorder is a Class D felony.

(3) Nothing contained in this section shall make unlawful any act of any law enforcement officer which is performed in the lawful performance of his official duties.

Section 2. KRS 525.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Desecrate" means defacing, damaging, polluting or otherwise physically mistreating in a way that the actor knows will outrage the sensibilities of persons likely to observe or discover his action.

(2) "Public" means affecting or likely to affect a substantial group of persons.

(3) "Public place" means a place to which the public or a substantial group of persons has access and includes but is not limited to highways, transportation facilities, schools, places of amusements, parks, places of business, playgrounds and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place.

(4) "Transportation facility" means any conveyance, premises or place used for or in connection with public passenger transportation by air, railroad, motor vehicle or any other method. It includes aircraft, watercraft, railroad cars, buses, and air, boat, railroad and bus terminals and stations and all appurtenances thereto.

(5) "Riot" means a public disturbance involving an assemblage of five or more persons which by tumultuous and violent conduct creates grave danger of damage or injury to property or persons or substantially obstructs law enforcement or other government function.

(6) As used in Section 1 of this Act:

(a) The term "civil disorder" means any public disturbance involving acts of violence by assemblages of three (3) or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual.

(b) The term "firearm" means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of any such weapon.

(c) The term "explosive or incendiary device" means dynamite and all other forms of high explosives; any explosive bomb, grenade, missile, or similar device; and any incendiary bomb or grenade, fire bomb, or similar device, including any device which consists of or includes a breakable container including a flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound, and can be carried or thrown by one individual acting alone.

(d) The term "law enforcement officer" means any officer or employe of the United States, any state, any political subdivision of a state, or the District of Columbia, and such term shall specifically include, but shall not be limited to, members of the National Guard, as defined in Section 101(9) of title 10, United States Code, members of the organized militia of any state or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, not included within the definition of National Guard as defined by such Section 101(9), and members of the Armed Forces of the United States.

Announcements

The Speaker announced the filing of the following Floor Amendment No. 2 to **HB 113** by Representative Meyer:

Amend printed copy of **HB 113** on page 25, after line 25, by adding the following: "(6) It is the intent of the Kentucky General Assembly that priority be given to the rehabilitation of existing properties from the proceeds of any bonds issued after the effective date of this Act."

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, January 21, 1982.

On the roll call the vote was yeas 69-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Brown, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Gray, Haering, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Layman, Lefevers, List, Little, Long, McBee, Moberly, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Scum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 13-Blevins, Deskins, Ford, Fryman, Handy, Heleringer, LeMaster, Lile, Maggard, Overstreet, Perkins, Priddy, Schmidt.

The motion to adjourn was adopted.

THURSDAY, JANUARY 21, 1982

TENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Glen Mollette, Stamping Ground Baptist Church, Stamping Ground, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Crupper and Ellington.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 20, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 57.**

Introduction of Bills and Resolutions

HB 284, by Representative Rapier: AN ACT relating to advertising of alcoholic beverages.

HB 285, by Representative O'Brien: AN ACT relating to the Kentucky Historical Society.

HB 286, by Representatives Patrick and Fryman: AN ACT relating to the rights of employes.

HJR 19, by Representatives Dunn and Boswell: A JOINT RESOLUTION designating the Square Dance as the official Folk Dance of the Commonwealth of Kentucky.

HR 20, by Representative Bendl: A RESOLUTION adjourning the House of Representatives in honor and memory of Arthur S. Kling.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 260, HB 280.**

Appropriations and Revenue: **HB 258, HB 263.**

Banking and Insurance: **HB 247, HB 283.**

Business Organizations and Professions: **HB 265, HB 273, HB 276, HR 18.**

Cities: **SB 11.**

Counties and Special Districts: **HB 248, HB 256, HB 264.**

Education: **HB 250, HB 251, HB 252.**

Health and Welfare: **HB 269, HB 274.**

Judiciary-Civil: **HB 262, HB 282, SB 21, SB 63.**

Judiciary-Criminal: **HB 253, HB 272, HB 278, HB 270, HB 281.**

Labor and Industry: **HB 249.**

Natural Resources and Environment: **HB 275, HR 17, SB 46, SB 47.**

State Government: **HB 255, HB 259, HB 266, HB 267, HB 268, HB 257, HB 271, HB 277, HB 279.**

Transportation: **HB 254, HB 261.**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 112,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 112, AN ACT relating to costs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 453 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Commonwealth" means the Commonwealth of Kentucky and any board, bureau, commission, department, division, authority or other entity of the Commonwealth of Kentucky except for political subdivisions.

(2) "Administrative review board" means any entity of an administrative agency having the jurisdiction to hear and determine appeals from final rulings, orders and determinations of that agency or make initial determinations.

(3) "Party" means any individual, partnership, corporation, association or public or private organization other than the Commonwealth.

(4) "Costs" means the reasonable: expenses of expert witnesses, cost of any study, analysis, engineering report, test or project which is found by the court to be necessary for the preparation of the party's case and necessary attorney fees, and in the case of an action to review an administrative review board decision, all such fees and other expenses incurred in the contested case proceedings in which the decision was rendered.

SECTION 2. A NEW SECTION OF KRS CHAPTER 453 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any costs which are awarded as prescribed by statute, a court shall award costs to any party which prevails by a final adjudication on the merits in any of the following:

(a) A civil action brought by the Commonwealth against the party;

(b) A civil action brought by the party against the Commonwealth to challenge the assessment or collection of taxes;

(c) A court proceeding to review an administrative review board decision.

(2) The court in its discretion may deny the award provided for in this section, or may reduce the award, if it finds that:

(a) During the course of the proceeding the prevailing party unduly and unreasonably protracted the final resolution of the matter; or

(b) The reason that the party other than the Commonwealth has prevailed is an intervening change in the applicable statutes, regulations or case law; or

(c) The prevailing party refused an offer of civil settlement which was at least as favorable to the party as the relief ultimately granted; or

(d) A special circumstance would make an award unjust.

(3) A party may apply pursuant to the applicable Rules of Civil Procedure for an award of attorney fees and other expenses authorized under this section and shall include as part of the application evidence of the party's eligibility for the award and the amount sought, including an itemized and attested statement from the attorneys and experts stating the actual time expended in representing the party and the rate at which the fees were computed.

(4) The court shall base any award of fees as provided in this section on prevailing market rates for the kind and quality of services furnished, except that:

(a) An expert is not eligible for compensation at a rate in excess of the prevailing rate of compensation for similar experts paid by the Commonwealth;

(b) The award of attorney fees may not exceed the amount which the prevailing party has paid or has agreed to pay the attorney or a maximum amount of forty dollars ($40.00) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding involved, justifies a higher fee;

(c) No award shall be greater than ten thousand dollars ($10,000) to each party except that no award shall be made to any party who voluntarily intervenes in any such action.

(5) This section does not:

(a) Apply to an action arising from a proceeding before the Commonwealth in which the role of the Commonwealth was to determine the eligibility or entitlement of an individual to a monetary benefit or its equivalent, or to adjudicate a dispute or issue between private parties or to establish or fix a rate. As used in this subsection, monetary benefit or its equivalent shall not include a license, permit, charter or similar instrument that the Commonwealth may require to engage in a business, profession or similar activity;

(b) Apply to proceedings brought by the Commonwealth pursuant to KRS Chapters 218A, 431 to 439, and 500 to 534;

(c) Apply to proceedings involving eminent domain, foreclosure, collection of judgment debts or proceedings in which the Commonwealth is a nominal party;

(d) Personally obligate any officer or employe of the Commonwealth for the payment of an award entered under this section;

(e) Apply to proceedings brought pursuant to KRS Chapter 18.

SECTION 3. A NEW SECTION OF KRS CHAPTER 453 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall prohibit the Commonwealth from negotiating or attempting to negotiate a settlement of claims arising under this Act or from paying such settlements and their associated costs.

Section 4. KRS 453.010, Commonwealth not liable for costs — Exception in civil actions, is repealed.

Committee Amendment No. 1 to **HB 112** is as follows:

Amend printed copy of **HB 112,** page 4, line 26 to read as follows:

Chapters 18, 209, 342 and KRS 199.011 to 199.630.

Page 5, line 3, by inserting:

(1) The provisions of this Act shall apply only to civil actions initiated after the effective date of this Act except in the case of a court proceeding to review an administrative review board decision, in which case the provisions of this Act shall apply only when the administrative review process was initiated after the effective date of this Act.

And adding *(2)* before *Nothing.*

The Committee on Rules reported **HB 60, HB 62, HB 69, HB 71, HB 72, HB 80, HB 84, HB 85,** and **HB 183** have been posted for passage in Orders of the Day, January 22, 1982.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for consideration:

Banking and Insurance: **HB 243, HB 225.**

Calendar

HB 86, HB 87, HB 114, HB 78, HB 20, HB 26, and **HB 96** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions.

Floor Amendment No. 1 to **HB 67** by Representative Priddy:

Amend printed copy of **HB 67,** page 1, line 1 by inserting "*(1)*" before the word "Each"

and on page 1 after line 20 by adding the following:

"*(2) Within a school district, school age children may attend the school nearest the home of their parents or legal guardian as long as the school district remains in compliance with the federal desegregation plan in effect at the time of enrollment.*"

Floor Amendment No. 1 to **HB 136** by Representative Curd:

Amend printed copy of **HB 136,** page 3, line 22, by inserting prior to the word "The" the following:

"*Effective July 1, 1983, t*"

On line 22 by deleting the following: [~~T~~]

Floor Amendment No. 2 to **HB 128** by Representative Blevins:

Amend printed copy of **HB 128,** page 1, line 15 by inserting after the word "designee" the following phrase:

Provided that, positive results of tests for inborn errors of metabolism as set forth in regulation by the secretary shall be reported to the bureau for health services no later than two (2) weeks after the date of testing. The secretary of the department for human resources shall by regulation establish and collect fees to cover the cost of analyzing the testing samples for inborn errors of metabolism

The following meetings were announced:

Committee Chairmen: Fifteen minutes after adjournment, Room 105.

Committee on Rules: On adjournment, Room 316.

Counties and Special Districts: January 22, 8:30 a.m., Room 105.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsor of Bills and Resolutions: Representative Bruce, **HB 15;** Representative Farrow, **HB 262;** Representative Foster, **HB 142, HB 144;** Representative Handy, **HB 181;** Representative Heleringer, **HB 267;** Representative Priddy, **HB 25, HB 26;** Representative Seum, **HB 232;** Representative Worthington, **HB 245.**

Representative Lefevers filed a request to have his name withdrawn as a co-sponsor of **HB 67.**

Representative Thomas moved that **HB 245** be reassigned to the Committee on Agriculture and Small Business. Agreed.

Representative O'Brien moved that **HB 214** be reassigned to the Committee on Labor and Industry. Agreed.

Representative Blevins moved that the vote on **HB 128,** as amended, be reconsidered. Agreed.

Representative Blevins moved that **HB 128,** as amended, be placed in Orders of the Day. Agreed.

Orders of the Day

HB 68 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 68** be passed.

On the roll call the vote was yeas 76-Arnold, Bendl, Bennett, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Farrow, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Rapier, Richards, B. Richardson, P. Richardson, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 13-Allen, Barrows, Burnette, Clapp, Endicott, Ford, Haering, Lundergan, McNutt, Priddy, Rattliff, Robinson, Tobin.

HB 68 was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 68** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 74 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 74** be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Noe, Noland, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4-Clarke, Hancock, O'Brien, Patrick.

HB 74 was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 74** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 75 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 75** be passed.

On the roll call the vote was yeas 80-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Clark, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Morris, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Worthington, Yates. Nays 7-Brown, Caldwell, Johnson, Nett, Patrick, Tobin, Williams.

HB 75 was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 75** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 76 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 76** be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Yates. Nays 2-Holbrook, Priddy.

HB 76 was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 76** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 79 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 79** be passed.

On the roll call the vote was yeas 91-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 79 was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 79** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 14, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Amendment No. 1 to **HB 14.** Agreed.

Representative LeMaster moved that **HB 14,** as amended, be passed.

On the roll call the vote was yeas 87-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 14, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 14,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 113, with Committee Amendments and Floor amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kidd moved the adoption of the Committee Amendment No. 1 to **HB 113.** Agreed.

Representative Kidd moved the adoption of the Committee Amendment No. 2 to **HB 113.** Agreed.

Representative Kidd moved the adoption of the Committee Amendment No. 3 to **HB 113.** Agreed.

Representative Dawahare moved the adoption of the Floor Amendment No. 1 to **HB 113.**

On the roll call the vote was yeas 33-Allen, Blevins, Brinkley, Brown, Burnette, Caldwell, Clarke, Cline, Cyrus, Dawahare, Deskins, Endicott, Ford, Fryman, Guenthner, Head, Heleringer, Holbrook, Lefevers, Little, Maggard, Moore, Noe, Noland, Overstreet, Perkins, Robinson, Stone, Stumbo, Todd, Van Horn, White, Worthington. Nays 55-Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Bronger, Bruce, Burch, Clapp, Cowan, Craddock, Dunn, Farrow, Foster, Freibert, Gray, Haering, Hancock, Handy, Hines, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, LeMaster, Lile, List, Long, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, O'Brien, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Seum, B. Smith, F. Smith, Thomas, Thomason, Turner, Williams, Yates.

Floor Amendment No. 1 to **HB 113** was rejected.

Representative Kidd moved that **HB 113,** as amended, be passed.

Representative Meyer moved the adoption of the Floor Amendment No. 2 to **HB 113.** Rejected.

On the roll call the vote was yeas 87-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 9-Allen, Clarke, Endicott, Fryman, Heleringer, Moore, Noe, Patrick, Schmidt.

HB 113, as amended, was passed and the title agreed to.

Representative Kidd moved that the vote by which **HB 113,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 287, by Representatives Bronger and Yates: AN ACT relating to dealers in precious metals and gems.

HB 288, by Representative Barrows: AN ACT pertaining to the reporting of tax exempt property.

HB 289, by Representative Barrows: AN ACT providing for an inventory of the Commonwealth's fixed assets.

HB 290, by Representative Barrows: AN ACT relating to local government.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 205, HB 230, HB 231, HR 16, HB 43.**

Report of Committees

The Committee on Natural Resources and Environment reported **HB 19** and **HR 8** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 19, AN ACT relating to surface mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

All bonds required to be filed in accordance with KRS 350.060 and KRS 350.064 shall not be required to be filed until the applicant for the permit has been notified in writing by the department that the application for the permit has been approved, with the exception of the bond.

HR 8, A RESOLUTION establishing a task force on the Kentucky River.

WHEREAS, by act of the 1880 General Assembly, the Commonwealth of Kentucky ceded to the federal government title to the existing locks and dams on the Kentucky River and the right of acquisition of any lands, buildings, or other property necessary for the extension of the navigation system; and

WHEREAS, the U.S. Army Corps of Engineers constructed additional locks and dams and assumed responsibility for the operation and maintenance of all locks and dams on the Kentucky River for the next one hundred years; and

WHEREAS, as of October 1, 1981, the U.S. Army Corps of Engineers has ceased operation of locks 5 - 14 on the Kentucky River and is awaiting the completion of a comprehensive report to be issued in 1984 to determine the permanent status of the operation and maintenance of these locks and dams; and

WHEREAS, the closure of these locks affects recreational boating, the potential for commercial navigation, and economic and industrial development, water supply and flooding; and

WHEREAS, the significance of these impacts must be evaluated and recommendations made for a state response to the closing of the locks and future maintenance of the system;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That there is hereby created the Kentucky River task force. The task force shall advise and make recommendations to the legislative research commission on all matters relating to the Kentucky River, including:

(1) The operation and maintenance of the locks and dams;
(2) The feasibility of commercial navigation;
(3) The promotion of tourism and recreational boating;
(4) The potential for future economic development in the area, both commercial and residential;
(5) Water supply, water quality, and flooding; and
(6) Any other matter which may arise relating to the Kentucky River.

Section 2. That the task force shall be composed of twenty-five (25) members appointed by the co-chairpersons of the legislative research commission. Membership on the task force shall include legislators representing the Kentucky River Basin area, representatives from appropriate state agencies, technical experts on matters relating to water resources, and affected citizenry including representatives of business and industry and local government officials. The co-chairpersons of the legislative research commission shall appoint the chairperson of the task force. Task force members shall be reimbursed for their actual expenses incurred in attending meetings and in performance of other official duties.

Section 3. That the initial appointments to the task force consist of those persons serving on the Special Task Force on the Kentucky River established by resolution of the legislative research commission on October 7, 1981.

Section 4. That funding for the task force be provided from the regular budget of the legislative research commission and staffing be provided by the legislative research commission staff.

Section 5. That the task force shall report its findings to the legislative research commission by October 30, 1983.

The Committee on State Government report **HB 235** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 235, AN ACT relating to congressional districts and declaring an emergency .

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.495 is amended to read as follows:

Unless the context requires otherwise, any reference in KRS 118:485 to a county, city, *or census unit means that county, city, or census unit as it existed on January 1, 1980 and any reference to a* ward, or *commissioner's* district or precinct means that county, city, ward, district or precinct as its boundaries existed on *July 15, 1980* [~~January 4, 1972~~].

Section 2. Whereas, a short time remains until the May, 1982 primary election at which candidates for election to Congress will be chosen, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute to **HB 235** is as follows:

HB 235, AN ACT relating to congressional districts and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.485 is amended to read as follows:

The commonwealth is divided into seven (7) congressional districts composed as follows:

(1) First District: Ballard, Butler, Caldwell, Calloway, Carlisle, Christian, Crittenden, Fulton, Graves, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, Marshall, McCracken, McLean, Muhlenberg, *Ohio,* Todd, Trigg, Union and Webster Counties[~~; that part of the county of Ohio contained within the following voting precincts: Numbers 4, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16 and 17~~].

(2) Second District: Allen, [~~Anderson,~~] Barren, Breckinridge, Bullitt, Daviess, Edmonson, Grayson, Hancock, Hardin, Hart, Larue, Marion, Meade, Nelson, Simpson, Spencer, Warren and Washington Counties [~~and that part of the county of Ohio contained within the following voting precincts: Numbers 1, 2, 3, 5, 10, 18 and 19~~].

(3) Third District: That part of the county of Jefferson contained within the following voting precincts: *The precincts of the city of Louisville in its entirety; Commissioner's District A precincts 5, 8, 17, 18, 19, 20, 21, 26, 27, 28, 32, 34, 35, 39, 40, 41, 43, 50, 51, 66, 68, 69, 80, 81, 82, 83, 84, 85, 86, 89, 90, 91, 93, 94, 95, 96, 97, 98, 99, 100, 102, 103, 104, 105, 114, 115, 117, 118, 119, 123, 125, 126, 127, 133, 134, 135, 138, 139, 141, 146, 148, 151; Commissioner's District B precincts 1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 25, 29, 31, 32, 35, 40, 41, 42, 43, 45, 46, 48, 49, 52, 54, 56, 57, 58, 60, 62, 63, 64, 65, 67, 68, 69, 70, 72, 73, 74, 75, 76, 78, 79, 80, 81, 82, 84, 85, 87, 88, 89, 92, 94; Commissioner's District C precincts 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 25, 26, 27, 28, 29, 30, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 43, 45, 47, 48, 49, 51, 52, 56, 57, 58, 59, 60, 62, 63, 64, 65, 66, 67, 68, 71, 72, 73, 74, 76, 77, 78, 79, 80, 81, 82, 83, 84, 86, 88, 90, 91, 92, 93, 95, 98, 100, 101, 103, 104, 105, 106, 107, 109, 110, 111.* [~~First Ward of Louisville in its entirety; Second Ward of Louisville 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 26, 27, 28, 29, 30,~~

~~31, 32, 33, 34; Third Ward of Louisville in its entirety; Fourth Ward of Louisville in its entirety; Fifth Ward of Louisville in its entirety; Sixth Ward of Louisville 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32; Seventh Ward of Louisville 2, 3A, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23; Eighth Ward of Louisville in its entirety; Ninth Ward of Louisville in its entirety; Tenth Ward of Louisville in its entirety; Eleventh Ward of Louisville in its entirety; Twelfth Ward of Louisville in its entirety; A District 17, 39; B District 1, 2, 8, 10, 11, 12, 13, 15, 16, 18, 25, 30, 32, 40, 42, 48, 49, 54, 57, 58, 63, 67; C District 1, 2, 3, 4, 5, 9, 10, 12, 13, 15, 16, 20, 22, 25, 26, 27, 28, 29, 32, 35, 36, 37, 38, 39, 41, 48, 49, 51, 52, 59, 62, 63, 67, 68, 71, 72, 76, 77, 80, 82, 83, 86, 92, 93.~~]

(4) Fourth District: Boone, *Campbell,* Carroll, Gallatin, *Grant, Henry, Kenton,* Oldham, *Owen, Pendleton,* and Trimble Counties; that part of the county of Jefferson *not* contained within the *Third District* [~~following voting precincts: Second Ward of Louisville 35, 36, 38; Sixth Ward of Louisville 31; Seventh Ward of Louisville 18; A District 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81; B District 3, 4, 5, 6, 7, 9, 14, 17, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 31, 33, 34, 35, 36, 37, 38, 39, 41, 43, 44, 45, 46, 47, 50, 51, 52, 53, 55, 56, 59, 60, 61, 62, 64, 65, 66, 68, 69, 70; C District 6, 7, 8, 11, 14, 17, 18, 19, 21, 23, 24, 30, 31, 33, 34, 40, 42, 43, 44, 45, 46, 47, 50, 53, 54, 55, 56, 57, 58, 60, 61, 64, 65, 66, 69, 70, 73, 74, 75, 78, 79, 81, 84, 85, 87, 88, 89, 90, 91, 94; that part of the county of Kenton contained within the following voting precincts: the city of Covington in its entirety; Ludlow 1, 2, 3, 4, 5; Bromley; Villa Hills 1, 2; Crescent Springs; Erlanger 3, 4, 5, 6, 7, 8, 9; Edgewood 1, 2, 3; Crestview; Lakeside Park 1, 2, 3; Ft. Mitchell 1, 2, 3, 4, 5, 6; Ft. Wright 1, 2, 3, 4, 5; Park Hills 1, 2, 3; that part of the county of Campbell contained within the following voting precincts: the city of Bellevue in its entirety; the city of Dayton in its entirety; the city of Ft. Thomas in its entirety; the city of Newport in its entirety; the city of Woodlawn in its entirety~~].

(5) Fifth District: Adair, Bell, Casey, Clay, Clinton, Cumberland, Estill, Garrard, Green, Harlan, Jackson, *Jessamine,* Knox, Laurel, Lee, Leslie, Lincoln, McCreary, [~~Madison,~~] Metcalfe, Monroe, Owsley, Pulaski, Rockcastle, Russell, Taylor, Wayne and Whitley Counties; *that part of Letcher County contained within the Census County Division of Eolia and within Enumeration Districts 764T and 764U which census units are contained within an area bounded by the Virginia State line, Harlan County line, Perry County line, State Highway 7, State Highway 588, Whitaker Branch Road, State Highway 1103, Ingram Creek-Ike Branch Road, State Highway 160, State Highway 931 to Big Cowan Church, Unnamed Creek, border of Pine Mountain Wildlife Area, State Highway 1679, Pine Mountain Divide to Virginia State line*[~~; that part of the County of Jessamine contained within the following voting precincts: No. 3 Bethel; No. 4 North Wilmore; Keene 5B; Marble Creek 7B, Sulphur Well No. 8; Little Hickman No. 9; No. 10 High Bridge; No. 12 South Wilmore; that part of the county of Letcher contained within the Eolia voting precinct~~].

(6) Sixth District: *Anderson,* Bourbon, Boyle, *Bracken,* Clark, Fayette, Franklin, [~~Grant,~~] Harrison, *Madison,* [~~Henry,~~] Mercer, *Montgomery, Nicholas, Robertson,* [~~Owen, Pendleton,~~] Shelby, Scott and Woodford Counties[~~; that part of the county of Jessamine contained within the following voting precincts: Woods 1A, Woods 1B, Courthouse 2A, Courthouse 2B, Keene 5A, No. 6, Marble Creek 7A, South Nicholasville 11A, South Nicholasville 11B; that part of the county of Kenton which is not included in the Fourth Congressional District; that part of the county of Campbell which is not included in the Fourth Congressional District~~].

(7) Seventh District: Bath, Boyd, [~~Bracken,~~] Breathitt, Carter, Elliott, Fleming, Floyd, Greenup, Johnson, Knott, Lawrence, Letcher *(except Eolia Census County Division, and Enumeration Districts 764T and 764U)* [~~(except Eolia precinct)~~], Lewis, Magoffin, Martin, Mason, Menifee, [~~Montgomery,~~] Morgan, [~~Nicholas,~~] Perry, Pike, Powell, [~~Robertson,~~] Rowan and Wolfe Counties.

Section 2. KRS 118.495 is amended to read as follows:

Unless the context requires otherwise, any reference in KRS 118.485 to a county, city, *or census unit means that county, city, or census unit as it existed on January 1, 1980 and any reference to a* ward, or *commissioner's* district or precinct means that county, city, ward, district or precinct as its boundaries existed on *July 15, 1980* [~~January 4, 1972~~].

Section 3. Whereas, a short time remains until the May, 1982 primary election at which candidates for election to Congress will be chosen, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

Announcements

Coalition for Human Dignity: Cancelled today. Will meet on adjournment, January 25.

Adjournment

Representative LeMaster moved that the House adjourn until 10 a.m., Friday, January 22, 1982.

On the roll call the vote was yeas 59-Allen, Arnold, Barrows, Bendl, Blandford, Boswell, Bronger, Burch, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Gray, Haering, Hancock, Harper, Hines, Holbrook, Holloway, T. Jones, Kidd, Layman, Lefevers, Long, Maggard, McBee, Meyer, Nett, Noe, Noland, Patrick, Pearman, Petty, Priddy, Rapier, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, Williams. Nays 6-Deskins, Handy, Lile, Overstreet, Perkins, White.

The motion to adjourn was adopted.

FRIDAY, JANUARY 22, 1982

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Harold Henson, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Ellington.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 21, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 5, SB 27, SB 52.**

Introduction of Bills and Resolutions

HB 291, by Representative Arnold: AN ACT creating an office of employe travel in the department of finance and making an appropriation therefor.

HB 292, by Representative Arnold: AN ACT relating to state officers and employes.

HB 293, by Representatives Dunn, Brinkley, Van Horn, Handy, and Thomas: AN ACT relating to elections.

HB 294, by Representative O'Brien: AN ACT relating to state legislative districts.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 288.**

Business Organizations and Professions: **HB 284, HB 287.**

Counties and Special Districts: **HB 290.**

Labor and Industry: **HB 286.**

State Government: **HB 285, HB 289, HJR 19, HR 20, SB 57.**

Report of Committees

The Committee on Rules reported **HB 26, HB 65, HB 73, HB 77, HB 86, HB 114,** and **HB 136** have been posted for passage in Orders of the Day, January 25, 1982.

The Committee on Rules reported **HB 70** and **HB 81** have been recommitted to the Committee on State Government.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for consideration:

Counties and Special Districts: **HB 59, HB 107, HB 187, HB 248.**

Business Organizations and Professions: **HR 18.**

Agriculture and Small Business: **HB 45, HB 46, HB 245, HB 227.**

Calendar

HB 112, HB 19, HR 8, and **HB 235** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

The following meetings were announced:

Committee on Rules: Room 316 on adjournment today.

Budget Review: January 25, 10 a.m., Room 103.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 83** by Representative Blandford:

Amend printed copy of **HB 83,** page 3, by deleting lines 1-7 in their entirety.

Floor Title Amendment to **HB 83** by Representative Blandford:

Amend printed copy of **HB 83,** page 1, Title line, by deleting "and making an appropriation therefor"

Orders of the Day

HB 128, as amended by Floor Amendment No. 1, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of the Floor Amendment No. 2 to **HB 128.** Agreed.

Representative Blevins moved that **HB 128,** as amended, be passed.

On the roll call the vote was yeas 85-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Fryman, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Maggard, Mann, McBee, McNutt, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 128, as amended, was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 128,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 60 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 60** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 60 was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 60** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 62 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 62** be passed.

On the roll call the vote was yeas 53-Barrows, Bendl, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cline, Craddock, Curd, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, Kidd, Layman, Lefevers, Lile, List, Long, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Stone, Thomason, Todd, White, Worthington. Nays 40-Allen, Arnold, Bennett, Blandford, Caldwell, Cowan, Crupper, Cyrus, Dawahare, Deskins, Donnermeyer, Endicott, Gray, Heleringer, R. Jones, T. Jones, Little, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Noe, Patrick, Perkins, Petty, Priddy, Schmidt, Seum, B. Smith, F. Smith, Stumbo, Thomas, Tobin, Turner, Van Horn, Williams, Yates.

HB 62 was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 62** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 71 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 71** be passed.

On the roll call the vote was yeas 59-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Freibert, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, R. Jones, Lefevers, Lile, List, Long, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, Schmidt, Seum, Stone, Stumbo, Thomason, Tobin, Van Horn, White, Williams. Nays 12-Allen, Endicott, Ford, Fryman, Haering, Holloway, Layman, O'Brien, Patrick, Pearman, F. Smith, Turner.

HB 71 was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 71** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 72 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 72** be passed.

On the roll call the vote was yeas 93-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 72 was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 72** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 80 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 80** be passed.

Representative Barrows moved that **HB 80** be laid on the Clerk's desk.

Representative Farrow moved that **HB 80** be laid on the table.

On the roll call the vote was yeas 35-Allen, Arnold, Blandford, Boswell, Brinkley, Bronger, Burnette, Clapp, Cyrus, Dawahare, Deskins, Endicott, Farrow, Ford, Fryman, Gray, Guenthner, Harper, Layman, Little, Maggard, Moore, Nett, Noland, Overstreet, Patrick, Perkins, Rattliff, P. Richardson, Riner, Schmidt, Stone, Todd, Turner, Van Horn. Nays 50-Barrows, Bendl, Blevins, Brown, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Donnermeyer, Foster, Freibert, Hancock, Handy, Heleringer, Hines, Johnson, R. Jones, T. Jones, LeMaster, Lile, List, Long, Mann, McBee, McNutt, Meyer, Moberly, Morris, Noe, Pearman, Petty, Priddy, Rapier, Richards, Robinson, Seum, B. Smith, F. Smith, Stumbo, Thomas, Thomason, Tobin, White, Williams, Worthington, Yates.

The motion that **HB 80** be laid on the table was rejected.

On the roll call the vote was yeas 81-Allen, Arnold, Barrows, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Harper, Head, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Layman, LeMaster, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 13-Bendl, Bruce, Curd, Hancock, Handy, Heleringer, Hines, Kidd, Lefevers, Lile, Rapier, Thomas, White.

The motion that **HB 80** be laid on the Clerk's desk was adopted.

HB 84 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blandford moved that **HB 84** be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Yates. Nays 0.

HB 84 was passed and the title agreed to.

Representative Blendford moved that the vote by which **HB 84** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 85 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blandford moved that **HB 85** be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 0.

HB 85 was passed and the title agreed to.

Representative Blandford moved that the vote by which **HB 85** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 183 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 183** be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Little.

HB 183 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 183** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Senate Message

Announcing passage of **SB 3, SB 61.**

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsor of Bills and Resolutions: Representative Allen, **HB 112;** Representative Bruce, **HB 99, HB 293;** Representative Morris, **HB 99;** Representative Tobin, **HB 26.**

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 295, by Representatives Clarke and LeMaster: AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

HB 296, by Representatives Meyer and Mann: AN ACT relating to city civil service.

HB 297, by Representatives Meyer and Mann: AN ACT relating to police and fire departments.

HB 298, by Representatives Yates and Blevins: AN ACT relating to sheriffs' special deputies.

HB 299, by Representatives R. Jones, List, Allen, Blevins, Burnette, Caldwell, Clarke, Craddock, Crupper, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Hancock, Harper, Holloway, T. Jones, Long, McNutt, Moore, Patrick, Pearman, Rapier, Rattliff, Schmidt, Todd, Turner, and Worthington: AN ACT relating to prevailing wages.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for consideration:

Cities: **HB 5.**

Judiciary-Civil: **HB 221.**

Education: **HJR 13, HB 250, HB 251, HB 252, HB 232.**

Report of Committees

The Committee on Counties and Special Districts reported **HB 22,** with Committee Amendment attached thereto, and **HB 24,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 22, AN ACT relating to county revenue management.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.310 is amended to read as follows:

(1) The sheriff shall annually settle his accounts for county and district taxes with the fiscal court, before making settlement with the department of revenue. At the regular October term each year the fiscal court shall appoint some competent person other than the Commonwealth's or county attorney to settle the accounts of the sheriff for money due the county or district. The report of this settlement shall be filed in the county clerk's office and approved by the county judge/executive. The settlement shall show the amount of [~~poll tax and~~] ad valorem tax collected, and an itemized statement of the money disbursed.

(2) The settlement shall be published pursuant to KRS chapter 424. The report of the settlement shall be subject to objections by the sheriff or by the county attorney, who shall represent the state and county, and the county judge/executive shall determine the objections.

(3) Either party may institute an action in circuit court to correct the settlement. The settlement, when approved, shall be recorded in the county clerk's office.

(4) On the final settlement the sheriff shall pay to the county treasurer all money that remains in his hands, and take receipts as provided in KRS 134.300.

(5) In counties containing a population of less than seventy-five thousand (75,000) the sheriff shall file annually with his final settlement:

(a) A complete statement of all funds received by his office for official services, showing separately the total income received by his office for services rendered, exclusive of his commissions for collecting taxes, and the total funds received as commissions for collecting state, county and school taxes; and

(b) A complete statement of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses.

(6) At the time he files the statements required by subsection (5) of this section, the sheriff shall pay to the fiscal court any fees, commissions and other income of his office, including income from investments, which exceed the sum of his maximum salary as permitted by the constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees and commissions and other income shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this subsection shall not be construed to amend KRS 64.820 or 64.830.

SECTION 2. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) In counties containing a population of less than seventy-five thousand (75,000), the county clerk and the jailer shall each provide to the fiscal court by March 15 of each year a complete statement of all funds received by his office in an official capacity or for official services, and of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses.

(2) At the time of filing the statement required by subsection (1) of this section, the clerk and jailer shall each pay to the fiscal court any income of his office, including income from investments, which exceeds the sum of his maximum salary as permitted by the constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this section shall not be construed to amend KRS 64.820.

(3) When the county clerk or jailer vacates his office, the provisions of KRS 64.830 shall be applicable.

Committee Amendment No. 1 to **HB 22** is as follows:

Amend printed copy of **HB 22**, page 3, line 8, by inserting after the word "statement" the following: "*for the preceding calendar year*".

HB 24, AN ACT relating to investment of public funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 66.480 is amended to read as follows:

(1) The governing body of a municipality, county, school district (provided that its action is approved by the state board of education), or other local governmental unit or political subdivision, may invest and reinvest money subject to its control and jurisdiction in:

(a) Obligations of the United States and of its agencies and instrumentalities. *Such investments may be accomplished through repurchase agreements reached with national or state banks chartered in Kentucky*;

(b) Bonds or certificates of indebtedness of this state and of its agencies and instrumentalities;

(c) Shares of any savings and loan association insured by an agency of the government of the United States up to the amount so insured;

(d) Interest-bearing deposits in national or state banks chartered in Kentucky and insured by an agency of the government of the United States up to the amount so insured, and in larger amounts providing such bank shall pledge as security obligations, *as permitted by KRS 41.240(2), having a current quoted market value at least equal to any uninsured deposits* [~~of the United States government, its agencies and instrumentalities~~].

(2) *Sheriffs, county clerks and jailers, who for the purposes of this section shall be known as county officials, may, and at the direction of the fiscal court shall, invest and reinvest money subject to their control and jurisdiction, including tax dollars subject to the provisions of KRS 134.300, 134.320 and 160.510, in the investment instruments permitted by subsection (1) of this section.*

(3) The provisions of this section are not intended to impair the power of a *county official,* municipality, county, school district, or other local governmental unit or political subdivision to hold funds in deposit accounts with banking institutions as otherwise authorized by law.

(4)[(3)] The governing body *or county official* may delegate the investment authority provided by subsection (1) of this section to the treasurer or other financial officer charged with custody of the funds of the local government, and such officer shall thereafter assume full responsibility for all investment transactions until the delegation of authority terminates or is revoked.

(5) All county officials shall report the earnings of any investments at the time of their annual reports and settlements with the fiscal courts for excess income of their offices.

(6)[(4)] The state local finance officer is authorized and directed to assist *county officials and* local governments (except school districts) in investing funds that are temporarily in excess of operating needs by:

(a) Explaining investment opportunities to such *county officials and* local governments through publication and other appropriate means;

(b) Providing technical assistance in investment of idle funds to *county officials and* local governments that request such assistance.

(7) (a) The state local finance officer may create an investment pool for local governments (except school districts) and county officials. Each local government and each county official may invest up to one hundred thousand dollars ($100,000) in the pool. The state local finance officer shall cause to be established in the treasury an account for the investment pool, and he shall invest the assets deposited to this account only in investment instruments permitted by subsection (1) of this section. He shall properly account for the funds of each local government or county official received for investment, and shall assign earnings and charges to each participant in a uniform manner according to the amount invested.

(b) The state local finance officer shall cause to be established a separate trust and agency account for the purpose of covering management costs, and shall deposit management charges in this account. Charges to any local government or county official shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. The state local finance officer may issue regulations, pursuant to KRS Chapter 13, governing the operation of the investment pool, including but not limited to provisions on minimum allowable investments and investment periods, and method and timing of investments, withdrawals, payment of earnings and assignment of charges.

Section 2. KRS 134.140 is amended to read as follows:

(1) The sheriff, by virtue of his office, shall be collector of all state, county and district taxes, unless the payment thereof is, by law, especially directed to be made to some other officer. Where provision is not otherwise made for the collection of taxes, the assessment or proportion thereof allocable to a local taxing district shall be certified to the clerk of the court of the county which constitutes or in which such taxing district is located, for collection as provided by law.

(2) The sheriff shall not receive or receipt for any taxes until the tax bills have been delivered to him by the county clerk, as provided in KRS 133.220 and 133.230.

(3) (a) The sheriff may, and at the direction of the fiscal court shall, invest any tax revenues held in his possession from the time of collection until the time of distribution to the proper taxing authorities pursuant to KRS 134.300, 134.320 and 160.510. Investments by the sheriff shall be restricted to those permitted by Section 1 of this Act.

(b) At the time of his monthly distribution of taxes to the district board of education, the sheriff shall pay to the board of education that part of his investment earnings for the month which is attributable to the investment of school taxes.

(c) In those counties where the sheriff pays his fees and commissions to the county and the salaries and expenses of his office are paid by the county, the sheriff shall pay to the county treasurer the investment earnings, other than those paid to the board of education, at the time of his monthly distribution of taxes to the county.

(d) In those counties where the office of sheriff is funded in whole or in part by fees and commissions, the sheriff may use investment earnings, other than those which must be paid to the board of education, to pay lawful salaries and expenses of his office, and the remainder shall be paid to the fiscal court at the time of the sheriff's annual settlement for county and district taxes and excess fees.

Section 3. KRS 134.170 is amended to read as follows:

(1) When any money is paid to the sheriff, he shall immediately enter the payment upon his record books and give to the person paying it a receipt specifying the amount and on what account the money was paid, and when paying any money he shall take a similar receipt. The sheriff shall deliver the original tax bill to the taxpayer when the taxpayer has paid his tax in full. When a taxpayer pays an omitted tax bill, the sheriff shall deliver the original omitted tax bill to the taxpayer, and no other receipt or tax bill shall be evidence that the taxpayer has paid his omitted tax.

(2) The sheriff shall retain the amount of tax and other public dues against any person out of any claim allowed by the state or the fiscal court to that person, except claims allowed for attendance as a witness, notwithstanding any assignment of the same.

(3) *Other than for investments and expenditures permitted by Section 2 of this Act,* the sheriff shall not apply or use any money received by him for any purpose other than that for which the money was paid or collected.

Section 4. KRS 68.020 is amended to read as follows:

(1) The county treasurer shall receive and receipt for all money due the county from its collecting officers or from any other person whose duty it is to pay money into the county treasury, and shall disburse

such money in such manner and for such purpose as may be authorized by appropriate authority of the fiscal court. He shall not disburse any money received by him for any purpose other than that for which it was collected and paid over to him, and when he pays out money he shall take a receipt therefor. All warrants for the payment of funds from the county treasury shall be co-signed by the county treasurer and the county judge/executive.

(2) *He may, and when directed by the fiscal court shall, invest the funds of the county pursuant to KRS 66.480.*

(3) He may, and when directed by the fiscal court shall, institute actions in the name of the county against all delinquent sheriffs or collectors of the county, and against anyone having money belonging to the county who fails or refuses to pay it over on demand when due. He shall keep a record of all actions he is directed to institute on behalf of the county, showing their condition and the money collected thereunder.

(4)[(3)] He shall keep an accurate detailed account of all money received and disbursed by him for the county, and shall keep books of accounts of the financial transactions of the county in the manner required by any uniform system of accounting prescribed by the department for local government.

(5)[(4)] The county treasurer shall, when required by the fiscal court, settle his accounts as county treasurer, and within thirty (30) days after the close of each fiscal year, he shall make a full and complete settlement for the preceding fiscal year with the fiscal court or with a person or persons whom the fiscal court, by order of record, appoints to make settlement with him. In case of a vacancy, the county judge/executive shall call a special term which shall proceed in the manner it deems proper to settle the accounts of the county treasurer.

Section 5. KRS 68.020, 1980 Acts Ch. 90, Sec. 2, effective April 1, 1982, is amended to read as follows:

(1) The county treasurer shall receive and receipt for all money due the county from its collecting officers or from any other person whose duty it is to pay money into the county treasury, and shall disburse such money in such manner and for such purpose as may be authorized by appropriate authority of the fiscal court. He shall not disburse any money received by him for any purpose other than that for which it was collected and paid over to him, and when he pays out money he shall take a receipt therefor. All warrants for the payment of funds from the county treasury shall be co-signed by the county treasurer and the county judge/executive.

(2) *He may, and when directed by the fiscal court shall, invest the funds of the county pursuant to KRS 66.480.*

(3) He may, and when directed by the fiscal court shall, institute actions in the name of the county against all delinquent sheriffs or collectors of the county, and against anyone having money belonging to the county who fails or refuses to pay it over on demand when due. He shall keep a record of all actions he is directed to institute on behalf of the county, showing their condition and the money collected thereunder.

(4)[(3)] He shall keep an accurate detailed account of all money received and disbursed by him for the county, and shall keep books of accounts of the financial transactions of the county in the manner required by any uniform system of accounting prescribed by the department for local government.

(5)[(4)] The county treasurer shall, when required by the fiscal court, settle his accounts as county treasurer, and within thirty (30) days after the close of each fiscal year, he shall, unless his immediate predecessor has done so, make a full and complete settlement for the preceding fiscal year with the fiscal court or with a person or persons whom the fiscal court, by order of record, appoints to make settlement with him. In case of a vacancy, the county judge/executive shall call a special meeting which shall proceed in the manner it deems proper to settle the accounts of the county treasurer.

Committee Substitute to **HB 24** is as follows:

HB 24, AN ACT relating to investment of public funds and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 66.480 is amended to read as follows:

(1) The governing body of a municipality, county, school district (provided that its action is approved by the state board of education), or other local governmental unit or political subdivision, may invest and reinvest money subject to its control and jurisdiction in:

(a) Obligations of the United States and of its agencies and instrumentalities. *Such investments may be accomplished through repurchase agreements reached with national or state banks chartered in Kentucky*;

(b) Bonds or certificates of indebtedness of this state and of its agencies and instrumentalities;

(c) [~~Shares of~~] Any savings and loan association insured by an agency of the government of the United States up to the amount so insured;

(d) Interest-bearing deposits in national or state banks chartered in Kentucky and insured by an agency of the government of the United States up to the amount so insured, and in larger amounts providing such bank shall pledge as security obligations, *as permitted by KRS 41.240(2), having a current quoted market value at least equal to any uninsured deposits. No municipality, county, school district, other unit of local government, political subdivision or county official shall make any investment which would jeopardize the tax exempt status of any outstanding obligation of such unit of local government* [~~of the United States government, its agencies and instrumentalities~~].

(2) *Sheriffs, county clerks and jailers, who for the purposes of this section shall be known as county officials, may, and at the direction of the fiscal court shall, invest and reinvest money subject to their control and jurisdiction, including tax dollars subject to the provisions of KRS 134.300, 134.320 and 160.510, in the investment instruments permitted by subsection (1) of this section, except that sheriffs in urban-county governments shall not invest tax dollars.*

(3) The provisions of this section are not intended to impair the power of a *county official*, municipality, county, school district, or other local governmental unit or political subdivision to hold funds in deposit accounts with banking institutions as otherwise authorized by law.

(4)[(3)] The governing body *or county official* may delegate the investment authority provided by subsection (1) of this section to the treasurer or other financial officer charged with custody of the funds of the local government, and such officer shall thereafter assume full responsibility for all investment transactions until the delegation of authority terminates or is revoked.

(5) All county officials shall report the earnings of any investments at the time of their annual reports and settlements with the fiscal courts for excess income of their offices.

(6)[(4)] The state local finance officer is authorized and directed to assist *county officials and* local governments (except school districts) in investing funds that are temporarily in excess of operating needs by:

(a) Explaining investment opportunities to such *county officials and* local governments through publication and other appropriate means;

(b) Providing technical assistance in investment of idle funds to *county officials and* local governments that request such assistance.

(7) (a) The state local finance officer may create an investment pool for local governments (except school districts) and county officials; and counties and county officials may associate to create an investment pool; and cities may associate to create an investment pool. If counties and county officials create a pool, or if cities create a pool, each group may select a manager to administer their pool and invest the assets. Each county and each county official may, or each city may invest in a pool created pursuant to this subsection, but neither a county nor a county official nor a city shall invest more than a total of one hundred thousand dollars ($100,000) in such pool or pools. Investments shall be limited to those investment instruments permitted by subsection (1) of this section. The funds of each local government and county official shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local government or county official shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the auditor of public accounts. A copy of the audit report shall be provided to each local government or county official participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the auditor of public accounts, and to the state local finance officer. The auditor of public accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the auditor of public accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) If the state local finance officer creates an investment pool, he shall establish an account in the treasury for the pool. He shall also establish a separate trust and agency account for the purpose of covering management costs, and he shall deposit management charges in this account. The state local finance officer may issue regulations, pursuant to KRS Chapter 13, governing the operation of the investment pool, including but not limited to provisions on minimum allowable investments and investment periods, and method and timing of investments, withdrawals, payment of earnings and assignment of charges.

(c) Before investing in an investment pool created pursuant to this subsection, a local government or county official shall allow any savings and loan association or bank in the county, as described in subsection (1)(c) and (d) of this section, to bid for the deposits.

Section 2. KRS 134.140 is amended to read as follows:

(1) The sheriff, by virtue of his office, shall be collector of all state, county and district taxes, unless the payment thereof is, by law, especially directed to be made to some other officer. Where provision is not otherwise made for the collection of taxes, the assessment or proportion thereof allocable to a local taxing district shall be certified to the clerk of the court of the county which constitutes or in which such taxing district is located, for collection as provided by law.

(2) The sheriff shall not receive or receipt for any taxes until the tax bills have been delivered to him by the county clerk, as provided in KRS 133.220 and 133.230.

(3) (a) The sheriff, except in urban-county governments, may, and at the direction of the fiscal court shall, invest any tax revenues held in his possession from the time of collection until the time of distribution to the proper taxing authorities pursuant to KRS 134.300, 134.320 and 160.510. Investments by the sheriff shall be restricted to those permitted by Section 1 of this Act.

(b) At the time of his monthly distribution of taxes to the district board of education, the sheriff shall pay to the board of education that part of his investment earnings for the month which is attributable to the investment of school taxes.

(c) In those counties where the sheriff pays his fees and commissions to the county and the salaries and expenses of his office are paid by the county, the sheriff shall pay to the county treasurer the investment earnings, other than those paid to the board of education, at the time of his monthly distribution of taxes to the county.

(d) In those counties where the office of sheriff is funded in whole or in part by fees and commissions, the sheriff may use investment earnings, other than those which must be paid to the board of education, to pay lawful salaries and expenses of his office, and the remainder shall be paid to the fiscal court at the time of the sheriff's annual settlement for county and district taxes and excess fees.

Section 3. KRS 134.170 is amended to read as follows:

(1) When any money is paid to the sheriff, he shall immediately enter the payment upon his record books and give to the person paying it a receipt specifying the amount and on what account the money was paid, and when paying any money he shall take a similar receipt. The sheriff shall deliver the original tax bill to the taxpayer when the taxpayer has paid his tax in full. When a taxpayer pays an omitted tax bill, the sheriff shall deliver the original omitted tax bill to the taxpayer, and no other receipt or tax bill shall be evidence that the taxpayer has paid his omitted tax.

(2) The sheriff shall retain the amount of tax and other public dues against any person out of any claim allowed by the state or the fiscal court to that person, except claims allowed for attendance as a witness, notwithstanding any assignment of the same.

(3) *Other than for investments and expenditures permitted by Section 2 of this Act,* the sheriff shall not apply or use any money received by him for any purpose other than that for which the money was paid or collected.

Section 4. KRS 68.020 is amended to read as follows:

(1) The county treasurer shall receive and receipt for all money due the county from its collecting officers or from any other person whose duty it is to pay money into the county treasury, and shall disburse such money in such manner and for such purpose as may be authorized by appropriate authority of the fiscal court. He shall not disburse any money received by him for any purpose other than that for which it was collected and paid over to him, and when he pays out money he shall take a receipt therefor. All warrants for the payment of funds from the county treasury shall be co-signed by the county treasurer and the county judge/executive.

(2) *He may, and when directed by the fiscal court shall, invest the funds of the county pursuant to KRS 66.480.*

(3) He may, and when directed by the fiscal court shall, institute actions in the name of the county against all delinquent sheriffs or collectors of the county, and against anyone having money belonging to the county who fails or refuses to pay it over on demand when due. He shall keep a record of all actions he is directed to institute on behalf of the county, showing their condition and the money collected thereunder.

(4)[(3)] He shall keep an accurate detailed account of all money received and disbursed by him for the county, and shall keep books of accounts of the financial transactions of the county in the manner required by any uniform system of accounting prescribed by the department for local government.

(5)[(4)] The county treasurer shall, when required by the fiscal court, settle his accounts as county treasurer, and within thirty (30) days after the close of each fiscal year, he shall make a full and complete settlement for the preceding fiscal year with the fiscal court or with a person or persons whom the fiscal court, by order of record, appoints to make settlement with him. In case of a vacancy, the county judge/executive shall call a special term which shall proceed in the manner it deems proper to settle the accounts of the county treasurer.

Section 5. KRS 68.020, 1980 Acts Ch. 90, Sec. 2, effective April 1, 1982, is amended to read as follows:

(1) The county treasurer shall receive and receipt for all money due the county from its collecting officers or from any other person whose duty it is to pay money into the county treasury, and shall disburse such money in such manner and for such purpose as may be authorized by appropriate authority of the fiscal court. He shall not disburse any money received by him for any purpose other than that for which it was collected and paid over to him, and when he pays out money he shall take a receipt therefor. All warrants for the payment of funds from the county treasury shall be co-signed by the county treasurer and the county judge/executive.

(2) *He may, and when directed by the fiscal court shall, invest the funds of the county pursuant to KRS 66.480.*

(3) He may, and when directed by the fiscal court shall, institute actions in the name of the county against all delinquent sheriffs or collectors of the county, and against anyone having money belonging to the county who fails or refuses to pay it over on demand when due. He shall keep a record of all actions he is directed to institute on behalf of the county, showing their condition and the money collected thereunder.

(4)[(3)] He shall keep an accurate detailed account of all money received and disbursed by him for the county, and shall keep books of accounts of the financial transactions of the county in the manner required by any uniform system of accounting prescribed by the department for local government.

(5)[(4)] The county treasurer shall, when required by the fiscal court, settle his accounts as county treasurer, and within thirty (30) days after the close of each fiscal year, he shall, unless his immediate predecessor has done so, make a full and complete settlement for the preceding fiscal year with the fiscal court or with a person or persons whom the fiscal court, by order of record, appoints to make settlement with him. In case of a vacancy, the county judge/executive shall call a special meeting which shall proceed in the manner it deems proper to settle the accounts of the county treasurer.

Section 6. Whereas, certain legal opinions have been offered which cast uncertainty on whether county officials can invest idle public funds for public benefit, and whereas certain county officials do invest public funds for public benefit, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Announcements

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 80** by Representative Clarke:

Amend printed copy of **HB 80,** page 1, lines 1-8, by deleting same and substituting the following: "KRS 161.190 is repealed."

Floor Amendment No. 1 to **HB 96** by Representative Williams:

Amend printed copy of **HB 96,** page 2, after line 1, by adding the following: "Nothing contained in this section shall make unlawful the activities of sports clubs, social clubs, families, or any other such groups in the normal or legal exercise or pursuit of their right to bear arms, to educate, be educated and otherwise trained in the use thereof. Nothing contained in this section shall be either deemed or construed to deny the citizens their rights under the constitution to change their form of government, or otherwise seek redress of their grievances. Before an arrest may be made or charges brought against any individual, the arresting or charging party must have clear convincing evidence or proof that a crime has been committed. The ordinary concept of probable cause shall not suffice to bring an action or cause an arrest under this section. Any person not having such proof shall be liable to the offended person for attorney's fees and court costs.

Floor Amendment No. 1 to **HB 114** by Representative Heleringer:

Amend printed copy of **HB 114,** page 5, after line 24, by adding the words:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

No state-chartered or federally-chartered bank shall charge a finance charge on the balance in a revolving loan account under a credit card plan if the balance is attributable solely to purchases of goods or services charged to the account during one billing cycle and the account is paid in full before the date of the first statement issued after the end of that billing cycle."

Floor Amendment No. 2 to **HB 114** by Representative Heleringer:

Amend printed copy of **HB 114,** page 1, Title line, by deleting the words "bank installment loans" and inserting in lieu thereof the word "banks"

Adjournment

Representative LeMaster moved that the House adjourn until 4 p.m., Monday, January 25, 1982.

On the roll call the vote was yeas 61-Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Bronger, Brown, Burch, Caldwell, Clapp, Clark, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Ford, Foster, Freibert, Fryman, Haering, Hancock, Harper, Hines, Holbrook, Johnson, R. Jones, T. Jones, Layman, Lefevers, List, Long, Mann, McBee, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Rapier, B. Richardson, P. Richardson, Robinson, Schmidt, F. Smith, Stone, Thomas, Todd, Van Horn, Williams, Worthington. Nays 10-Blevins, Deskins, Guenthner, Handy, Heleringer, Lile, Overstreet, Perkins, Priddy, B. Smith.

The motion to adjourn was adopted.

MONDAY, JANUARY 25, 1982

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Russell Bow, Bethany United Methodist, Valley Station, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Caldwell and List.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 22, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 300, by Representative Cline: AN ACT relating to finance and revenue of cities.

HCR 21, by Representative LeMaster: A CONCURRENT RESOLUTION inviting the Chief Justice of the Supreme Court to address a joint session of the General Assembly.

HR 22, by Representative Bruce: A RESOLUTION requesting the Legislative Research Commission to investigate the mismanagement of the 1980 bonding authorization by the Kentucky Department of Transportation.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 295.**

Cities: **HB 296, HB 297, SB 52.**

Counties and Special Districts: **HB 298, SB 5.**

Education: **SB 61.**

Health and Welfare: **SB 3, SB 27.**

State Government: **HB 291, HB 292, HB 293, HB 294.**

Report of Committees

The Committee on Rules reported **HB 66, HB 83, HB 112,** and **HR 8** have been posted for passage in Orders of the Day, January 26, 1982.

The Committee on Rules reported **HB 153** has been recommitted to the Committee on State Government.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 214.**

Calendar

HB 22 and **HB 24** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative LeMaster moved that the rules be suspended for consideration of **HCR 21.** Agreed.

Representative LeMaster moved the adoption of the following **HCR 21:**

HCR 21, A RESOLUTION inviting the Chief Justice of the Supreme Court to address a joint session of the General Assembly.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Honorable John S. Palmore, Chief Justice of the Supreme Court of Kentucky be and he is hereby invited to address a joint session of the General Assembly on Tuesday, January 26, 1982, at 3:30 p.m. (EST), in the chamber of the House of Representatives.

Section 2. That the Clerk be directed to transmit a copy of this resolution to Justice Palmore.

On the roll call the vote was yeas 76-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Brown, Bruce, Burnette, Clarke, Cline, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Guenthner, Haering, Hancock, Handy, Harper, Head, Hines, Holloway, Johnson, T. Jones, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Yates. Nays 4-Fryman, Gray, Heleringer, Mann.

HCR 21 was adopted.

Representative Heleringer moved that **HB 7** and **HB 11** be withdrawn. Agreed.

Representative Haering moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Haering moved that he be allowed to change his vote from "yea" to "nay" on **HB 75.** Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsor of Bills and Resolutions:

Representative Burnette, **HB 264;** Representative Hancock, **HB 292;** Representative Heleringer **HR 2;** Representative Meyer **HB 82, HB 181, HB 206;** Representative Moore **HB 8, HB 155;** Representative Yates, **HB 179.**

Representative Fryman filed a request to have his name withdrawn as a co-sponsor of **HB 286.**

Representative Burnette moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Burnette moved that he be allowed to change his vote from "yea" to "nay" on **HB 75.** Agreed.

Orders of the Day

HB 26 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rattliff moved that **HB 26** be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 26 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 26** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 65 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 65** be passed.

On the roll call the vote was yeas 63-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Clapp, Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Deskins, Dunn, Ellington, Farrow, Foster, Freibert, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, T. Jones, LeMaster, Lile, Long, Lundergan, Mann, McBee, Meyer, Moberly, Nett, Noe, O'Brien, Pearman, Perkins, Petty, Rapier, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Williams, Worthington, Yates. Nays 24-Allen, Bruce, Burnette, Dawahare, Donnermeyer, Endicott, Ford, Fryman, Guenthner, Haering, Heleringer, Layman, Little, Maggard, Moore, Morris, Noland, Patrick, Priddy, Rattliff, Riner, Todd, Turner, Van Horn.

HB 65 was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 65** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 73 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 73** be passed.

On the roll call the vote was yeas 76-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Burnette, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, LeMaster, Lile, Long, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 14-Allen, Dawahare, Deskins, Endicott, Fryman, Guenthner, Haering, Layman, Little, Maggard, Moore, Patrick, Schmidt, Tobin.

HB 73 was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 73** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 77 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 77** be passed.

On the roll call the vote was yeas 58-Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Farrow, Foster, Hancock, Handy, Hines, Johnson, T. Jones, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Nett, Noe, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Van Horn, Williams, Worthington. Nays 33-Allen, Blevins, Burnette, Clapp, Craddock, Dawahare, Ellington, Endicott, Ford, Freibert, Gray, Guenthner, Haering, Harper, Heleringer, Holbrook, Holloway, Layman, Lefevers, McNutt, Moore, Morris, Noland, Overstreet, Patrick, Rattliff, Riner, Robinson, Schmidt, Tobin, Todd, Turner, Yates.

HB 77 was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 77** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 86 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Foster moved that **HB 86** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0.

HB 86 was passed and the title agreed to.

Representative Foster moved that the vote by which **HB 86** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 114, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Richardson moved that **HB 114** be passed.

Representative Heleringer moved the adoption of Floor Amendment No. 1 to **HB 114.**

Representative Holbrook inquired of the Chair whether the subject matter of Floor Amendment No. 1 was germane to **HB 114.**

The Chair ruled the Floor Amendment No. 1 was germane to **HB 114.**

On the roll call the vote was yeas 53-Allen, Arnold, Barrows, Blevins, Brinkley, Burch, Burnette, Crupper, Cyrus, Dawahare, Deskins, Endicott, Farrow, Ford, Fryman, Gray, Guenthner, Haering, Head, Heleringer, Johnson, T. Jones, Layman, Lefevers, LeMaster, Lile, Little, Lundergan, Maggard, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Priddy, Rapier, Riner, Robinson, Seum, F. Smith, Stone, Thomas, Tobin, Todd, Van Horn, Williams, Worthington. Nays 33-Bendl, Bennett, Blandford, Boswell, Bronger, Bruce,Clapp, Clarke, Cowan, Craddock, Curd, Donnermeyer, Dunn, Ellington, Foster, Freibert, Hancock, Handy, Harper, Holbrook, Holloway, R. Jones, Long, Mann, McBee, Meyer, Petty, B. Richardson, P. Richardson, Schmidt, Thomason, Turner, Yates.

Floor Amendment No. 1 to **HB 114** was adopted.

Representative P. Richardson moved that **HB 114,** as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 46-Bendl, Blandford, Boswell, Brinkley, Bronger, Bruce, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Ellington, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Holbrook, Holloway, T. Jones, Kidd, LeMaster, Long, Mann, McBee, McNutt, Nett, Overstreet, Perkins, Petty, Priddy, Rapier, B. Richardson, P. Richardson, Schmidt, B. Smith, Stone, Thomason, Turner, Williams, Yates. Nays 35-Allen, Barrows, Bennett, Burch, Burnette, Dawahare, Dunn, Endicott, Farrow, Ford, Fryman, Haering, Head, Heleringer, Johnson, Layman, Lefevers, Lile, Little, Lundergan, Maggard, Meyer, Moberly, Moore, Morris, Noe, Noland, Patrick, Robinson, Seum, F. Smith, Thomas, Tobin, Todd, Van Horn.

The motion that **HB 114,** as amended, be laid on the Clerk's desk was adopted.

HB 136, with Floor amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved the adoption of Floor Amendment No. 1 to **HB 136.** Agreed.

Representative Curd moved that **HB 136,** as amended, be passed.

On the roll call the vote was yeas 75-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Clark, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Dunn, Endicott, Farrow, Ford, Foster, Fryman, Gray, Haering, Hancock, Handy, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, McBee, Meyer, Moberly, Morris, Nett, Noland, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, B. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 9-Clarke, Ellington, Freibert, Harper, Mann, McNutt, Moore, O'Brien, Schmidt.

HB 136, as amended, was passed and the title agreed to.

Representative Curd moved that the vote by which **HB 136,** as amended was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Announcements

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 272,** by Representative Guenthner:

Amend printed copy of **HB 272,** page 1, line 12, by adding after the word "duties," the following: "*and any duly elected state constitutional officer who has filed with the Attorney General of the Commonwealth his intention to carry said weapon for his personal protection,*"

Floor Amendment No. 1 to the Committee Substitute to **HB 235,** by Representative Barrows:

Amend printed copy of Committee Substitute to **HB 235,** on page 1, line 13, by placing brackets around and striking through "Allen," and by deleting the brackets and strike throughs on "Anderson,"; and on page 2, line 14, by inserting “*8,*” after “7,”; and

on page 2, line 16, by inserting “*53,*” after “52,”; and

on page 2, line 19, by inserting “*99,*” after “98,”; and

on page 3, line 14, by inserting “*Bracken,*” after “Boone,”; and

on page 4, line 19, by inserting “*Allen,*” after “Adair,”; and

on page 4, line 21, by deleting “*Jessamine,*”; and

on page 4, line 22, by inserting “*Powell,*” after “Owsley,”; and

on page 4, line 23, by deleting “*;*” after “counties”; and

on page 4, delete lines 24 through 26 in their entirety; and

on page 5, by deleting lines 1 through 6 in their entirety; and

on page 5, line 7, by deleting “*Divide to Virginia State line*”; and

on page 5, line 14, by deleting “*Anderson*”; and

on page 5, line 15, by deleting “*Bracken,*” and inserting “*Jessamine,*” after “Harrison,”; and

on page 5, line 17, by deleting “*Robertson,*”; and

on page 6, line 2, by deleting “*(except Eolia Census*”; and

on page 6, by deleting line 3 in its entirety; and

on page 6, line 6, by bracketing and striking through “Powell,”; and deleting the brackets and strike through from “~~Robertson~~,”.

Floor Amendment No. 2 to the Committee Substitute to **HB 235,** by Representative Barrows:

Amend printed copy of Committee Substitute to **HB 235,** on page 4, line 21, delete “*Jessamine,*”; and

On page 5, line 15, after “Harrison,” insert “*Jessamine,*”.

Floor Amendment No. 2 to **HB 83,** by Representative Burnette:

Amend printed copy of **HB 83,** page 1, after line 12 by inserting the following:

(3) “Cultivated ginseng” means any ginseng plant grown under natural or artificial shade and cultivated according to varying standards of cultivation procedures.

The following meetings were announced:

Committee on Rules: On adjournment, Room 316.

Central Kentucky Caucus: Fifteen minutes after adjournment, Room 106.

Committee on Banking and Insurance: Hearing, Tuesday, January 26, 8:00 a.m.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 23, by Representatives Boswell, Mann, Blandford, Thomason, Brinkley, Johnson, and Bronger: A RESOLUTION creating Rule 42A of the Rules of the House of Representatives.

HR 24, by Representatives Hancock, Meyer, Brinkley, Bennett, and Schmidt: A RESOLUTION opposing the attachment of the Kentucky Housing Corporation to the Department of Transportation by Executive Order, in contravention of the intent of the Kentucky General Assembly.

HB 301, by Representative Donnermeyer: AN ACT relating to motor vehicles.

HB 302, by Representative Morris: AN ACT relating to court filing fees and costs.

HB 303, by Representative Hancock: AN ACT relating to state laws and regulations promulgated pursuant thereto.

HB 304, by Representatives Patrick, Van Horn, Williams, Deskins, and White: AN ACT relating to insurance.

HB 305, by Representative Meyer: AN ACT relating to use of official information.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 139.**

State Government: **HB 294.**

The Clerk announced the following Bill had been withdrawn from Committee consideration:

Health and Welfare: **HB 231.**

The Speaker announced the following members of the Committee to wait upon the Chief Justice: Representatives Morris, Williams, and Farrow.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, January 26, 1982.

On the roll call the vote was yeas 56-Allen, Arnold, Bennett, Blevins, Boswell, Bronger, Brown, Burch, Burnette, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Gray, Harper, Head, Hines, Holbrook, Holloway, T. Jones, Kidd, Layman, Lefevers, Little, Long, Meyer, Nett, Noe, Noland, Pearman, Petty, Priddy, Rapier, B. Richardson, Schmidt, B. Smith, F. Smith, Stone, Thomas, Todd, Turner, Van Horn, Williams, Worthington. Nays 11-Deskins, Ford, Guenthner, Handy, Lile, Maggard, McBee, Overstreet, Perkins, Robinson, White.

The motion to adjourn was adopted.

TUESDAY, JANUARY 26, 1982

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Harold Henson, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Allen and Caldwell.

The Clerk read the following certificate from the Secretary of State:

I, Frances Jones Mills, Secretary of State of the Commonwealth of Kentucky, do hereby certify that, according to the records in the Office of the Secretary of State of the Commonwealth of Kentucky, and the best information obtainable, the attached is a true and correct list of the duly elected and qualified members of the House of Representatives of the General Assembly of the Commonwealth of Kentucky.

Given under my hand and seal of office, this 26th day of January, 1982.

s/FRANCES JONES MILLS
Secretary of State
Commonwealth of Kentucky

Carolyn L. Kenton (D) - 75th Rep. District (Fayette)
137 Bell Court West
Lexington, Kentucky

Mrs. Carolyn L. Kenton produced her Certificate of Election for the 75th District (Fayette), appeared before the presiding officer and was administered the oath of office by Supreme Court Justice Robert F. Stephens.

The House stood at ease for five minutes.

The Speaker called the House to order.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 25, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 37, SB 38, SB 74,** and **HCR 21.**

Introduction of Bills and Resolutions

HB 306, by Representatives Clark, Yates, Bronger, and Blandford: AN ACT relating to credit unions.

HB 307, by Representative Freibert: AN ACT proposing an amendment to the Kentucky Constitution relating to urban county governments.

HB 308, by Representative LeMaster: AN ACT relating to retirement.

HB 309, by Representatives Dunn, B. Richardson, Barrows, Bennett, Bronger, Farrow, Freibert, Head, Holbrook, R. Jones, LeMaster, List, Long, McBee, Meyer, Noe, Perkins, Rapier, Richards, Seum, Thomas, Thomason, and Yates: AN ACT relating to elections.

HB 310, by Representative Worthington: AN ACT relating to primary election date.

HB 311, by Representative Pearman: AN ACT relating to building codes.

HB 312, by Representative Mann: AN ACT relating to motor vehicles.

HB 313, by Representative Mann: AN ACT relating to teachers' tenure.

HB 314, by Representative Hines: AN ACT relating to school districts.

HB 315, by Representative Gray: AN ACT relating to billboard advertising.

HB 316, by Representatives Heleringer, Guenthner, and Haering: AN ACT relating to income taxes.

HB 317, by Representative Hancock: AN ACT relating to employers and employes.

HB 318, by Representative Stumbo: AN ACT relating to common schools.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 305.**

Banking and Insurance: **HB 304.**

Cities: **HB 300.**

Education: Report Pursuant to KRS 164.0282(10).

Judiciary-Civil: **HB 302.**

Labor and Industry: **HB 299.**

State Government: **HB 303, HR 23, HR 22, HR 24.**

Transportation: **HB 301.**

Report of Committees

The Committee on Rules reported **HB 20, HB 22, HB 78,** and **HB 235** have been posted for passage in Orders of the Day, January 27, 1982.

The Committee on Cities reported **HB 118, HB 133,** and **HB 158** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 118, AN ACT relating to police and fire departments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.460 is amended to read as follows:

(1) Any member of the police or fire department in cities of the second and third classes or urban-county governments found guilty by the legislative body of any charge, as provided by KRS 95.450, may appeal to the circuit court of the county in which the city or urban-county government is located, but the enforcement of the judgment of the body shall not be suspended pending appeal. *The notice of the appeal shall be filed not later than thirty (30) days after the date the legislative body makes its determination on the charge.*

(2) Upon request of the accused the clerk of the legislative body shall file a certified copy of the charges and the judgment of that body in the circuit court. Upon the transcript being filed the case shall be docketed in the circuit court and tried as an original action.

(3) If the clerk fails to certify the transcript to the circuit court within *seven (7)* [~~five (5)~~] days after the request is made, the party aggrieved may file an affidavit in the circuit court setting out as fully as possible the charges made, the time of the hearing, and the judgment of the legislative body, together with a statement that demand for transcript was made upon the clerk more than five (5) days before the filing of the affidavit. Upon the filing of the affidavit in the circuit court the case shall be docketed and the circuit court may compel the filing of the transcript by the clerk by entering the proper mandatory order, and by fine and imprisonment for contempt. The appeal shall have precedence over other business, and be determined speedily.

(4) An appeal will lie from the judgment of the circuit court to the Court of Appeals as in other cases.

HB 133, AN ACT relating to state and local fiscal coordination.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Fiscal note" means a realistic statement of the estimated effect on expenditures or revenue of local government in implementing or complying with any proposed act of the general assembly whether filed in regular session or prefiled during the interim, regulation, order or administrative law.

(2) "Local government" means cities, counties or urban-county governments.

(3) "State mandate" means any state constitutional, legislative or executive law or order which requires any local government to establish, expand or modify its activities, programs or structure in such a way as to affect expenditures from local revenues.

SECTION 2. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) No bill or resolution which relates to any aspect of local government or any service provided thereby shall be voted on by either chamber of the general assembly unless a fiscal note has been prepared and attached to the bill pursuant to Section 3 of this Act, except that, if in the chamber in which the bill is being considered, two-thirds (⅔) of the members elected vote to waive the fiscal note requirement, no note shall be required. The fiscal note waiver shall be certified by the clerk of the chamber in which the bill is being considered, and such certification shall be attached to the bill. Although waived in one chamber, a fiscal note shall be required when the bill goes to the other chamber unless a majority of the members elected to such chamber vote to waive the fiscal note requirement.

(2) No executive regulation or order which relates to any aspect of local government or any service provided thereby shall be promulgated or issued unless a fiscal note has been prepared and made a part of the regulation or order pursuant to Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) The director of the legislative research commission shall have the fiscal note prepared by the legislative research commission or by other departments or agencies of state government for any bill introduced before the general assembly which relates to any aspect of local government or any service provided thereby. Departments or agencies of state government so requested by the director shall comply with the request within seven (7) working days of receipt. The fiscal note shall be filed with the clerk in the chamber of the general assembly in which the bill was introduced and attached to each copy of the bill.

(2) The secretary of finance shall have the fiscal note prepared by the department of finance or by other departments or agencies of state government for any regulation or order promulgated by an executive department or agency which relates to any aspect of local government or any service provided thereby. The director of the legislative research commission shall determine the form of such notes. The secretary may request the advice or assistance of the legislative research commission in the preparation of the fiscal note. The fiscal note shall be attached to each copy of the regulation or order.

SECTION 4. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) A fiscal note shall state whether the bill, regulation or order is determined to be a state mandate. Such determination shall be made by the director of the legislative research commission except as

provided by subsection (2) of this section. If the bill, regulation or order is a state mandate, the note shall contain an estimate of the effect the law will have on expenditures or revenues of local government for the first full fiscal year the law is to be in effect.

(2) The director, at his discretion, may seek a certification from the attorney general on the question of whether a bill, regulation or order constitutes a state mandate. The attorney general shall, within seven (7) working days from receipt of the request, certify to the director that the bill, regulation or order is or is not a state mandate.

(3) If any bill, regulation or order is amended after the preparation of the fiscal note, it shall be resubmitted to the person responsible for preparation of the note who shall reevaluate the bill, regulation or order as amended and change the fiscal note in accordance therewith.

(4) Copies of the fiscal note shall be furnished by the legislative research commission to any local official upon written request.

SECTION 5. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) The legislative research commission shall be responsible for compiling, analyzing and collecting fiscal and other information from local governments necessary for the preparation of fiscal notes. An information system shall be developed and designed so as to provide sufficient continuing information on the financial condition of local government which can be readily utilized for the preparation of fiscal notes. In the development of such an information system the legislative research commission shall:

(a) Compile, analyze and maintain in a unified, concise and orderly form, information on the nature and impact of existing state mandates and state programs which involve the distribution of funds to local government; and

(b) Continuously compile, analyze and maintain fiscal and other relevant information which is required by statute or regulation to be prepared by local governments.

(2) The legislative research commission shall publish, annually, beginning January 1, 1984, in a report to the general assembly, a summary of the information collected pursuant to subsection (1) of this section in a format designed to show the financial condition of local government.

SECTION 6. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

The legislative research commission may submit to any unit of local or state government any request for information concerning local fiscal management and fiscal conditions. Each unit shall be required to comply with such requests. Where information sought by the legislative research commission is required by law to be filed with the county clerk or state agency, the legislative research commission shall direct all requests to the appropriate county clerk or state agency.

Section 7. KRS 91A.040 is amended to read as follows:

(1) Each city shall, as soon as practicable and in no event later than two hundred seventy (270) days after the close of each fiscal year, cause each fund of the city to be audited by the auditor of public accounts or a certified public accountant.

(2) The city shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:

(a) The auditor be employed to examine the balance sheets of all governmental proprietary and fiduciary funds of the city;

(b) All audit information be prepared in accordance with generally accepted governmental auditing standards which includes such tests of the accounting records and such auditing procedures as considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;

(c) The auditor prepare a typewritten or printed report embodying financial statements and his opinion and statements relating thereto;

(d) The auditor express an overall opinion as to whether the statement of receipts and expenditures presents fairly the financial condition of the city or state the reasons why an overall opinion cannot be expressed;

(e) The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting;

(f) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the auditor of public accounts upon request of the city or the auditor of public accounts, and the auditor of public accounts shall have the right to review the certified public accountant's work papers upon request.

(3) *Within ten (10) days of the* [~~Upon~~] completion of an annual audit, *and its presentation to the city legislative body pursuant to paragraph (2)(e) of this section,* the city shall forward *three (3)* [~~two (2)~~] copies of the audit report to the department for *community and regional development* [~~local government~~] for information purposes. *The department shall forward one (1) copy of the audit to the legislative research commission to be used for the purposes of this Act.*

(4) Upon completion of an annual audit, the city shall publish a summary of the audit in accordance with KRS Chapter 424.

(5) A copy of an annual audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements, *or requirements of the legislative research commission necessary to carry out the purposes of this Act.*

HB 158, AN ACT relating to cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.710 is amended to read as follows:

To be eligible for appointment as a member of the police force or fire department of a city of the fourth or fifth class, except cities of the fourth class which have adopted KRS 95.761 to 95.784, a person must be a resident of the county, [~~at least twenty-one (21) years of age,~~] able to read and write the English language intelligibly, and sober, moral and sagacious. *In addition, a member of a police department in a city of the fourth or fifth class and a member of the fire department of a city of the fifth class shall be at least twenty-one (21) years of age, and a member of a fire department of a city of the fourth class shall be at least eighteen (18) years of age.* No person who has been convicted of a felony is eligible for appointment. After appointment no member shall interfere in any election.

Committee Amendment No. 1 to **HB 158** is as follows:

Amend printed copy of **HB 158,** on page 1, line 11 delete the prase "*and a member of the fire department in a city of the fifth class*:; and

On page 1, line 14 insert between the words "fourth" and "class" the following: "*or fifth*"

The Committee on Counties and Special Districts reported **HB 187,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 187, AN ACT relating to county police officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 70.540 is amended to read as follows:

The county judges/executive of the respective counties shall have and are hereby given the power, jurisdiction and authority to establish, appoint and maintain a county police force within their respective counties, all of the members and officers of which shall have and are hereby given jurisdiction coextensive with the whole county for which they are appointed. Such police force may consist of a chief and such member, rank and grade subordinate to the chief, and such clerical and skilled employes as the county judge/executive shall deem proper. All of the members and employes of the county police force shall be appointed by the county judge/executive and shall serve for a term of one (1) year from the date of their respective appointments, unless sooner removed by the county judge/executive for neglect of duty or improper conduct. All members of the force shall be citizens of the United States not less than twenty-one (21) years of age[~~, and shall have been bona fide residents of the county in which they are appointed for not less than one (1) year before their appointment~~]. None but discreet and sober persons shall be appointed to any position on said county police force. Each of the members of the said county police force shall take an oath, before the county judge/executive of their county, to faithfully, impartially and diligently perform the duties of their respective offices. Provided, however, that the chief officer of the county police force of any county may be designated, in the discretion of the county judge/executive of said county, as captain or any other appropriate title, and such county police force in any county may consist of one or more commanding officers, as the county judge/executive of such county may deem proper or adequate. *Notwithstanding KRS 15.335, all members of the force must reside in the county of appointment after their appointment.*

Committee Amendment No. 1 to **HB 187** is as follows:

Amend printed copy of **HB 187,** on page 2, line 14, by deleting: "*Notwithstanding KRS 15.335, all members of*"; and

On page 2, lines 15 and 16, by deleting all of lines 15 and 16.

The Committee on Health and Welfare reported **HB 43,** with Committee Amendments attached thereto, and **HB 205** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 43, AN ACT relating to boarding homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

"Boarding home" means any home, facility, institution, lodging or other establishment, however named, which accommodates three (3) or more adults not related by blood or marriage to the owner, operator or manager, and which offers or holds itself out to offer room and board on a twenty-four (24) hour basis for hire or compensation. It shall not include any facility which is otherwise licensed and regulated by the Kentucky health facilities and health services certificate of need and licensure board or any hotel as defined in KRS 219.011(4).

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) No person shall operate a boarding home without registering, on an annual basis, with the local or regional health department for the county in which such boarding home is located and receiving authorization, in writing, from said health department to operate a boarding home. A registration fee of twenty-five dollars ($25) shall be paid to the local or regional health department at the time of registration. Before authorizing any person to operate a boarding home, the health department shall make or cause to be made, an investigation to determine whether safe and sanitary conditions exist in the boarding home in compliance with local health department regulations as developed by the office of local health within the department for human resources. When such authority has been granted by a health department, the same may be revoked at any time if it is determined by the health department that conditions in the boarding home are unsafe, unsanitary or out of compliance with local health regulations. Such authority shall only be revoked after notice to the person operating the boarding home and after an opportunity for a hearing, as provided by regulations of the department for human resources. The authorization to operate a boarding home shall expire annually on the date such authorization was granted at which time a renewal fee of twenty-five dollars ($25) shall be required.

(2) If the investigation required by subsection (1) of this section reveals that a person has falsely registered a boarding home that is operating as a personal or family care home as licensed and regulated by the Kentucky health facilities and health services certificate of need and licensure board, the health department shall immediately notify the division of licensing and regulation within the department for human resources, and shall not grant authorization to operate as a boarding home.

(3) Any person who operates a boarding home without registering and receiving authorization to do so, as required by subsection (1) of this section, or who falsely registers a boarding home as specified by subsection (2) of this section shall be guilty of a Class B misdemeanor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The health department for each county in the Commonwealth shall on a quarterly basis notify the department for human resources, and the local agencies having jurisdiction in regards to the enforcement of fire safety and building codes, of all newly registered boarding homes in the county by name and address of the operator. Such list shall identify the ownership of the boarding home and the compliance status with pertinent laws and regulations if known.

Committee Amendment No. 1 to **HB 43** is as follows:

Amend printed copy of **HB 43,** page 2, line 8, by deleting the word "*office*" and inserting in lieu thereof the word "*division*"

And on line 9, by deleting the word "*of*" and inserting in lieu thereof the word "*for*"

Committee Amendment No. 2 to **HB 43** is as follows:

Amend printed copy of **HB 43,** page 3, line 22, by adding the following new section:

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall be construed as requiring registration by persons providing room or board or both to students attending institutions of higher education.

HB 205, AN ACT relating to admittance to public places.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.500 is amended to read as follows:

(1) When a blind person is accompanied by a guide dog, neither the blind person nor the dog shall be denied admittance to any hotel, motel, restaurant or eating establishment, nor shall the blind person be denied full and equal accommodations, facilities and privileges of all public places of amusement, theater or resort when accompanied by a guide dog.

(2) Any blind person accompanied by a guide dog shall be entitled to full and equal accommodations on all public transportation, provided that the guide dog shall not occupy a seat in any public conveyance, nor endanger the public safety.

(3) Such blind person shall not be required to pay additional charges or fare for the transportation of any accompanying guide dog.

(4) Any blind person accompanied by a guide dog shall not be denied admittance and use of any public building, nor denied the use of any elevator operated for public use.

(5) Any blind person accompanied by a guide dog may keep such animal in his or her immediate custody while a tenant in any apartment, or building used as a public lodging.

(6) The provisions of this section shall not apply unless the guide dog has been trained by a recognized training agency or school, and is properly harnessed [~~and muzzled~~].

(7) All blind persons accompanied by such a trained guide dog must have in their personal possession a certificate issued by the guide dog training agency or school establishing that his dog has been so trained.

(8) The provisions of this section shall not apply unless the blind master complies with the legal limitations applicable to sighted persons and unless all requirements of KRS 258.015, 258.135 and 258.145 have been complied with.

(9) The provisions of this section shall also apply to any deaf person accompanied by a dog trained to aid the deaf. As used in this section, "deaf person" means a person described in KRS 30A.410(1)(a).

The Committee on Transportation reported **HB 38, HB 39** with Committee Amendment attached thereto, **HB 40, HB 41,** and **HB 42** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 38, AN ACT relating to registration fees for trailers and semitrailers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.675 is amended to read as follows:

(1) The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050 (1) shall be four dollars fifty cents ($4.50). The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050 (3) through (13) shall be nineteen dollars fifty cents ($19.50). The provisions of KRS 186.650 to 186.700 shall not apply to privately owned and operated trailers used for the transportation of boats, luggage, personal effects, farm products, farm supplies or farm equipment. The registration fee for housetrailers shall be nine dollars fifty cents ($9.50). The registration fee for camping trailers shall be four dollars fifty cents ($4.50). The clerk shall issue the registration plate furnished by the department and shall be paid for this service the sum of one dollar ($1).

(2) Beginning April 1, 1983, at the request of the carrier, trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) through (13) may be registered for a five

(5) year period. The registration fee for the period shall be ninety-seven dollars and fifty cents ($97.50). The bureau shall prorate the fee as provided in this subsection for trailers and semitrailers which request five (5) year registration after the registration period has begun. The clerk shall issue the registration plate furnished by the department and shall be paid for this service the sum of two dollars and fifty cents ($2.50).

HB 39, AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.222 is amended to read as follows:

(1) The secretary of transportation in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length and gross weight prescribed in KRS 189.221, if in the opinion of said secretary, the increased heights, length and weight designated by him are justified by the strength, safety and durability of the designated highways, and said highways do not appear susceptible to unreasonable and unusual damage by reason of such increases and said secretary is authorized to establish reasonable classification of such roads and to fix a different maximum for each classification. Provided, however, that any increase in the height, length or width or any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by such vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

(a) Height, thirteen and one-half (13 ½) feet;

(b) Length, truck tractors and semitrailers, *sixty (60)* [~~fifty-five (55)~~] feet *with semitrailer not to exceed forty-five (45) feet*;motor trucks, thirty-five (35) feet;

(c) Length, truck tractor, semitrailer and trailer, sixty-five (65) feet;

(d) A tolerance of not more than five percent (5%) shall be permitted before a carrier is deemed to have violated (b) of this subsection. In no event shall the maximum length exceed sixty-five (65) feet;

(e) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; fifty thousand (50,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. In no event shall any single axle in any arrangement exceed twenty thousand (20,000) pounds or six hundred (600) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. In no event shall the total gross weight of the vehicle and load exceed eighty-two thousand (82,000) pounds;

(f) A tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (e) of this subsection. In no event shall the gross weight exceed eighty-two thousand (82,000) pounds;

(g) Truck tractor, semitrailer and trailer combinations and other vehicle combinations may be operated only on those parts of the state-maintained system which has been designated by the secretary of transportation by official order as safely allowing same.

(2) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of transportation by official order as safely allowing same, attain the following maximum lengths excluding the usual and ordinary bumper overhang of the transported vehicles;

(a) Truck tractors and semitrailers, sixty (60) feet;

(b) Motor trucks and trailers, sixty-five (65) feet.

(3) Vehicles engaged exclusively in the transportation of farm products and registered under KRS 186.050(4)(b) shall be excluded from the axle weight provisions and subject only to total gross weight provisions.

(4) The secretary of transportation may by order increase the weight and height limits prescribed by this chapter for motor vehicle while being operated exclusively on roads or highways being constructed, reconstructed or repaired under contract with the department of transportation by the contractor or subcontractor, agent or employe thereof.

(5) Notwithstanding any other provisions of this chapter, in no event may the secretary of transportation authorize the operation of any motor vehicle or combination of motor vehicles, upon any part of the interstate and national defense highway system, which exceeds the following dimension and weights:

(a) Width, ninety-six (96) inches, including any part of the body or load;

(b) Weight, eighteen thousand (18,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-two thousand (32,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. In no event shall any single axle in any arrangement exceed eighteen thousand (18,000) pounds or six hundred (600) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. In no event shall the total gross weight of the vehicle and load exceed seventy-three thousand two hundred eighty (73,280) pounds; provided, however, in the event any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, then the secretary of transportation may by official order increase the maximum weights and dimensions but in no event shall said increased weights and dimensions exceed those set out in this section.

Amend printed copy of **HB 39,** on page 2, lines 5 and 6, after the word "feet" by deleting the words "*with semitrailer not to exceed forty-five (45) feet*"

And on page 2, lines 6 and 7, after the word "trucks," by inserting the words "*forty-five (45)*" and placing brackets around the words "[~~thirty-five (35)~~]"

HB 40, AN ACT relating to airports.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

An air board may utilize electronic equipment or such techniques and procedures as it determines necessary to insure the safety of the public on airplanes and on airport property from persons using or attempting to use bombs, explosives, firearms or other deadly weapons. When a bomb, explosive or other deadly weapon is detected on airport property, or there is good reason to suspect that an individual may have such a device or weapon that he is attempting to conceal from proper authorities, a law enforcement officer, airline employe or air board agent or employe may take prudent and necessary precautionary measures to protect individual lives and property.

HB 41, AN ACT relating to salary supplements for public employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95A.210 is amended to read as follows:

As used in KRS 95A.200 to 95A.300, unless the context otherwise requires:

(1) "Commission" means the commission on fire protection personnel standards and education established pursuant to KRS 95A.020.

(2) "Fund" means professional fire fighters foundation program fund.

(3) "Local government" means any city or county, or any combination thereof, *a fire protection district, an airport board,* or urban-county government of the Commonwealth.

(4) "Professional fire fighter" means any member of a paid municipal fire department organized under KRS Chapter 95 or a fire protection district organized under KRS Chapter 75, or a county fire department created pursuant to KRS Chapter 67, *or a member of a fire department operated by an airport board under authority of KRS Chapter 183.*

Section 2. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county, or any combination of cities and counties, *an urban-county government, or an airport board created pursuant to KRS Chapter 183* [~~of the commonwealth~~].

(2) "Police officer" means a full-time member of a lawfully organized police department of *a local unit of government* [~~county or city government~~] who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky state police,

any elected officer, sheriff, deputy sheriff, constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

HB 42, AN ACT relating to airports.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 183.476 is amended to read as follows:

The acquisition of any lands for the purpose of establishing airports or other air navigation facilities; the acquisition of airport protection privileges; the acquisition, establishment, construction, enlargement, improvement, maintenance, equipping and operation of airports and other air navigation facilities, and the exercise of any other powers granted to air boards *as governmental units* [~~or municipalities~~] in this chapter, are hereby declared to be public, governmental and municipal functions, *authorized by the state in its sovereign capacity,* exercised for a public purpose, and *as a matter* [~~matters~~] of public necessity.[~~, and~~] Such lands and other property, easements and privileges acquired and *airport facilities operated* [~~used~~] by such air boards *as governmental units* [~~or municipalities~~] in the manner and for the purposes enumerated in this chapter, *including contracts executed or negotiated by air boards for airport support related facilities and with contractors serving the needs of the airport public,* shall and are hereby declared to be acquired and used for public, governmental and municipal purposes and as a matter of public necessity. *Where the governmental unit finds that it is in the public interest to contract with only one (1) or a limited number of persons or firms providing airport related services, or to regulate rates charged the public for services at the airport, it is the policy of the state that such governmental unit is authorized and directed to so act, without antitrust consequences, since the governmental unit is exercising specific powers delegated by the state in its sovereign capacity.*

The Committee on Counties and Special Districts reported **HB 59,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 59, AN ACT relating to fiscal courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.045 is amended to read as follows:

(1) *For the purposes of this section the word "district" shall mean:*

(a) Justice's of the peace district in counties having a fiscal court composed of the county judge/executive and the justices of the peace; or

(b) County commissioner's district in counties having a fiscal court composed of the county judge/executive and three (3) county commissioners.

(2) In counties where the members of the county fiscal court are *nominated or* elected by districts, the boundaries of those districts shall be drawn so that *the districts are compact, contiguous and* the population of each district shall be as nearly equal as is reasonably possible.

(3) The county judge/executive shall initiate reapportionment proceedings in February of the second year following the decennial census of the United States. The county judge/executive upon approval of the fiscal court may, at other times, review the district boundaries and shall initiate reapportionment proceedings if the district boundaries are in violation of subsection (2) of this section.

[~~(2) The justices' districts of a county may be reapportioned at any time, but not within one hundred and twenty (120) days prior to any primary election for justice of the peace. At minimum, the justices' districts of a county shall be reapportioned within six (6) months following the official report to the states of the data from the latest census of population conducted by the United States government.~~]

(4)[~~(3)~~] To initiate a reapportionment proceeding, the county judge/executive shall publish notice of the planned reapportionment in accordance with KRS Chapter 424[~~. Following such notice, the county judge/executive shall, within sixty (60) days, in fiscal court,~~] *and* appoint three (3) competent citizens of the county over twenty-one (21) years of age, and residing in different [~~justices'~~] districts, as commissioners to reapportion the county into not less than three (3) nor more than eight (8) justices' districts *in counties having a fiscal court composed of the county judge/executive and the justices of the peace or three (3) commissioner's districts in counties having a fiscal court composed of the county judge/executive and county*

commissioners. The commissioners, before they proceed to act, shall be sworn to faithfully perform their duties. They shall receive out of the county treasury a reasonable compensation for their services, fixed by the fiscal court.

(5)[~~(4)~~] The commissioners shall, within sixty (60) days after their appointment, lay off the boundary lines of the districts. They shall file in the office of the county clerk *and with each member of the fiscal court* a written report, showing the boundary of each district and the estimated population in each. *Within sixty (60) days of the receipt of the report, the fiscal court shall consider the report of the commissioners and, in accordance with the provisions of KRS 67.075 to 67.077, adopt or amend the report in establishing the districts. In no event shall districts be reapportioned during the period from thirty (30) days prior to the last date for filing for candidacy for county office as provided in KRS 118.165 and the regular election for candidates for county office.* [~~Not later than twenty (20) days after the filing of the report, any citizen of the county may file exceptions, and the district court shall fix a day not later than ten (10) days after the filing of exceptions for the trial thereof. On the trial the court shall dispose of the exceptions and, by order entered of record, establish the boundaries of the districts.~~]

(6)[~~(5)~~] Precinct lines shall be redrawn when necessary in accordance with the provisions of KRS 117.055. *No precinct shall be in more than one (1) district.*

[~~(6) Any reapportionment made in accordance with the provisions of this section shall be certified by the county judge/executive to the county clerk.~~]

(7) Within twenty (20) days of the establishment of the districts by the fiscal court, any registered voter of the county may bring an action in the circuit court to enforce the provisions of this section. The circuit court shall hear the action and, on a finding that the fiscal court has violated the provisions of this section, remand the matter to the fiscal court. The circuit court, in its discretion, may allow the prevailing party, other than the fiscal court, a reasonable attorney's fee, to be paid from the county treasury, as part of the costs.

(8) The county judge/executive of any county which has not reapportioned its districts since the 1980 decennial census of the United States shall initiate reapportionment proceedings within sixty (60) days of the effective date of this Act.

Section 2. KRS 67.063, Reapportionment of commissioner's districts, is repealed.

Amend printed copy of **HB 59,** on page 2, line 19 after "districts," add the following "*and the county clerk as a non-voting member*"

The Committee on Energy reported **HB 51** and **HJR 4,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 51, AN ACT relating to alternate energy development projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Alternate energy" means passive and active solar, wind, biomass, low-head hydropower, and other renewable energy resources as deemed appropriate by the committee.

(2) "Committee" means the alternate energy project review committee.

(3) "Cost" means the expenditures for construction, all machinery and equipment, financing charges, interest prior to and during construction, engineering, and architectural expenses, legal expenses, plans, specifications, surveys, cost estimates, other expenses necessary or incident to determining the feasibility of practicability of any project, administrative expenses, and such other expenses necessary or incident to the construction of a project, the financing of such construction, and the placing of the project into operation.

(4) "Department" means the Kentucky department of energy.

(5) "Fund" means the alternate energy development fund.

(6) "Grant" means a financial award from the alternate energy development fund for the provision of a specified alternate energy development project.

(7) "Loan" means the provision of funding from the alternate energy development fund for financing of alternate energy development projects, to be repayed to the fund as specified in Section 7.

(8) "Project" means any building, facility, structure, equipment, or materials which the committee may deem necessary for the development and promotion of alternate energy technologies and all rights, property, and interests which may be acquired for the construction and operation of the project.

SECTION 2. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

There is hereby established in the treasury of the Commonwealth a trust fund to be known as the "alternate energy development fund," herein referred to as the "fund." The fund shall consist of such amounts as may be appropriated by the general assembly, interest earned on moneys of the fund, grants or private contributions. The fund shall be managed by the committee and all expenditures therefrom must be approved by the committee or its designated representative or the successor positions. Unexpended balances in the fund shall be invested in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States, of maturities not in excess of five (5) years, and the interest on and proceeds from the sale or redemption of any investments held in the fund shall be credited to and form a part of the fund.

SECTION 3. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

Loans, grants, and expenditures for the development, implementation, and construction of alternate energy projects shall be paid out of this fund. Payments shall be made in the same manner as other state expenditures.

SECTION 4. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

(1) There shall be created an alternate energy project review committee, referred to hereafter as the "committee," organizationally located as an advisory body to the Kentucky department of energy. The committee shall consist of the secretary of energy as chairman and six (6) members each with equal representation appointed by the governor, with consideration given to their interest and experience in alternate energy and energy research. The members shall elect a vice chairman and other officers as deemed necessary. For the first committee appointed, two (2) members shall be appointed for four (4) year terms, two (2) members for three (3) year terms, and two (2) members for two (2) year terms. All subsequent appointments shall be for three (3) years each. The respective appointments shall be made on July 1, of each year.

(2) Commission members shall receive no compensation for their services, but may be reimbursed in accordance with the provisions of KRS Chapters 44 and 45 for actual and necessary expenses incurred in the performance of their duties on this commission.

(3) The commission shall meet at the call of the chairman, but not less than twice during each calendar year. A majority of the members appointed to the committee shall constitute a quorum.

SECTION 5. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

When it has been determined by the committee that the construction of an alternate energy development project will accomplish the criteria enumerated in Section 10, the committee may contract to grant or loan any county, city, public institution, private business, person, or group of persons, such amounts as in the discretion of the committee is needed in the development and completion of an alternate energy project as follows:

(1) Grants up to twenty-five (25) percent of the total project cost not to exceed $40,000 per project.

(2) Loans up to fifty (50) percent of the total project cost not to exceed $40,000 per project.

(3) Grants and loans in combination subject to the proportion in (1) and (2) and not to exceed a total of $40,000 per project.

SECTION 6. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

Contributions to the total project cost by the proposer may include in-kind contributions as well as cash contributions.

SECTION 7. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

Every loan of the fund shall be for a period of up to five (5) years and shall carry an interest rate equal to the Bond Buyer Index (twenty (20) bonds) as reported in the most recent issue of the Weekly Bond Buyer on the date the application is approved.

SECTION 8. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

Any governmental subdivision, public institution, private business, person, or group of persons in the Commonwealth may apply to the committee for assistance in the development, construction, and operation of an alternate energy project. Application shall be made in a manner as prescribed by the committee.

SECTION 9. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

Applications will be judged and funding decisions made by the alternate energy project review committee.

SECTION 10. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

The committee shall give preference to projects which show consideration for the following factors:

(1) Applicability for contribution to low-income energy users;

(2) Potential for job or economic development;

(3) Transferability of the technology involved, particularly technology which will assist in future project design;

(4) Ability to evaluate the progress and the results of the project;

(5) The availability of on-going technical assistance to the project; and

(6) The ability to document and disseminate project results to the public.

HJR 4, A JOINT RESOLUTION directing the department of finance to amend purchasing and bidding regulations in support of a strong energy conservation ethic.

WHEREAS, rapidly rising energy costs continue to demand a larger portion of state funds for building operations; and

WHEREAS, conservation of non-renewable energy resources is important in contributing to a more secure energy future for the Commonwealth and the country; and

WHEREAS, it is appropriate for the Commonwealth to lead the way in helping the public understand the importance of the conservation ethic;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the department of finance amend appropriate regulations to include life-cycle costing in the bidding process for all new state facilities.

Section 2. That the department of finance amend appropriate regulations to require consideration of conservation and alternate energy demonstrations in state facility building programs.

Committee Amendment No. 1 to **HJR 4** is as follows:

Amend printed copy of **HJR 4,** page 1, line 2, by adding after the word "to" the word "require" and after the word "costing" the word "calculations"; and by striking the word "include";

And on page 1, line 3, by adding after "the" the words "design of energy systems" and by striking the words "bidding process" and "new";

And on page 1, line 6, by adding, after the words "conservation and" the words "demonstrations of coal, active and passive solar, or biomass energy systems or combinations thereof", and by striking the words "alternate energy demonstrations"

The Committee on Health and Welfare reported **HB 230,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 230, AN ACT relating to rape examinations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.400 is amended to read as follows:

(1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his inability to pay for services to be rendered by the hospital.

(2) Every hospital of this state which offers emergency services shall provide that a physician is available on call twenty-four (24) hours each day for the examinations of persons reported to any law enforcement agency to be victims of sexual offenses as defined by KRS 510.010 to 510.140. The physician shall, upon

the request of any peace officer or prosecuting attorney, and with the consent of the reported victim, or upon the request of the reported victim, examine such person for the purpose of gathering physical evidence.

(3) Each reported victim shall be informed of available services for treatment of venereal disease, pregnancy, and other medical and psychiatric problems. Pregnancy counseling will not include abortion counseling or referral information.

(4) Notwithstanding any other provision of law, a minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority and consent of the parents or guardians of the minor is not required for such examination.

(5) The examinations required under this section shall be paid for by the department for human resources at a rate to be determined by the department by administrative regulation. No charge shall be made to the victim for such examinations, either by the hospital or the department.

Committee Amendment No. 1 to **HB 230** is as follows:

Amend printed copy of **HB 230,** page 2, line 8, by deleting the words "*department for human resources*" and inserting in lieu thereof the words "*office of the attorney general*"

And on line 9, by deleting the word "*department*" and inserting in lieu thereof the words "*office of the attorney general*"

And on line 12, by deleting the word "*department*" and inserting in lieu thereof the words "*office of the attorney general*"

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **HB 239.**

Orders of the Day

Representative LeMaster moved that **HB 67** be recommitted to the Committee on Education. Agreed.

HB 66 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 66** be passed.

On the roll call the vote was yeas 69-Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Cyrus, Dawahare, Donnermeyer, Ellington, Ford, Foster, Freibert, Fryman, Gray, Hancock, Handy, Harper, Heleringer, Hines, R. Jones. T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, Schmidt, Seum, B. Smith, F. Smith, Stumbo, Thomas, Thomason, Todd, Turner, White, Williams, Worthington, Yates. Nays 17-Arnold, Burnette, Curd, Deskins, Endicott, Farrow, Haering, Holbrook, Layman, Overstreet, Patrick, Priddy, B. Richardson, P. Richardson, Riner, Stone, Van Horn.

HB 66 was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 66** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 83, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blandford moved the adoption of Floor Amendment No. 1 to **HB 83.** Agreed.

Representative Burnette moved the adoption of Floor Amendment No. 2 to **HB 83.** Agreed.

Representative Blandford moved that **HB 83,** as amended, be passed.

On the roll call the vote was yeas 92-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4-Deskins, Little, Patrick, Stumbo.

HB 83, as amended, was passed.

Representative Blandford moved the adoption of the Title Amendment to **HB 83.** AGreed.

Representative Blandford moved that the vote by which **HB 83,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker vacated the Chair.

Speaker Pro Tempore Thomason presiding.

HR 8 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HR 8** be adopted.

On the roll call the vote was yeas 88-Arnold, Barrows, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Clapp, Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HR 8 was adopted and the title agreed to.

Representative Moberly moved that the vote by which **HR 8** was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HR 21** has been examined and found correctly enrolled. **HR 21** read at length, compared and signed in open session by the Speaker Pro Tempore. Ordered delivered to the Senate.

HR 21 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions and Communications

Representative Moberly moved the adoption of the following Legislative Citation No. 5:

The House of Representatives of the Commonwealth of Kentucky hereby congratulate Eastern Kentucky University 1981 Colonel Football Team for an unprecedented third consecutive appearance in the NCAA Division 1-AA championship finals. You emerged victorious in 1979 as you defeated Lehigh University 30-7 in Orlando, Florida's Tangerine Bowl Stadium and laid claim to the Commonwealth's first national football championship in history. You finished second in 1980 to Boise State, following a heart-stopping finish in the Camellia Bowl in Sacramento, California. Following a superb season of celebration you again finished second in 1981 to Idaho State in the Wichita Falls, Texas, Pioneer Bowl. You captured the Ohio Valley Conference championship in grand style with an unblemished 8-0 record, marking the first time since 1973 that a champion has finished the conference season undefeated. Your 12 victories in 1981 established a new team record for most wins in a single season. As Colonels you have put together a string of 25 consecutive home game victories at Hanger Field, and the 1981 group of seniors has the proud distinction of never losing at home during their four-year career. The grand sport of football at Eastern Kentucky University has become a fine Kentucky tradition built on a solid foundation of pride.

Done at Frankfort this twenty-sixth day of January, nineteen hundred and eighty-two. (Sponsored by Representative Moberly)

Agreed.

Representative Moberly moved the adoption of the following Legislative Citation No. 6:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Coach Roy Kidd on your eighteenth year as the head coach of the Eastern Kentucky University football team who guided the Colonels to a sparkling season of 12 wins and only 2 losses to set a new single season record for victories. Your career record of 133 wins, 55 losses and 6 ties gives you the distinction of being the winningest coach in Ohio Valley Conference history. You have guided Eastern to three consecutive appearances in the NCAA Division 1-AA championship finals, including the national title in 1979. For the second consecutive year, you have been selected as the Division 1-AA Coach of the Year by ABC Sports and Chevrolet. You led the Colonels to the 1981 OVC championship with a perfect 8-0 record. You were selected by your peers as the 1981 OVC Coach of the Year.

This body salutes you on your noteworthy achievements.

Done at Frankfort this twenty-sixth day of January, nineteen hundred and eighty-two. (Sponsored of Representative Moberly)

Agreed.

Representative Moberly moved the adoption of the following Legislative Citation No. 7:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates George Floyd who was named to the Kodak All-American First Team on Defense for the second consecutive year. For the second year in a row you were selected as the Ohio Valley Conference's Most Valuable Player on Defense. For your outstanding performance in the game with Western Kentucky you were chosen by ESPN as the Vitalis Player of the game for which the University will receive a scholarship in your name. You were selected to the 1981 All-OVC Team, your second consecutive year to receive this honor. You set new Eastern Kentucky University interception records with 10 in 1981 and 22 during your four-year career which ties the OVC mark. You established both single season and career records in punt returns and punt return yardage.

This body commends your laudable record of accomplishment.

Done at Frankfort this twenty-sixth day of January, nineteen hundred and eighty-two. (Sponsored by Representative Moberly)

Agreed.

Representative Moberly moved the adoption of the following Legislative Citation No. 8:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Kevin Greve named to the 1981 Kodak All-American First Team on Offense for the second consecutive year, and for the third straight year selected to the All-Ohio Valley Conference team. You opened holes for Eastern Kentucky

University rushers to gain nearly 10,000 yards rushing during the past four years, including a school record 3,078 yards this year. You have always been connected with a winning football program, having come to Eastern Kentucky University from the nationally-renowned Cincinnati Moeller High School team of Gerry Faust, now head coach at Notre Dame.

This body is very proud of your outstanding record.

Done at Frankfort this twenty-sixth day of January, nineteen hundred and eighty-two. (Sponsored by Representative Moberly)

Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsor of Bills and Resolutions:

Representative Barrows, **HB 106;** Representative Boswell, **HB 34, HB 115;** Representative Bruce, **HB 320;** Representative Burnette, **HB 320;** Representative Cline, **HB 298;** Representative Ford, **HB 112;** Representative Freibert, **HCR 2;** Representative Guenthner, **HB 112;** Representative Head, **HB 320;** Representative T. Jones, **HB 106;** Representative List, **HB 112;** Representative McNutt, **HB 320;** Representative Moberly, **HB 106;** Representative Petty, **HB 320;** Representative Priddy, **HB 25, HB 26;** Representative Todd, **HB 112;** Representative Williams, **HB 106.**

Representative O'Brien moved that the rules be suspended for the purpose of reassigning a Bill. Agreed.

Representative O'Brien moved that **HR 24** be reassigned to the Committee on Banking and Insurance. Agreed.

Representative LeMaster moved that the rules be suspended to allow Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 319, by Representatives Donnermeyer and Petty: AN ACT relating to crimes and punishments.

HB 320, by Representative Gray: AN ACT relating to boating.

HB 321, by Representative Hancock: AN ACT relating to the position of official Kentucky colonel.

HB 322, by Representative Hines: AN ACT relating to elections.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee Consideration:

Natural Resources and Environment: **HCR 6.**

Transportation: **HB 195.**

Appropriations and Revenue: **HB 34, HB 184, HB 288, HB 258.**

The Clerk announced the following Bill has been withdrawn from Committee Consideration:

Agriculture and Small Business: **HB 227.**

Announcements

The following were announced:

Committee on Rules: On recess, Room 316.

Committee Chairmen: Cancelled today, will meet on Thursday.

Judiciary-Civil Committee: Wednesday, 8:30 a.m., Room 109.

Natural Resources and Environment Committee: Cancelled Wednesday, joint meeting with Senate on Thursday.

Representative Gray announced all members were granted permission to co-sponsor **HB 320.**

Budget Review: Wednesday, 9:00 a.m., Room 103.

The following Floor Amendments were filed:

Floor Amendment No. 1 to **HB 112,** by Representative Bendl:

Amend printed copy of **HB 112,** page 4, line 26, to read as follows: *Chapters 18, 209, 216, 342 and KRS 199.011 to 199.630.*

Floor Amendment No. 2 to **HB 80,** by Representative Barrows:

Amend printed copy of **HB 80,** page 1, on line 4 after the word schools by putting a bracket in front of the word *or* and striking through *or any member* and on line 5 by striking through the words *of a board of education* and adding a bracket after the word education.

Floor Amendment No. 2 to **HB 96,** by Representative Williams:

Amend printed copy of **HB 96,** page 2, after social clubs add the following language: "educational institutions, R.O.T.C."

Floor Amendment No. 1 to the Committee Substitute to **HB 24,** by Representative Arnold:

Amend printed copy of Committee Substitute to **HB 24,** on page 5, line 22, by adding after "*deposits*" the following: "*, but the local government or county official shall not be required to seek bids more often than once in each six (6) month period*"

Recess

Representative LeMaster moved that the House recess until 3:30 p.m. Agreed.

At the appointed hour, the Speaker assumed the Chair and called the House to order.

Representative LeMaster moved that the House and Senate now resolve into Joint Session for a State of the Judiciary Address by Chief Justice John S. Palmore. Agreed.

The Honorable Martha Layne Collins, Lieutenant Governor and President of the Senate, and the members of the Senate entered upon the floor of the House.

Joint Session

The Speaker vacated the Chair, whereupon the Honorable Martha Layne Collins, President of the Senate, assumed the Chair and called the Joint Session to order.

Representative LeMaster moved to dispense with a call of the roll. Agreed.

Prayer by Reverend Harold Henson.

The Honorable Martha Layne Collins introduced the Honorable John S. Palmore, Chief Justice of the Supreme Court of the Commonwealth of Kentucky.

Justice Palmore addressed the General Assembly as follows:

State of the Judiciary Address to the General Assembly of Kentucky

by John S. Palmore
Chief Justice, Commonwealth of Kentucky
January 26, 1982

Introduction

The purpose of my appearance before you today is to report the state of the Judiciary. First let me thank the members of the General Assembly for the opportunity of doing so. By now, of course, I have become a familiar figure to many of you who are veterans of past sessions, this being the third and undoubtedly the last time I shall have had the privilege of addressing you in the capacity of Chief Justice.

Some of what I have to say will be familiar to many of you already, but may provide useful information to the new members among your number.

The Judicial System

Our judicial system consists of four courts. The district court and circuit court are trial courts, though the circuit court serves also as an appellate court with respect to appeals from the district court. The court of appeals and supreme court are appellate courts. We have 123 district judges, 91 circuit judges, 14 judges of the court of appeals, and seven justices of the supreme court, totalling 235 judges except for one temporary vacancy on the supreme court occasioned by the untimely passing last month of Justice Robert Lukowsky, one of the truly great and courageous appellate judges of his time. All of these judges are elected by the people of their respective districts, the districts judges for terms of four years and the others for terms of eight years. Each of he district judges began a new term this year. Four of the seven seats on the supreme court are up for election this year. All of the circuit judges and judges of the court of appeals will be elected or re-elected in 1983.

For each county in which no district judge resides a trial commissioner who does reside in the county serves by appointment of the judge for such limited purposes of issuing warrants, accepting guilty pleas and disposing of minor criminal charges, probating wills and appointing executors and administrators, issuing orders of attachment, providing for the temporary detention of juveniles and mentally ill persons, and the like.

As the functioning of all courts entails a great deal of paper work, our district and circuit courts are supported by 120 circuit court clerks, each elected by the people of his or her county, and their staffs. The supreme court and court of appeals likewise are supported by an appointed clerk and his staff, and for the sake of economy have chosen the same person, Hon. John Scott, as clerk for both courts.

Section 110 of the Constitution of Kentucky assigns the executive authority over this entire unified court of justice to the chief justice and directs him to appoint such administrative assistants as he finds necessary to carry out that responsibility. Accordingly, we have an Administrative Office of the Courts for that purpose, consisting today of some 75 people. This office, commonly referred to as AOC, provides the administrative services that are necessary to the orderly functioning of the system, such as procurement and distribution of supplies and equipment, rental of courthouse facilities, employment and regulation of personnel, handling of payrolls and expense accounts, training of new clerk personnel and continuing education of clerks and judges, gathering and monitoring of caseload statistics, special assignment of judges, preparation and distribution of instruction manuals, financial control and accounting, budget preparation, pretrial release of arrested persons, and general supervision over the operation of the 120 offices of the circuit clerks.

In all, the judicial system has a complement of about 2,000 salaried personnel, consisting of 235 judges, 66 trial commissioners, 120 clerks, 1100 deputy clerks, 75 AOC employes, 150 pretrial release employes, and 250 secretaries, court reporters, and other miscellaneous employes.

The estimated cost of operating this system during the current fiscal year is about $50.1 million, roughly 2% of the total budget for all operations of the state government. Out of that figure, $5.9 million goes back to local communities in the form of rental payments for courthouse facilities and another $372,000 goes to the Department of Finance as rent for space owned by the state. 87.5% of the remaining cost of doing business consists of salaries, and you will be interested to know that 45% goes to the operation of the 120 circuit clerks' offices located in your local communities.

The Budget

The Constitution directs the Chief Justice to submit the Budget for the Court of Justice. Accordingly, at the 1980 session of the General Assembly a separate judicial budget was introduced for your consideration, and a proposed budget for the next biennium will be similarly introduced. It has been prepared by AOC in close cooperation with the Legislative Research Commission and will already have been scrutinized to a considerable degree by representatives of your body before it is laid before you in the form of a bill.

The upward surge of inflation alone makes it impossible to operate the courts tomorrow for the same cost at which they are being operated during the current biennium without a reduction in quality of performance. To illustrate, where this year we expect to pay rents of $5.9 million for court facilities, the estimate for 1982-83 is $6.3 million and for 1983-84 is $6.7 million. Then, as in the other branches of government, there have been modest salary improvements and the regular annual salary increments, all of which are permanent and result in a higher cost to continue with the same number of employes.

In any event, in our proposed budget we have done our utmost to hold the line and have made very little provision for expanded programs or operations. We do, however, ask you to allow our 120 elected clerks a salary increase of $2,000 per annum, to continue in effect the limited cost-of-living adjustment for the judiciary enacted by the General Assembly in 1980, to provide a modest amount of relief to the oldest of our retired judges and their widows, whose pensions have been virtually destroyed by inflation, and to provide a more equitable basis for the rental of court facilities, enough to give local fiscal courts an incentive to build or purchase courtroom space that is required by the ever-increasing volume of business that is being heaped upon our courts. It is vital also that in a few instances of work-overload we must have help in the form of additional judges, additional staff support for existing judges, or a combination of the two.

Judicial Manpower Requirements

Since 1979 the number of cases being filed in the circuit courts has increased by 19.4%, to an average of 929 per judge. Fortunately, and largely by reason of the cross-assignment of judges under our regional administration program, the disposition rate of the circuit courts has increased from 72.8% in 1978-79 to 96.5% in 1980-81. Nevertheless, there are eight jurisdictions in the state that can be readily identified as overloaded in terms of the volume of business per judge. In at least four of these instances we can continue temporarily without additional judges by assigning other judges under the regional administration program. For example, the district court for Calloway and Marshall Counties is greatly overloaded, but the workload in some of the neighboring districts is such that their judges can be used to assist in the Calloway-Marshall district. At most, it is probable that four new circuit judges will be needed, but the certification of necessity that is required by the constitution will be deferred until we can discuss each of these individual problems with various members of the General Assembly whose areas are affected.

Redistricting and Regionalization

In my address to the 1978 General Assembly I reported that we had instituted two pilot programs to equalize the workload among the circuit judges in certain territorial regions. In 1980 I reported that the plan was successful and had been extended throughout the state for the circuit courts in three regions for the district courts. Within the next month it will be in effect throughout the state for both courts. The net result of this system, quite aside from manifest efficiency, is to reduce to a bare minimum the necessity or occasion for redistricting. Recently, for example, in one of our most overloaded courts, the Whitley-McCreary circuit, six regional circuit judges and one retired judge, acting under the leadership of Chief Circuit Judge Pennington, of Boyle County, disposed of 370 cases during a five-week period in October and November of 1981, and in December disposed of more than 200 criminal matters by trial, dismissal, plea-bargaining, remanding, or trial setting. At about the same time, in the Clay-Jackson-Leslie circuit Chief Judge Chenault, of Madison County, conducted a similar effort which disposed of 1288 cases, some as old as 10 years. Altogether, during the 1980-81 fiscal year 655 cross-assignments of circuit judges from one circuit to another were carried out. Thus far, cross-assignments of district judges have averaged about 150 per annum and have been arranged by AOC. Henceforth they will be administered under the regional program.

Court Facilities

In 1978 the most pressing problem for the courts was the need for adequate courtroom facilities. Some of you will recall that in 1978 one of our district judges opened shop in a tent. Things are somewhat better now, principally because the General Assembly responded by enacting the present law under which the local governmental bodies that own them receive rent for our use of their facilities, but conditions in a number of localities continue to be pretty dismal - not because of any lack of good will and cooperation on the part of the local officials, but because there simply is not enough room in their courthouses and they do not have the financial capacity to provide for them. In Warran County, for example, we have two circuit judges, and really need one more, but have only one courtroom and one judge's office. While one judge is holding court the other one literally has to get out of the courthouse. It was hoped, when the facilities bill was enacted in 1978, that the rental formula would encourage several of the county fiscal courts to finance the construction or renovation of facilities through borrowed money. At that time a little over 6% was the highest rate of interest being paid by any county for such a purpose, but the inflation of interest rates that has taken place since then has reduced our expectations to a shambles. Today Rowan County is paying 11% on a loan made for the purpose of renovating its courthouse, and the contribution being received by that county under the facilities law amounts to only half of what was intended in the way of financial support when the law was passed.

It is not to be expected that the problem of inadequate facilities will be remedied overnight. It is now and for some years probably will remain the principal handicap with which the judicial system is burdened. Even the housing of AOC at a separate location from the supreme court necessitates a certain degree of duplication in clerical services that could be avoided if, as once planned but recently scrapped, a new court building were provided to house the supreme court and court of appeals. But the sorest points at the moment are in the field, at such places as Bowling Green and Pikeville, and it is evident that this condition cannot be alleviated until the rate of rental allowed under the facilities bill bears a closer relationship to prevailing interest rates than it does at this time. Hence we have prepared for submission to your consideration amendatory legislation which will encourage local governments to construct needed court facilities but at this current stage will call for a budgetary increase of only $192,000 for 1982-83 and $312,000 for 1983-84.

Problems of the Judiciary

Both the supreme court and the court of appeals are relatively current in dispositions of cases brought before them. As I have said, however, the volume of cases filed in circuit court has increased by 19.4% over the past two years, and during the same period the workload of the district court increased by 10.9% to an average of 5322 cases per judge. No matter how efficiently the work is handled, inevitably more judicial personnel will be required. I know that judges are not cheap and that cost-conscious legislative bodies always are hesitant to add new ones. Some of you have heard me say before that we never have had enough judges and probably never will. However, it is an inexorable fact of life that what is saved in money by having too few judges is lost in the form of efficient service to the community, reflected by mounting docket backlogs and longer delays in obtaining whatever relief the citizens may call upon the courts to provide.

From a long-term standpoint, one way in which the cost of judicial services can be minimized is through the use of more administrative support personnel consisting of staff attorneys or court administrators. Three or four of such assistants could be employed for the cost of one judge. Much of a judge's time is taken up with administrative details, such as scheduling hearings and organizing his own work. With a competent assistant to relieve him of these necessary but relatively uncomplicated details, to do his legal research, to review and summarize the voluminous records he must otherwise read for himself, a judge will be able to produce a substantially higher number of case dispositions and the net cost to the taxpayer will be less.

Another way in which the objective of more case dispositions per judge can be achieved is through the reduction of procedural delay in the courts, principally with respect to civil litigation in the circuit courts. Two years ago I addressed this problem in my remarks to the General Assembly. Since then, with the cooperation and help of the American and Kentucky Bar Associations and of the Campbell County bar, we have conducted and still have in operation an experimental Economic Litigation Project under which, with certain exceptions, every other civil case filed in the Campbell Circuit Court is placed on a "fast-track" docket. These cases are not advanced or given priority over those on the regular docket, but they are subjected to streamlined procedures designed to prevent delay. In the first year, 10 cases assigned to the fast-track docket had gone completely through the trial stage, as against no cases thus far tried among those kept on the regular docket. We hope to extend this experiment to other courts of the Commonwealth, and if it continues to experience similar success it should eventually be adopted as standard procedure. There is no magic in this process, however. It does not automatically result from a switch in rules, but requires hard work and firm management by both the judge and his clerk and court administrator, and requires also a reasonable degree of cooperation on the part of the practicing lawyers.

In the field of criminal law, much of what out courts must do is dictated by decisions of the United States Supreme Court which seem to have succeeded what formerly was regarded as the Constitution. In fine, the extent to which we are at liberty to cut costs by streamlining procedures is not unlimited. Nevertheless, during the past two years a special committee appointed by the judicial council and chaired by Circuit Judge Thomas Spain, of Hopkins County, reviewed all of our Rules of Criminal Procedure and initiated extensive revisions that were adopted in 1981.

One of the constitutionally mandated requirements relating to criminal trials is that the state furnish counsel for indigent defendants.

Years ago it was customary for the trial court to appoint a lawyer for a defendant who said he could not afford to hire one for himself. In those days, however, the kind of service that was rendered was pretty much up to the lawyer's conscience. Certainly he did not have the federal courts looking over his shoulder. But in the course of the past generation the U.S. Supreme Court has changed all that, and today the handling of a criminal case is greatly more onerous and demanding than it was then. In the course of this transition lawyers naturally became less willing to suffer the burden without compensation, and eventually our court ruled that they could not be forced to do so. That is the situation as we find it today.

Insofar as I am advised, in all 50 states the defense of indigent persons in criminal cases is undertaken by publicly-financed counsel. In some instances the necessary funding is provided by the state, and in others the burden is on the county governments. In our state for the past several years we have had a hybrid sort of system headed by a state public advocate but partially supported by county governments. It has not been satisfactory, and as all of you probably are aware, what to do about it is one of the issues you may and should be called on to resolve.

Our concern with this issue is not that the courts have anything to do with providing lawyers on either side of a case, but that if a defendant shows up without a lawyer and hasn't got the money to hire one, we can't try him. And if we can't try him within a reasonable length of time, we have to turn him loose. Now, there have been instances within the recent past in which criminal cases were stacked up for lack of available public defenders. Somehow these particular problems were resolved, but it is important that similar situations in the future be avoided.

It is not my purpose to intrude in your business by suggesting how much you need to spend for the defense of indigents, but I do hope you will appreciate the gravity of the problem. It is unavoidable and it will not go away. And the worst of it is that neither you nor I can control how many man-hours of lawyer time will have to be paid for it. I say it is unavoidable because the only out is to repeal the laws that cause people to be arrested and sent to prison, just as the only way to escape property taxes is to get rid of the property.

Sooner or later, I believe, you will be forced to the conclusion that the most economical system for providing indigent defense services at public expense would be one similar to Colorado's. A statewide system of regional offices located as close to population centers as possible, with a sufficient number of full-time salaries attorneys responsible for the defense of all indigent cases, certainly ought to cost less per man-hour than any combination of salaried plus part-time contract lawyers. As I say, I do not want to get into your business, and certainly this is a matter for you to decide, but I offer these observations for what they may be worth in the way of providing some insight.

There will be a certain number of cases coming before the courts in which the services of a public defender will be required. These services will involve a certain number of lawyer man-hours, and those man-hours will have to be purchased one way or another. Except for the cost of travel and office overhead that would be incident to handling the work out of regional offices, it seems to me that full-time man-hours come cheaper than part-time man-hours. Personally, I would rather see an appointed lawyer from the regular practicing bar in every indigent case, and no public defenders at all, and if I thought you could afford it, that is exactly what I would recommend, but I am afraid the cost would be prohibitive.

Before leaving the subject, there is one feature of the Colorado plan that I find objectionable and fundamentally unsound. It is that there the public defender is made an agency of the judicial branch of government. It is equally incongruous, of course, that here in Kentucky the public advocate operates under the aegis of the Department of Justice, which is or should be interested primarily in law enforcement rather than the defense or people accused of law-breaking. I rather imagine the Secretary for that department would be delighted to get rid of it, and if so I believe he would be on the soundest of ground. Just, however, as the business of defending against criminal prosecutions entails an inherent conflict with the business of law enforcement, so would it be incompatible with the traditional function of the courts, and perhaps indeed with our Constitution itself.

Pretrial Release Program

Not all that I have to say deals with problems, and I have reserved the good things for last. One of these is that our pretrial release program, enacted by the General Assembly in 1976, continues to be a brilliant success and is still the wonder and the envy of every other state in the union. It is the subject of a documentary being prepared by NBC for telecasting next month. WPLG-TV of Miami, Florida, has just completed videotaping for a documentary series of 15-minute programs devoted to the Kentucky program, and the Florida Legislature is considering bail bond legislation similar to ours.

During the fiscal year 1980-81 pretrial services personnel interviewed 109,024 arrested persons and found 75,920 (69%) eligible for release. Only 1.35% absconded from the state. Many of these people would not have been able to post pond, which means they would have had to remain in jail at the taxpayers' expense until tried. Obviously there has been a substantial saving to the state, to say nothing of the basic humanity of avoiding the imprisonment of persons who have not yet been found guilty.

The pretrial release services are administered under the supervision of AOC, and in Jefferson, Fayette, Kenton, Campbell and Boone Counties the pretrial personnel conduct mediation and diversion programs under which thousands of complaints are settled without resort to action by the criminal courts. Again as in past years I commend the General Assembly for providing this far-sighted and successful program of service to the state.

Conclusion

Another favorable circumstance is that the judicial system as it exists under the 1975 judicial amendment has gained a degree of public acceptance that surely ought to silence forever the noisy detractors from whom so much was heard in the beginning. No institution comprised of human beings is perfect, of course, and we have had a few unfortunate performances in the judiciary, but on the whole I think it is a fair assessment to say that it is working as well as could be expected of any judicial system, and far better than most. Although, as I have indicated, I believe that our civil procedures can and should be streamlined in the interest of faster and less expensive service, cases are being handled with reasonable promptness at all levels, and excessive backlogs have just about become a thing of the past.

Through the years I think the courts have always enjoyed a good relationship with the Governor's office, and that continues to be so today. I feel that in the course of these last six years we have developed a closer rapport with the General Assembly. We have had excellent cooperation from the Legislative Research Commission, particularly in the preparation of our budget. What this amounts to is neither more nor less than simple good government. We all work for the same people, and the more closely we work together, the less energy we waste in friction with each other, the more worth of their trust and confidence will we be.

Representative LeMaster moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair and called the House to order.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, January 27, 1982.

On the roll call the votes was yeas 52-Arnold, Barrows, Bendl, Boswell, Bruce, Burch, Clark, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Harper, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, Mann, Moberly, Morris, Nett, Noland, Pearman, Petty, Priddy, Rapier, B. Richardson, P. Richardson, Schmidt, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams. Nays 7-Deskins, Guenthner, Handy, Maggard, Overstreet, Perkins, Robinson.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 27, 1982

FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend L. Wesley Jones, Greenwood Park Church of Christ, Bowling Green, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Noland.

Representative Schmidt moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Schmidt moved that the reading of the Journal of January 26, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 323, by Representatives Clark, Yates, Handy and Hines: AN ACT relating to sheriffs' deputies.

HB 324, by Representatives LeMaster and Arnold: AN ACT relating to county government audits.

HB 325, by Representatives Arnold and LeMaster: AN ACT relating to boards of health.

HB 326, by Representative LeMaster: AN ACT relating to taxation of property in foreign trade zones.

HB 327, by Representative LeMaster: AN ACT relating to the sale of bonds and revenue bond anticipation notes by the State Property and Buildings Commission and certain other state agencies and declaring an emergency.

HB 328, by Representatives LeMaster and Farrow: AN ACT relating to motor vehicles.

HB 329, by Representatives LeMaster and Farrow: AN ACT relating to motor vehicles.

HB 330, by Representatives LeMaster and Bennett: AN ACT relating to workers' compensation.

HB 331, by Representatives Bennett and LeMaster: AN ACT relating to labor.

HB 332, by Representatives Curd and Morris: AN ACT relating to pensions.

HB 333, by Representatives Schmidt, Clarke, Rattliff, Lile, Caldwell, and Harper: AN ACT relating to local government economic assistance.

HR 25, by Representatives Bendl, Noe, Hines, Moberly, Williams, T. Jones, Mann, Clarke, and Kidd: A RESOLUTION supporting federal budget priorities for domestic social programs.

HB 334, by Representative Mann: AN ACT relating to solicitations for charitable and civic purposes.

HB 335, by Representatives Holbrook, Mann, Clapp, and Holloway: AN ACT relating to abandoned property.

Senate Message

Announcing passage of **SB 66** and **SB 82.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 316, SB 37.**

Banking and Insurance: **HB 306, SB 38, SB 74.**

Cities: **HB 311.**

Education: **HB 313, HB 314, HB 318, HB 322.**

Judiciary-Criminal: **HB 319.**

State Government: **HB 307, HB 309, HB 310, HB 317, HB 321, HB 308.**

Transportation: **HB 315, HB 312, HB 320.**

Report of Committees

The Committee on Rules reported **HB 19** and **HB 24** have been posted for passage in Orders of the Day, January 28, 1982.

The Committee on Rules reported **HB 87** has been recommitted to the Committee on Banking and Insurance.

The Committee on Banking and Insurance reported **HB 243** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 243, AN ACT relating to petty loan companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 288 IS CREATED TO READ AS FOLLOWS:

This Act shall be known as the "Kentucky Consumer Loan Act."

Section 2. KRS 288.420 is amended to read as follows

No person shall, without first obtaining a license from the commissioner, engage in the business of making loans in the amount or of the value of *fifteen* [~~two~~] thousand dollars *($15,000)* [~~($2,000)~~] or less at a greater rate of interest, or consideration therefor than *otherwise permitted by law. All persons licensed under the provisions of KRS Chapter 288 on the effective date of this Act are licensed to make loans pursuant to this Act, and the commissioner shall, upon request, deliver evidence of licensing within ninety (90) days of such request* [~~six percent (6%) per annum~~].

Section 3. KRS 288.530 is amended to read as follows:

(1) Every licensee may lend any sum of money not exceeding *fifteen* [~~two~~] thousand dollars *($15,000)* [~~($2,000)~~], excluding charges, and may charge, contract for and receive thereon charges not in excess of three percent (3%) per month on that part of the unpaid principal balance not in excess of *one thousand* [~~six hundred~~] dollars *($1,000)* [~~($600)~~] and two percent (2%) per month on that part of the unpaid principal balance exceeding *one thousand* [~~six hundred~~] dollars *($1,000)* [~~($600)~~] but not exceeding *three* [~~one~~] thousand [~~five hundred~~] dollars *($3,000); provided, however, that in any loan wherein the original principal amount of the loan (face amount less precomputed charges) exceeds three thousand dollars ($3,000), the licensee may not charge at a rate per month in excess of two percent (2%) per month on the unpaid balances of the principal* [~~($1,500) and one and one-half percent (1 ½%) per month on that part of the unpaid principal balance exceeding one thousand five hundred dollars ($1,500) but not exceeding two thousand dollars ($2,000)~~]. Such charges shall be computed in advance at the agreed rate on scheduled unpaid principal balances of the cash advance on the assumption that all scheduled payments will be made when due. The total amount of such precomputed charges shall be added to the original cash advance and the resulting sum shall become the face amount of the note. Every payment may be applied to the combined total of the cash advance and precomputed charges until the contract is paid in full.

(2) For the purposes of computation, whether at the maximum rate or less, a month shall be that period of time from any date in a month to the corresponding date in the next month and if there is no such corresponding date then to the last day of such month, and a day shall be considered one-thirtieth (1/30) of a month when such computation is made for a fraction of a month. The portion of the charges applicable to any particular monthly instalment period, as originally scheduled or following a deferment, shall bear the same ratio to the total charges, excluding any adjustments made pursuant to subsection (3) of this section, as the balance scheduled to be outstanding during that monthly period bears to the sum of all monthly balances scheduled originally by the contract of loan.

(3) A licensee and borrower may agree that the first instalment date may be not more than fifteen (15) days more than one (1) month and the amount of such instalment may be increased by one-thirtieth (1/30) of the portion of the charges applicable to a first instalment period of one (1) month for each extra day.

(4) If one-half (½) or more of any instalment remains unpaid more than seven (7) days after it is due, the licensee may charge and collect a default charge not exceeding two cents (2¢) for each dollar of the scheduled instalment, and such charge may be collected for each full month [~~thereafter~~] the instalment remains unpaid.

(5) If the payment of all wholly unpaid instalments on which no default charge has been collected is deferred one or more full months, the licensee may charge and collect a deferment charge not exceeding two cents (2¢) for each one dollar ($1) of the sum of the instalment so deferred, multiplied by the number of months the maturity of the contract is extended; provided, however, that such number of months shall not exceed the number of instalments which are due and wholly unpaid or due within fifteen (15) days from the date of deferment. The deferment charge may be collected at the time of deferment or at any time thereafter. Any payment received at the time of deferment may be applied first to the deferment charge and the remainder, if any, applied to the unpaid balance of the contract, provided, however, that if such payment is sufficient to pay, in addition to the appropriate deferment charge, any instalment which is in default and the applicable default charge, it shall be first so applied and any such instalment shall not be deferred or subject to the deferment charge. At the time a deferment is made the borrower shall be given a statement or receipt showing the amount of the deferment charge, the date and amount of the next scheduled payment and the number of remaining scheduled payments.

(6) If the contract of loan is prepaid in full by cash, a new loan or otherwise before the final instalment date, the portion of the charges applicable to the full instalment periods following the instalment date nearest the date of prepayment shall be refunded. Any default or deferment charges which are due and unpaid may be deducted from such refund. The tender by the borrower or at his request of an amount equal to the unpaid balance less the required refund must be accepted by the licensee in full payment of the contract. If judgment is obtained before the final instalment date the contract balance shall be reduced by the refund which would be required for prepayment in full as of the date judgment is obtained. No refund of less than one dollar ($1) need be made; no refund for partial prepayments need be made.

(7) If two (2) or more full instalments are in default for one (1) full month or more at any instalment date and if the contract so provides, the licensee may reduce the contract balance by the refund or credit which would be required for prepayment in full on such instalment date. Thereafter, in lieu of charging, collecting or receiving charges as provided in subsections (1) to (6) inclusive of this section, charges may be charged, collected and received as provided by subsection (8) of this section until the contract is fully paid.

(8) In lieu of computing and collecting charges as provided in subsections (1) to (6) inclusive of this section a licensee may contract for, collect and receive on loans of *fifteen* [~~two~~] thousand dollars *($15,000)* [~~($2,000)~~] or less charges as permitted in subsection (1) computed on the unpaid principal balance of the loan from time to time outstanding. Such charges shall not be paid, deducted, received in advance or compounded but shall be computed, collected and received only on unpaid principal balances for the time actually outstanding. The definition of a month and of a day in subsection (2) of this section shall apply for the purposes of such computations.

(9) If part or all of the consideration for a contract of loan is the unpaid principal balance of a prior loan with the same licensee then the principal amount payable under such contract of loan shall not include any unpaid charges on the prior loan except such charges which have accrued within sixty (60) days before the making of such new contract of loan and may include the balance remaining after giving the refund required by subsection (6) of this section.

(10) In addition to the charges provided for in this chapter no further charge or amount whatsoever for any examination, service, brokerage, commission, expense, fee, or bonus or other thing shall be directly or indirectly charged, contracted for, or received, except the lawful fees actually and necessarily paid out by the licensee to any public official for filing, recording or releasing in any public office any instrument securing the loan; the identifiable charge of premium for insurance provided for in KRS 288.560; or fees for noting or releasing a lien on or transferring a certificate of title to any motor vehicle offered as security for a loan made under this chapter. If any amount in excess of the amounts authorized by this chapter is

charged, contracted for or received, except as the result of an accidental or bona fide error, the lender shall have no right to collect or receive any charges whatsoever.

(11) No licensee shall induce or permit any borrower to split up or divide any loan nor permit any one borrower to become indebted to him under more than one (1) contract of loan at the same time if the actual amount of the indebtedness on any one of such contracts is in the amount or of the value of *fifteen* [~~two~~] thousand dollars *($15,000)* [~~($2,000)~~] or less and there is charged, contracted for, or received thereon, directly or indirectly, by any device, subterfuge, or pretense whatsoever, any interest, or consideration therefor greater than would otherwise be permitted by this chapter.

(12) No licensee shall directly or indirectly charge, contract for or receive any interest or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon any loan in the amount or of the value of more than *fifteen* [~~two~~] thousand dollars *($15,000)* [~~($2,000)~~] excluding charges, or in any case in which the licensee permits any individual as borrower, indorser, guarantor, or surety for any borrower, or otherwise, to owe on any loan or loans directly or contingently, or both, to the licensee at any time the sum of more than *fifteen* [~~two~~] thousand dollars *($15,000)* [~~($2,000)~~] for principal, excluding charges.

Section 4. KRS 288.560 is amended to read as follows:

Notwithstanding the provisions of this or any other law:

(1) A licensee may request a borrower to insure tangible personal property, except household goods, offered as security for a loan exceeding $300 under this chapter against any substantial risk of loss, damage or destruction for an amount not to exceed the actual value of such property or the approximate amount of the loan, whichever is greater, and for a term and upon conditions which are reasonable and appropriate considering the nature of the property and the maturity and other circumstances of the loan; provided such insurance is sold by a licensed agent, broker or solicitor.

(2) A licensee may also request, provide, obtain, or take as security for any loan obligation insurance on the life, health or disability, or both, of the borrower, or *two (2)* [~~one (1)~~] of them if there are two (2) or more. Life insurance shall be in the approximate amount of the indebtedness scheduled to be due the licensee under the loan contract. Not more than one (1) policy of life insurance may be written in connection with any loan transaction under this chapter. The aggregate amount of periodic benefits payable by any health or disability insurance provided, obtained or requested by the licensee in the event of disability, as defined in the policy, shall not exceed the aggregate of the scheduled instalments and the waiting period provided in such policy must be fourteen (14) days or longer. The premium rate for insurance provided under this section shall be reasonable in relation to the benefits provided and shall be filed with the commissioner of insurance. The commissioner of insurance shall, within thirty (30) days after the filing of any premium rate, disapprove such premium rate if it is excessive in relation to the benefits. In determining whether to approve or disapprove any premium rate, the commissioner of insurance shall give due consideration to the mortality and morbidity costs with respect to such insurance on borrowers under this chapter or similar acts in other states, a reasonable margin for underwriting expenses and profit and contingencies to the insurer, and cost and compensation to the licensees for providing and servicing such insurance, plus the premium taxes payable on such insurance.

(3) In accepting any insurance provided for by this section as security for a loan the licensee, its officers, agents or employes may deduct the premiums or identifiable charge therefor from the proceeds of the loan, which premium or identifiable charge shall not exceed the rate filed with the commissioner of insurance and not disapproved and remit such premiums to the insurance company writing such insurance and any gain or advantage to the licensee or any employe, officer, director, agent, affiliate or associate from such insurance or its sale shall not be considered as additional or further charge in connection with any loan made under this chapter. The arranging for and collecting of an identifiable charge shall not be deemed the sale of insurance.

(4) Every insurance policy or certificate written in connection with a loan transaction pursuant to subsection (2) of this section shall provide for cancellation of coverage and a refund of the premium or identifiable charge unearned upon the discharge of the loan obligation for which such insurance is security without prejudice to any claim. Such refund shall be under a formula filed by the insurer with the commissioner of insurance.

(5) Whenever insurance is written in connection with a loan transaction pursuant to this section the licensee shall deliver or cause to be delivered to the borrower a policy, certificate or other memorandum which shall show the coverages and the cost thereof, if any, to the borrower within thirty (30) days from the date of the loan.

(6) All such insurance shall be written by a company authorized to conduct such business in this state and the licensee shall not require the purchase of such insurance from any agent or broker designated by the licensee nor shall the licensee decline existing coverages which equal or exceed the standards of this section.

Section 5. KRS 288.570 is amended to read as follows:

(1) The payment of *fifteen* [~~two~~] thousand dollars *($15,000)* [~~($2,000)~~] or less in money, credit, goods, or things in action, as consideration for any sale, assignment, or order for the payment of wages, salary, commissions, or other compensation for services, whether earned or to be earned, shall be deemed for the purposes of regulation under this chapter, a loan secured by such assignment, and the amount by which such assigned compensation exceeds the amount of such consideration actually paid shall be deemed for the purposes of regulation under this chapter interest or charges upon such loans from the date of payment to the date such compensation is payable. Such transaction shall be governed by and subject to the provisions of this chapter.

(2) No assignment of or order for payment of any salary, wages, commissions, or other compensation for services, earned or to be earned, when taken as security for any loan made under this chapter, shall be valid unless the amount of the loan is paid to the borrower simultaneously with its execution. Under any assignment of or order for the payment of future salary, wages, commissions, or other compensation for services given as security for a loan made under this chapter, there shall not at any time be collectible from the employer of the borrower more than ten percent (10%) of the amount then owing the borrower for any such salary, wages, commissions or other compensation for services.

Section 6. KRS 288.580 is amended to read as follows:

(1) No licensee shall take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for the borrower in a judicial proceeding; nor take any note or promise to pay that does not disclose the date and amount of the loan obligation, a schedule or description of the payments to be made thereon, and the rate or aggregate amount of the agreed charges; nor take any instrument in which blanks are left to be filled in after the loan is made.

(2) No licensee shall enter into any contract of loan under this chapter under which the borrower agrees to make any scheduled repayment of principal more than *sixty (60)* [~~thirty-six (36)~~] months and fifteen (15) days from the date of making such contract *if the principal amount of the loan exclusive of interest and charges is three thousand dollars ($3,000) or less, or one hundred and twenty (120) months if the principal amount of the loan exclusive of interest and charges exceeds three thousand dollars ($3,000)*, and every such contract shall provide for repayment of the amount lent in substantially equal instalments at approximately equal periodic intervals of time; Provided, however, That when appropriate for the purpose of facilitating payment in accordance with the seasonable nature of obligor's main source of income, payments may be deferred or omitted, if all other payments are increased in such manner that such other payments are substantially equal in amount and sufficient in the aggregate to retire the loan in the period of months as hereinabove provided.

(3) No licensee shall take any *mortgage or other lien instrument* [~~lien~~] upon real estate as security for any loan under this chapter *in which the principal is three thousand dollars ($3,000) or less, unless such lien is subject to a prior mortgage*[~~, except such lien as is created by virtue of a judgment or decree~~].

SECTION 7. A NEW SECTION OF KRS CHAPTER 288 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 288.530(10) or of any other law, in any extension of credit pursuant to KRS 288.420 to 288.991 wherein the licensee shall take a lien on real estate for security for any loan under this chapter, the licensee may charge and collect the following closing costs if they are bona fide, reasonable in amount and not for the purpose of circumvention or evasion of the provisions of this chapter:

(1) Fees or premiums for title examination, abstract of title, title insurance, survey, or similar purposes;

(2) Fees for preparation of a deed, settlement statement, or other document, if not paid to the lender or a person related to the lender;

(3) Escrows for future payment of taxes, including assessments for improvements, insurance, and water, sewer and land rents;

(4) Fees for notarizing deeds and other documents, if not paid to the lender or a person related to the lender;

(5) Appraisal fees, if not paid to the lender or a person related to the lender.

Section 8. KRS 288.620 is amended to read as follows:

(1) No person, except as authorized by statute shall directly or indirectly by any device, subterfuge or pretense whatsoever, charge, contract for or receive or participate as agent, broker or in any other capacity in charging, contracting for or receiving any interest, discount or consideration greater than six percent (6%) per annum upon any loan in the amount of or the value of *fifteen* [~~two~~] thousand dollars *($15,000)* [~~($2,000)~~].

(2) Any loan in the amount of *fifteen* [~~two~~] thousand dollars *($15,000)* [~~($2,000)~~] or less for which there has been charged, contracted for or received a greater rate of interest, discount or consideration, except as provided for by statute, is against the public policy of this state.

(3) No such loan made outside this state shall be enforced in the state and every person participating therein in this state shall be subject to the provisions of this chapter, but this section does not apply to loans legally made in any state, country, commonwealth, territory or district.

The Committee on Business Organizations and Professions reported **HB 139**, **HB 197**, and **HR 18** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 139, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Health spa" means an establishment which provides for profit as one of its primary purposes, services or facilities which purport to improve the user's physical condition or appearance through weight control, exercise, dieting, or a combination of these. The term includes, but is not limited to, establishments referred to by such terms as reducing salon, spa, exercise club, exercise gym, health studio, health club, weight control center, or other similar term.

(2) "Contract" means an oral or written agreement by which one becomes a member of a health spa.

(3) "Member" means a status attained by any natural person entitling him to the services or facilities of a health spa.

(4) "Seller" means the person, corporation, partnership, association, or group engaged in the operation of a health spa as defined in this section, and who offers for sale the right to use the facilities or the services of the health spa.

(5) "Facilities" means equipment, physical structures, and other tangible property utilized by a health spa to conduct its business. The term includes, but is not limited to, saunas, whirlpool baths, gymnasiums, running tracks, swimming pools, shower areas, and exercise equipment.

(6) "Services" means programs, plans, guidance, or instruction provided by a health spa for health spa members. The term includes, but is not limited to diet planning, exercise instruction, exercise programs, and instructional classes.

(7) "Prepayment" means any payment for services or the use of facilities made before the services or facilities are made available by the health spa. It is not a prepayment if a payment for services or the use of facilities is made on the same day the services or use of the facilities is provided. Money or other consideration received by a health spa from a financial institution upon the assignment or sale of a contract shall be considered a prepayment to the extent the member is required to make prepayments to the financial institution pursuant to the contract.

(8) "Special offer or discount" means any offer of health spa services or the use of health spa facilities at a reduced price or without charge to the member or prospective member.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any person, corporation, partnership, association, or group intending to open or operate a health spa within the Commonwealth, shall:

(a) File a registration statement with the attorney general's division of consumer protection prior to the sale of any memberships in the Commonwealth of Kentucky. Such a registration statement shall contain the name and address of the health spa; the names and addresses of the officers, directors, and stockholders of the health spa and its parent corporation, if such an entity exists; the type of available facilities; approximate size of the health spa measured in square feet; whether or not a shower area is provided; the names and addresses of employes and their respective qualifications for employment in the health spa field; type of membership plans to be offered and their cost; and a full and complete disclosure of any completed or pending litigation initiated against the health spa and any of its officers or directors within the last three (3) years.

(b) Post a surety bond in the amount of fifty thousand dollars ($50,000) with the attorney general's division of consumer protection prior to the sale of any memberships in the Commonwealth of Kentucky. The bond required by this subsection shall be held for the benefit of any member who suffers loss of money paid pursuant to a contract entered into after the effective date of this Act, due to the insolvency of the health spa, cessation of operation of the health spa, or failure of the health spa to open for business within ninety (90) days from the sale of the first contract.

(2) Each health spa selling contracts on a prepayment basis shall deposit all funds received from such contracts in an escrow account until the health spa has remained open for a period of thirty (30) days. At the end of this thirty (30) day period, such prepayment funds shall be eligible for withdrawal at the depositor's discretion.

(3) Each health spa registering pursuant to this statute shall maintain in the files of the health spa, a copy of its registration statement filed pursuant to Section 2 of this Act. This registration statement shall be made available for inspection by current health spa members or prospective purchasers of health spa memberships.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A fully completed copy of each contract shall be delivered to the buyer at the time the contract is signed. Every contract must constitute the entire agreement between the seller and the buyer, must be in writing, and must be signed by the member.

(2) Each contract shall state in at least ten (10) point bold faced type the following:

"NOTICE TO BUYER: DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ ALL OF IT. ALSO, DO NOT SIGN THIS CONTRACT IF IT CONTAINS ANY BLANK SPACES."

(3) Every purchaser of a membership shall be entitled to cancel his or her contract within three (3) business days by notifying the health spa in writing by midnight of the third business day following the date of purchase of the membership contract. Written notification is deemed given if mailed or delivered by midnight of the third business day. All money collected pursuant to the contract shall be refunded to the purchaser exercising the right to cancel.

(4) Each contract shall contain the following notice in at least ten (10) point bold-face type:

"IF WITHIN THREE (3) BUSINESS DAYS YOU DECIDE YOU DO NOT WISH TO REMAIN A MEMBER OF THIS HEALTH SPA, YOU MAY CANCEL THIS AGREEMENT BY MAILING A NOTICE TO THE HEALTH SPA BY MIDNIGHT OF THE THIRD BUSINESS DAY FOLLOWING YOUR PURCHASE OF THE CONTRACT STATING YOUR DESIRE TO CANCEL THIS CONTRACT. THE WRITTEN NOTICE SHOULD BE MAILED TO THE FOLLOWING ADDRESS:"

(address of the health spa)

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Each health spa doing business in the Commonwealth shall prepare a comprehensive list of all membership plans offered for sale by the health spa and the respective price of each plan. The list shall be shown to each prospective purchaser of a membership plan.

(2) A health spa is prohibited from selling a membership plan not included in this list and in the registration statement required by Section 2 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Health spas shall be prohibited from offering specials or discounts unless such specials or discounts are made in writing and available to all prospective members.

(2) Health spas shall be prohibited from making any material misrepresentation to current members, prospective members or purchasers of membership contracts regarding:

(a) Qualifications of staff;
(b) Availability, quality, or extent of facilities or services;
(c) Results obtained through exercise, dieting, or weight control programs;
(d) Rights of membership pursuant to a contract or oral representation; and
(e) Period of time a discount or special offer will be available.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS;

All of the remedies, powers and duties provided for the attorney general by KRS 367.190 to 367.300 appertaining to acts declared unlawful by KRS 367.170 shall apply with equal force and effect to acts and practices declared unlawful by this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any person who purchases a health spa membership or enters into a contract to purchase a health spa membership and thereby suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person or corporation of an act or practice declared unlawful by Section 2, 3, 4, or 5 of this Act may bring an action pursuant to the Rules of Civil Procedure in the circuit court in which the seller resides or has his principal place of business or is doing business, or in the circuit court in which the purchaser of the membership resides, or where the transaction occurred, to recover actual damages. The court may award such equitable relief as it deems necessary or proper. Nothing in this section shall be construed to limit a person's right to seek punitive damages where appropriate.

(2) In any action brought by a person under this section, the court may award, to the prevailing party, in addition to the relief provided in this section, reasonable attorney's fees and costs.

(3) Any permanent injunction, judgment, or order of the court made under Section 6 of this Act shall be prima facie evidence in an action under this section that the respondent used or employed a method, act, or practice declared unlawful by this Act.

(4) Any person bringing an action under this section must bring such an action within one (1) year after any action of the attorney general has been terminated or within two (2) years after the violation of this section is discovered, whichever is later.

Section 8. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is wilfully using or has wilfully used a method, act or practice declared unlawful by KRS 367.170, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys or falsifies documentary material is subject to a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000).

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The circuit court of any county in which any plan described in KRS 367.350 is proposed, operated or promoted may grant an injunction without bond, upon complaint filed by the attorney general to enjoin the further operation thereof, and the attorney general may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be fined not less than fifty dollars ($50.00) and not more than five hundred dollars ($500) for each offense. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense.

(8) In addition to the penalties contained in this section, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(b) The attorney general may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have wilfully committed an act declared unlawful by KRS 367.655 a penalty of not more than two thousand dollars ($2,000) per violation.

(10) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the attorney general.

(11) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the attorney general.

(12) Any person who violates KRS 367.805, 367.809(2), 367.811 or 367.813(1) shall be guilty of a Class C felony.

(13) Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(14) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(15) Any violation of KRS 367.310 shall be subject to a fine of not more than two hundred dollars ($200) for each offense.

(16) Any person, partnership or corporation upon conviction of violation of the provisions of KRS 367.850 shall be fined not less than twenty-five dollars ($25.00) or more than five hundred dollars ($500) or confined in the county jail for not more than six (6) months, or both such fine and imprisonment.

(17) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back or disconnected, the speedometer or odometer of

any motor vehicle, to effect the sale of the motor vehicle shall be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300).

(18) Any person or corporation who operates or attempts to operate a health spa in violation of Section 2(1) of this Act shall be guilty of a Class D felony.

HB 197, AN ACT relating to watchmakers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS sections are repealed:
328.010 Definitions.
328.011 Definitions.
328.020 Requirement of registration.
328.030 Board of examiners — Membership — Terms — Qualifications — Duties and powers — Meetings — Quorum — Compensation — Report to governor.
328.040 Applicant's qualifications.
328.050 Examination.
328.060 Certificate of registration.
328.070 Apprentices.
328.080 Revocation of certificate.
328.090 Secondhand watches.
328.990 Penalty.
328.991 Penalty.

HR 18, A RESOLUTION commending the Ford Motor Company and its employes.

WHEREAS, the Ford Motor Company has renovated its Fern Valley Road manufacturing facility in Jefferson County, and has re-employed some 1,400 furloughed employes; and

WHEREAS, such re-employment occurs during the midst of a serious economic recession, particularly as regards the manufacture of motor vehicles; and

WHEREAS, this renovation and re-employment will generate the creation of 9,000 additional jobs across the country; and

WHEREAS, this facility, having become operational in producing the Ford "Ranger" truck, now adds the capacity of 300,000 such units per year to the existing truck manufacturing facilities in the Louisville area, thereby making it the "Truck Capitol of the World;"

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Ford Motor Company and its Fern Valley Road manufacturing employes be and they are hereby commended and congratulated for the recent renovation and reactivation of such facility for the production of "Ranger" trucks.

Section 2. That the various units of state and local government in Kentucky be urged to purchase vehicles manufactured in the United States when fulfilling such requirements.

Section 3. That the Clerk be directed to dispatch a copy of this resolution to the Ford Motor Company Fern Valley Road plant in Jefferson County.

The Committee on Education reported **HB 198, HB 250, HB 251,** and **HB 252** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 198, AN ACT relating to depository of school boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.570 is amended to read as follows:

(1) Each board of education shall appoint a bank, [~~or~~] trust company *or savings and loan association* to serve as its depository, and if its annual receipts from all sources exceed one hundred thousand dollars

($100,000) it may designate two (2) depositories except boards of education of school districts in counties containing cities of the first class may designate up to five (5) depositories. The depository may be designated for a period not to exceed two (2) years, and before entering upon its duties shall agree with the board as to the rate of interest to be paid on average daily or monthly balances.

(2) The depository selected shall, before entering upon its duties, execute bond for the faithful performance of its duties, to be approved by the local board of education and the state board for elementary and secondary education. The bond shall be guaranteed by at least five (5) solvent personal sureties whose solvency must exceed the amount of the bond, or by a surety company authorized to do business in this state, or through the execution of a collateral bond consistent with the general banking laws of the state and the bonding laws applying to the safeguarding of state funds. The penal sum of the depository bond shall be determined by the board of education in accordance with the rules and regulations of the state board for elementary and secondary education. A board of education may enter into an agreement with its depository whereby the premium on a bond guaranteed by a surety company may be paid either by the board or by the depository. If the board pays the premium, the depository shall allow the board not less than two percent (2%) interest on its average daily or average monthly balances. All depository bond forms shall be prepared by the superintendent of public instruction and approved by the state board for elementary and secondary education.

(3) The depository shall hold for the board all funds deposited by the treasurer of the board or its tax collector or duly authorized agent, subject to withdrawal by the board at any time, and shall pay all funds so deposited to such person and in such manner as the board directs. The depository shall keep full and complete accounts of all of the board's funds, and make reports to the board or its authorized agents upon request. The depository shall keep all records relating to the transactions and duties of the office and turn them over to the successor of its office along with all school funds in hand. The board of education may at any time require a due and proper audit of the depository's records of the funds of the board by a competent outside agent.

(4) A board of education may designate as its depository the authorized and bonded depository of the governing authority of the territory which the school district embraces. In such cases, the bond of the depository shall be made to cover specifically the safekeeping of the school board's funds, and all conditions set out in this section shall be carried out.

HB 250, AN ACT relating to the legal status and powers of the Kentucky state boards for elementary and secondary education and occupational education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.035 is amended to read as follows:

(1) The Kentucky state boards for elementary and secondary education and occupational education are recognized to be public bodies corporate and politic, and agencies and instrumentalities of the Commonwealth in the performance of essential governmental functions.

(2) For the benefit of programs under their control and supervision the boards are authorized to implement the provisions of any act of Congress appropriating and apportioning funds to the state, to receive funds appropriated by the Kentucky general assembly, and to provide for the proper apportionment and disbursement of such funds in accordance with state or federal laws, and to accept and provide for the administration of any gifts, donations, or devises.

(3) The boards may expend funds necessary for insurance premiums to protect the boards and individual members thereof, the boards' secretaries, and the superintendent of public instruction, relative to liability on account of an act or omission committed in the course and scope of the boards' official duties. The boards may purchase the type and amount of liability coverage deemed to best serve their interests.

HB 251, AN ACT relating to school finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.540 is amended to read as follows:

Any board of education may borrow money on the credit of the board and issue negotiable notes in anticipation of revenues from school taxes *and state revenue* for the fiscal year in which the money is borrowed, and may pledge the *anticipated revenues from state and local sources* [~~school taxes~~] for the payment of principal and interest on the loan. The rate of interest charged shall not exceed *the greater of* six per cent (6%) per annum *or seventy percent (70%) of the federal reserve discount rate on ninety (90) day commercial paper in effect in the federal reserve district in which the loan is made*, and the principal shall not exceed seventy-five per cent (75%) of the anticipated revenue for the fiscal year in which it is borrowed. In all cases such loans shall be repaid within the fiscal year in which they are borrowed.

HB 252, AN ACT relating to the establishment and maintenance of special education programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.230 is amended to read as follows:

School boards of any school district subject to the provisions of KRS 157.200 to 157.280, shall establish and maintain special educational programs for exceptional children who are residents of their school district, *or contract for programs* [~~and such children, residents of other school districts,~~] as may be authorized by KRS *157.280* [~~157.240 to 157.295~~].

Section 2. KRS 157.280 is amended to read as follows:

(1) If the number of children of school age in one (1) classification of exceptionality in a district is not sufficient to justify a special education program for that exceptionality in that district, or if a school district does not provide a special education program for that exceptionality, the board shall provide a program by contract with another county or independent district or private organization that maintains a special education program approved by the state board *of* [~~for elementary and secondary~~] education for that exceptionality, the cost of which shall not exceed the amount designated by the state department of education for a child of that particular exceptionality. When a district or private organization undertakes, under operation of a tuition contract or of law, to provide in its classes for these pupils residing in another district, the district of residence of these pupils shall share the total cost of the special education program in proportion to the number of pupils or in accordance with contract agreement between the two (2) districts or district and private organization.

(2) The school board of the school district in which any child resides shall pay for his transportation to and from the program in the other school district or to the private organization. However, if the school board of the other district or the private organization providing the program also provides transportation, the cost of transportation shall be included in the total cost.

(3) If a child of school age is admitted for resident instruction at the Kentucky School for the Deaf or the Kentucky School for the Blind, under regulation of the state board *of* [~~for elementary and secondary~~] education and under provisions of KRS 167.015 to 167.170, the district in which the child resides shall provide transportation to and from the school on a regularly scheduled basis, at intervals of no less than once each month while the child is enrolled, either by individual district or in cooperation with other school districts on a regional basis, as approved by the state board *of* [~~for elementary and secondary~~] education upon recommendation of the superintendent of public instruction.

(4) If a child of school age is admitted as a day school pupil for instruction at the Kentucky School for the Deaf or the Kentucky School for the Blind, under regulation of the state board of education and under provisions of KRS 167.015 to 167.150, the district in which the child resides may provide transportation to and from the school on a daily basis, either by individual district or in cooperation with other school districts on a regional basis, as approved by the state board of education upon recommendation of the superintendent of public instruction. School districts providing this transportation shall be reimbursed from the transportation fund of the foundation program at the same rate per trip as that which is calculated under subsection (3) of this section.

Section 3. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for kindergarten, classroom units for gifted and talented children when units are included in the executive budget, classroom units for superintendents, administrative and special instructional services, classroom units for supervisors of instruction, and classroom units for directors of pupil personnel; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) In allotting classroom units for elementary and secondary schools, one (1) classroom unit shall be included for each twenty-seven (27) pupils in average daily attendance in grades one (1) through twelve (12); provided, however, that one (1) classroom unit shall be included for each isolated one-teacher school with twelve (12) or more pupils in average daily attendance and one (1) unit shall be included for each twenty-five (25) pupils in average daily attendance at all other isolated schools. The allotments of classroom units

in this subsection shall be made on the average daily attendance for the end of the previous school year in public school grades one (1) through twelve (12) after the following deductions: (a) an average daily attendance of six and nine-tenths (6.9) in 1978-79 and eight and four-tenths (8.4) in 1979-80 shall be deducted for each vocational unit allotted and (b) an average daily attendance of five and one-tenth (5.1) in 1978-79 and six and three-tenths (6.3) in 1979-80 shall be deducted for each exceptional children's unit allotted. If a local school district through its admission and release committee determines that *an appropriate program in the least restrictive environment* [~~the most appropriate and least restrictive individual educational program~~] for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency *within the state or a public or private agency in another state*, then the school district shall count this as average daily attendance in a public school the time that such child is in attendance at such [~~private~~] school or agency, *contingent upon approval by the state superintendent of public instruction and pursuant to KRS 158.130.*

(3) Allotments of classroom units except those allotted in accordance with subsection (4) of this section, shall be increased when the average daily attendance in grades one (1) through twelve (12) in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district in grades one (1) through twelve (12) for the first two (2) months of the previous school year. The total number of classroom units allotted the district shall be increased by the percent of increase.

(4) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the number of classroom units allotted the district, except those allotted in accordance with subsection (3) of this section, for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(5) In allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board for occupational education; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board for occupational education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(6) In allotting classroom units for exceptional children, one (1) classroom unit shall be included upon the employment of each teacher approved to teach such children in accordance with the provisions of law and Kentucky administrative regulations of the state board for elementary and secondary education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(7) (a) In allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2), (10) and (12) plus subsections (5) and (6) before July 1, 1976 shall be divided by eight (8) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(b) The total number of units allotted under subsection (5) beyond those allotted in the school year 1975-76 times six and nine-tenths (6.9) in 1978-79 and eight and four-tenths (8.4) in 1979-80 average daily attendance plus the total number of units allotted under subsection (6) beyond those allotted in the school year 1975-76 times five and one-tenth (5.1) in 1978-79 and six and three-tenths (6.3) in 1979-80 average daily attendance shall be divided by two hundred and sixteen (216) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(c) The total of subsection (a) plus subsection (b) shall be the number of classroom units allotted the district for administrative and special instructional services as authorized by Kentucky administrative regulations of the state board for elementary and secondary education.

(8) In allotting classroom units for supervisors of instruction, one-half (½) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom units under subsections (2), (5), (6), (10) and (12); one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one (1) unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.

(9) In allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred and sixty-five and nine-tenths (165.9) classroom units under subsection (2) and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2). For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.

(10) In allotting classroom units for kindergarten, the superintendent of public instruction, under Kentucky administrative regulations of the state board for elementary and secondary education, may allot

units for kindergarten. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(11) In allotting classroom units for superintendent, one unit shall be allotted each school district.

(12) In allotting classroom units for gifted and talented children, the superintendent of public instruction, under Kentucky administrative regulations of the state board for elementary and secondary education, may allot units for gifted and talented children. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without the approval of the governor.

The Committee on Judiciary-Civil reported **HB 101,** with Committee Amendment attached thereto, and **HB 141,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 101, AN ACT relating to self-proved wills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 394.225 is amended to read as follows:

(1) Any will may be simultaneously executed, attested, and made self-proved, by acknowledgment thereof by the testator and affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state where execution occurs and evidenced by the officer's certificate, in substantially the following form:

I, ..., the testator, sign my name to this instrument this .... day of ......, 19...., and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

....

(Testator)

We, ..., ..., the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the testator and in the presence of the other subscribing witness, hereby signs this will as witness to the testator's signing, and that to the best of our knowledge the testator is eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

....

(Witness)

....

(Witness)

THE STATE OF ....
COUNTY OF ....

Subscribed, sworn to and acknowledged before me by ...., the testator and subscribed and sworn to before me by ...., and ...., witnesses, this .... day of ....

(Signed) ....

....

(OFFICIAL CAPACITY OF OFFICER)

(2) An attested will may, at *any* [~~the~~] time *subsequent to its* [~~of its~~] execution [~~or at any subsequent date~~], be made self-proved, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of this state, and evidenced by the officer's certificate, attached or annexed to the will in form and content substantially as follows:

THE STATE OF ....
COUNTY OF ....

Before me, the undersigned authority, on this day personally appeared .... and .... known to me to be the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument and, all of these persons being by me first duly sworn. .... the testator, declared to me and to the witnesses in my presence that the instrument is his last will and that he had willingly signed or directed another to sign for him, and that he executed it as his free and voluntary act for the purposes therein expressed; and each of the witnesses stated to me, in the presence and hearing of the testator, that he signed the will as witness *in the presence of the testator and of the other subscribing witness,* and that to the best of his knowledge the testator was eighteen years of age or over, of sound mind and under no constraint or undue influence.

....
(Testator)

....
(Witness)

....
(Witness)

....
(Witness)

Subscribed, sworn and acknowledged before me by ...., the testator, subscribed and sworn before me by .... and ...., witnesses, this .... day of ......, A.D., ...

....
(OFFICIAL CAPACITY OF OFFICER)

(3) The execution of an acknowledgment of a will by a testator, and of the affidavits of witnesses, made before an officer authorized to administer oaths under the laws of this state and evidenced by the officer's certificate substantially in the form set out in this section during the period between June 21, 1974 and the effective date of the 1982 amendments to this section shall be considered to be a valid execution and attestation of a written will even though the will was not signed and attested separately from the execution of the acknowledgment by the testator and the affidavits of the witnesses.

(4) A self-proved will may be admitted to probate without the testimony of any subscribing witness, but otherwise treated no differently from a will not self-proved.

Committee Amendment No. 1 to **HB 101** is as follows:

Amend printed copy of **HB 101,** on page 1, line 7, by deleting "*the*" before "*state*" and inserting in lieu thereof "*this*" and on page 1, line 7, by deleting "*where execution occurs*"

HB 141, AN ACT relating to court costs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.200 is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70.00), *except for filing a petition for dissolution of marriage or for legal separation, for which the filing fee shall be eighty dollars ($80.00)*; however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202A, 202B and 203. The filing fee shall be paid to the clerk at the time the case is filed.

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a)	Filing a third-party complaint	$10.00
(b)	Preparing a certification	1.00
(c)	Providing a copy of a document (per page)	.25
(d)	Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e)	Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk at the disposition of the action by the party against whom the costs have been assessed as follows:

(a)	For a jury of more than six (6) persons	$25.00
(b)	For a jury of six (6) persons	12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

(a)	Service of process (per process)	$ 3.00

(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

There is hereby created a trust and agency account in the state treasury to be known as the spouse abuse shelter fund. Each circuit clerk shall remit to the fund ten dollars ($10.00) from the fee collected for filing a petition for dissolution of marriage or for legal separation. The fund shall be administered by the department. The department shall use the funds for the purpose of providing protective shelter for spouse abuse victims.

Committee Substitute to **HB 141** is as follows:

HB 141, AN ACT relating to court costs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.200 is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70.00), *except for filing a petition for dissolution, annulment of marriage or for legal separation, for which the filing fee shall be eighty dollars ($80.00)*; however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202A, 202B and 203. The filing fee shall be paid to the clerk at the time the case is filed.

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	1.00
(c) Providing a copy of a document (per page)	.25
(d) Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e) Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk at the disposition of the action by the party against whom the costs have been assessed as follows:

(a) For a jury of more than six (6) persons	$25.00
(b) For a jury of six (6) persons	12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

(a) Service of process (per process)	$ 3.00

(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

Section 2. KRS 23A.200, 1980 Acts Chapter 396, Section 30, effective July 1, 1982, is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70), *except for filing a petition for dissolution of marriage, annulment or for legal separation, for which the filing fee shall be eighty dollars ($80)*; however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202A, 202B and 387. The filing fee shall be paid to the clerk at the time the case is filed.

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	1.00
(c) Providing a copy of a document (per page)	.25
(d) Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e) Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk at the disposition of the action by the party against whom the costs have been assessed as follows:

(a) For a jury of more than six (6) persons	$25.00
(b) For a jury of six (6) persons	12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

(a) Service of process (per process)	$ 3.00

(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

There is hereby created a trust and agency account in the state treasury to be known as the spouse abuse shelter fund. The administrative office of the courts or its designee shall report to the department of finance every thirty (30) days the amount to be credited to the spouse abuse shelter fund. The fund shall be administered by the department. The department shall use the funds for the purpose of providing protective shelter for spouse abuse victims.

Calendar

HB 118, HB 133, HB 158, HB 187, HB 43, HB 205, HB 38, HB 39, HB 40, HB 41, HB 42, HB 59, HB 51, HR 4, and **HB 230** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 112, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of the Committee Amendment No. 1 to to **HB 112.** Agreed.

Representative Bendl moved that the rules be suspended to waive the twenty-four hour requirement and thereby allow the consideration of Floor Amendment No. 2 which is being filed today to **HB 112.**

On the roll call the vote was yeas 10-Bendl, Burch, Gray, Handy, Kidd, Meyer, Perkins, Stone, Tobin, Williams. Nays 51-Allen, Arnold, Barrows, Blevins, Boswell, Brown, Bruce, Burnette, Caldwell, Cline, Craddock, Curd, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Guenthner, Haering, Harper, Heleringer, Holloway, Johnson, R. Jones, Layman, Lefevers, LeMaster, List, Long, Lundergan, Maggard, Moberly, Moore, Morris, Noe, Rapier, Rattliff, B. Richardson, Riner, Seum, B. Smith, F. Smith, Stumbo, Thomason, Todd, Turner, Van Horn. Yates.

The motion that the rules be suspended to waive the twenty-four hour requirement and thereby allow the consideration of Floor Amendment No. 2 to **HB 112** was rejected.

Representative Morris moved that **HB 112,** as amended, be passed.

Representative Bendl moved that **HB 112,** as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 32-Barrows, Bendl, Bennett, Blandford, Caldwell, Clark, Clarke, Cowan, Cyrus, Dunn, Gray, Hancock, Handy, Hines, T. Jones, Kenton, List, Maggard, Mann, McBee, Meyer, Moberly, Nett, Noe, Perkins, Petty, B. Richardson, F. Smith, Thomas, Thomason, Tobin, Williams. Nays 53-Allen, Arnold, Blevins, Boswell, Bronger, Brown, Bruce, Burnette, Clapp, Cline, Craddock, Crupper, Curd, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, Kidd, Layman, Lefevers, Lile, Little, Long, Lundergan, Moore, Morris, O'Brien, Overstreet, Patrick, Rapier, Rattliff, Richards, Riner, Schmidt, Seum, B. Smith, Stone, Stumbo, Todd, Turner, Van Horn, Yates.

The motion that **HB 112,** as amended, be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 88-Allen, Arnold, Barrows, Bennett, Blandford, Blevins, Boswell, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 7-Bendl, Clark, Clarke, Gray, T. Jones, Noe, Williams.

HB 112, as amended, was passed and the title agreed to.

Representatives Morris moved that the vote by which **HB 112,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 20, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Amendment No. 1 to **HB 20.** Agreed.

Representative Burch moved the adoption of the Committee Amendment No. 2 to **HB 20.** Agreed.

Representative Burch moved that **HB 20,** as amended, be passed.

Representative Hancock moved that **HB 20,** as amended, be laid on the Clerk's desk. Rejected.

On the roll call the vote was yeas 88-Allen, Arnold, Barrows, Blandford, Blevins, Boswell, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 2-Bennett, Hancock.

HB 20, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 20,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 235, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved the adoption of the Committee Substitute to **HB 235.** Agreed.

Representative O'Brien moved that **HB 235,** by way of Committee Substitute, be passed.

Representative Barrows moved the adoption of the Floor Amendment No. 2 to the Committee Substitute to **HB 235.**

On the roll call the vote was yeas 42-Barrows, Blevins, Burnette, Caldwell, Clapp, Cowan, Crupper, Curd, Cyrus, Dawahare, Ellington, Freibert, Gray, Hancock, Harper, Heleringer, Holbrook, Johnson, T.

Jones, Lefevers, Lile, Long, Lundergan, Meyer, Moore, Noe, Overstreet, Patrick, Pearman, Rapier, Rattliff, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Todd, Van Horn, White, Worthington. Nays 43-Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Clark, Clarke, Cline, Deskins, Donnermeyer, Dunn, Farrow, Foster, Guenthner, Haering, Handy, Head, Holloway, R. Jones, Kidd, LeMaster, List, Little, Maggard, Mann, McBee, McNutt, Morris, Nett, O'Brien, Perkins, Petty, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Thomason, Yates.

Floor Amendment No. 2 to **HB 235** was rejected.

Representative Worthington moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 235.**

On the roll call the vote was yeas 34-Allen, Arnold, Burnette, Caldwell, Crupper, Curd, Cyrus, Dawahare, Ellington, Endicott, Freibert, Haering, Harper, Heleringer, Hines, Holbrook, T. Jones, Lefevers, Lile, Little, Noe, Overstreet, Patrick, Pearman, Rapier, Rattliff, Riner, Schmidt, B. Smith, Stone, Van Horn, White, Williams, Worthington. Nays 48-Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Bruce, Burch, Clapp, Clark, Clarke, Cowan, Deskins, Donnermeyer, Dunn, Farrow, Foster, Gray, Guenthner, Hancock, Handy, Head, Holloway, R. Jones, LeMaster, List, Long, Maggard, Mann, McBee, Meyer, Morris, Nett, O'Brien, Perkins, Petty, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Seum, F. Smith, Stumbo, Thomas, Thomason, Turner, Yates.

Floor Amendment No. 1 to **HB 235** was rejected.

On the roll call the vote was yeas 85-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kidd, Layman, Lefevers, LeMaster, List, Little, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, White, Williams, Worthington, Yates. Nays 10-Barrows, Crupper, Dawahare, Freibert, Haering, T. Jones, Lile, Long, Todd, Van Horn.

HB 235, by way of Committee Substitute, was passed.

Representative O'Brien moved that the vote by which **HB 235,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table.

On the roll call the vote was yeas 63-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Cline, Cowan, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Foster, Gray, Hancock, Handy, Head, Hines, Holloway, Johnson, Kidd, LeMaster, Little, Lundergan, Maggard, McBee, Meyer, Morris, Nett, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Turner, White, Williams, Worthington, Yates. Nays 18-Barrows, Crupper, Dawahare, Ford, Freibert, Fryman, Guenthner, Haering, Harper, T. Jones, Lefevers, Lile, Long, Moore, Schmidt, F. Smith, Todd, Van Horn.

The motion that the vote by which **HB 235,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table was adopted.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Senate Message

Announcing passage of **SB 62.**

Motions, Petitions, and Communications

The following Floor Amendments were filed:

Floor Amendment No. 2 to Committee Substitute to **HB 24,** by Representative Bennett:

Amend printed copy of Committee Substitute to **HB 24,** on page 6, line 24, by inserting after "*taxes*" the following: "*, but this subsection shall not be construed to prohibit the sheriff from retaining so much of the earnings attributable to school taxes as are necessary to cover the costs of accounting and financial services related to those taxes*"; and on page 7, line 4, by inserting after "*cation*" the following: "*in compliance with subsection (2)(b) of this section*"; and on page 7, line 9, by inserting after "*education*" the following: "*in compliance with subsection (2)(b) of this section*".

Floor Amendment No. 2 to **HB 112,** by Representative Morris:

Amend printed copy of **HB 112,** on page 4, line 26, by adding the following:

"*(f) Apply to actions of the commonwealth when reacting to an emergency situation requiring immediate action to preserve human life, including but not limited to closing or evacuation of facilities, fire fighting exposure to hazardous materials, or similar incidents which preclude the option to initiate slower course of action.*"

Representative O'Brien moved that **HR 23** be reassigned to the Committee on Energy. Agreed.

Representative O'Brien moved that **HB 120** be reassigned to the Committee on Agriculture and Small Business. Agreed.

Representative O'Brien moved that **HB 122** be reassigned to the Committee on Agriculture and Small Business. Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsors requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsor of Bills and Resolutions:

Representative Blandford, **HB 120, HB 122, HB 298;** Representative Bronger, **HB 112, HB 298;** Representative Ford, **HB 93,** Representative Haering, **HB 339;** Representative Harper, **HB 91, HB 299;** Representative Lundergan, **HB 106;** Representative Riner, **HB 216;** Representative Robinson, **HB 19;** Representative Seum, **HB 106, HB 174;** Representative Stumbo, **HB 155;** Representative Todd, **HB 270, HB 274;** Representative White, **HB 19.**

Representative Bruce moved that **HB 143** be reassigned to the Committee on Business Organizations and Professions. Agreed.

Representative Bennett moved that **HB 266** be withdrawn. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 336, by Representatives Meyer and Mann: AN ACT relating to the territorial authority of police in cities of the second class.

HB 337, by Representatives Farrow, Worthington, Lundergan, Burnette, Overstreet, Bruce, Foster, Stone, Cline, and Little: AN ACT relating to pensions.

HB 338, by Representatives Boswell, Burch, Bronger, Clark, Yates, and Blandford: AN ACT relating to thoroughbred racing.

HB 339, by Representatives Donnermeyer, Boswell, Allen, Bennett, Blandford, Bronger, Burch, Burnette, Caldwell, Clark, Crupper, Dunn, Ellington, Guenthner, Hancock, Harper, Heleringer, Holloway, Johnson, Lundergan, Mann, McBee, McNutt, Meyer, Moore, Nett, O'Brien, Petty, Priddy, Rapier, Richards, Riner, Schmidt, B. Smith, Thomas, Turner, Van Horn, Worthington, and Yates: AN ACT relating to abortion.

HB 340, by Representatives Van Horn, Bennett, and Williams: AN ACT relating to insurance.

HB 341, by Representatives Bennett and Van Horn: AN ACT relating to employment.

HB 342, by Representative Clarke: AN ACT relating to revenue and taxation, and declaring an emergency.

HB 343, by Representative Gray: AN ACT relating to education.

HB 344, by Representatives Bennett and Gray: AN ACT relating to prevailing wage.

HB 345, by Representatives Thomason, Bruce, Boswell, Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Burnette, Caldwell, Cowan, Crupper, Curd, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, Lile, List, Little, Long, Lundergan, Maggard, Mann, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stumbo, Todd, Turner, Van Horn, Williams, and Yates: AN ACT relating to the organization of state government.

HB 346, by Representatives Cyrus and Brown: AN ACT relating to ambulance service districts.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 233.**

Education: **HB 95.**

Transportation: **HB 166, HB 215.**

Banking and Insurance: **HB 283, HR 24, HB 304.**

Labor and Industry: **HB 207, HB 240.**

Report of Committee

The Committee on Judiciary-Criminal reported **HB 54** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 54, AN ACT relating to children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 208.192 is amended to read as follows:

(1) If child is not released as provided in subsection (3) of KRS 208.110, the child shall be taken without delay to the court or to the detention facility provided for under KRS 208.130. The officer shall as soon as possible thereafter make a written report to the court, stating the fact of such detention, the offense charged, and the reason why the child was not released to the parent or other responsible adult. Pending further disposition of the case, the court may release the child to the custody of the parent or other responsible person or may continue to hold the child in detention.

(2) When a child is detained for the alleged commission of an offense as provided in KRS 208.020(1)(a), (b), and (c) and not released, a hearing shall be held as soon as practical, but not to exceed seventy-two (72) hours, exclusive of *Saturday,* Sunday, and legal holidays, of the commencement of detention.

(3) The child shall be afforded all constitutionally guaranteed rights at every stage of the proceedings including, but not limited to notice of the charges, the privilege against self-incrimination, the right to confront and cross-examine witnesses and the right to counsel.

(4) The hearing shall address the following issues:

(a) If there is probable cause to believe that an offense has been committed and that the accused child committed that offense. The Commonwealth shall bear the burden of proof and it shall be by a preponderance of the evidence, and if it should fail to establish such probable cause, the child shall be released and the complaint dismissed;

(b) Whether further detention is necessary to assure the safety of the child, protection of the community, and the appearance of the child in court;

(c) In determining detention for offenses provided in KRS 208.020, the court shall consider the seriousness of the alleged offense; the possibility that the child would commit an offense dangerous to himself or the community pending disposition of the original offense; the child's prior record, if any; and whether there are charges pending against the child in another jurisdiction;

(d) In determining detention for offenses provided in KRS 208.020(1)(b) and (c), the court shall consider the availability of a parent, guardian or responsible adult, court-appointed supervisory or probation personnel, or foster care or emergency shelter care facilities that would insure the control and safety of the child; and the availability of adequate and secure detention facilities which would provide segregated detention for the child. Secure detention for status offenders is to be used in only those cases when the court is of the opinion that other alternatives are either not available or cannot provide the degree of control and safety necessary to assure the safety and security of the child.

(5) If, after completion of the detention hearing the court is of the opinion that detention is necessary, the order shall state in writing the specific reasons for detention and the nature of the detention.

(6) Unless a hearing is held and the necessity for detention properly established, the child shall be released to the custody of its parent or other responsible persons pending further disposition of the case. A child shall have a right to counsel at any hearing determining its right to freedom pending the disposition of its case, and its parents or other responsible person shall have a right to attend the hearing if such attendance will not unnecessarily delay the hearing. Any person aggrieved by a proceeding under this subsection may proceed by habeas corpus to the circuit court.

(7) Whether the child is released before or after a hearing, or is detained as a result of such hearing, the child and his parents, relative, guardian, or custodian shall be given written notice of the time and place of the adjudicative hearing concerning the child and an account of the specific charges against the child, including the specific statute alleged to have been violated. Such notice shall be given at least seventy-two (72) hours prior to the initial hearing on the case.

Section 2. KRS 208E.040 is amended to read as follows:

(1) If the child is not released as provided in KRS 208E.010(3), the child shall be taken without delay to the court or to the detention facility provided for under KRS 208E.030. The officer shall as soon as possible thereafter make a written report to the court, stating the fact of such detention, the offense charged, and the reason why the child was not released to the parent or other responsible adult. Pending further disposition of the case, the court may release the child to the custody of the parent or other responsible person or may continue to hold the child in detention.

(2) When a child is detained for the alleged commission of an offense as provided in KRS 208A.030(1)(a) and not released, a hearing shall be held as soon as practical, but not to exceed seventy-two (72) hours, exclusive of *Saturday,* Sunday, and legal holidays, of the commencement of detention.

(3) The child shall be afforded all constitutionally guaranteed rights at every stage of the proceedings including, but not limited to notice of the charges, the privilege against self-incrimination, the right to confront and cross-examine witnesses and the right to counsel.

(4) The hearing shall address the following issues:

(a) If there is probable cause to believe that an offense has been committed and that the accused child committed that offense. The Commonwealth shall bear the burden of proof and it shall be by a preponderance of the evidence, and if it should fail to establish such probable cause, the child shall be released and the complaint dismissed;

(b) Whether further detention is necessary to assure the safety of the child, protection of the community, and the appearance of the child in court;

(c) In determining detention for offenses provided in KRS 208A.030(1)(a), the court shall consider the seriousness of the alleged offense; the possibility that the child would commit an offense dangerous to himself or the community pending disposition of the original offense; the child's prior record, if any; and whether there are charges pending against the child in another jurisdiction;

(5) If, after completion of the detention hearing the court is of the opinion that detention is necessary, the order shall state in writing the specific reasons for detention and the nature of the detention.

(6) Unless a hearing is held and the necessity for detention properly established, the child shall be released to the custody of his parent or other responsible persons pending further disposition of the case. A child shall have a right to counsel at any hearing determining his right to freedom pending the disposition of his case, and his parents or other responsible person shall have a right to attend the hearing if such attendance will not unnecessarily delay the hearing. Any person aggrieved by a proceeding under this subsection may proceed by habeas corpus to the circuit court.

(7) Whether the child is released before or after a hearing, or is detained as a result of such hearing, the child and his parents, relative, guardian, or custodian shall be given written notice of the time and place of the adjudicative hearing concerning the child and an account of the specific charges against the child, including the specific statute alleged to have been violated. Such notice shall be given at least seventy-two (72) hours prior to the initial hearing on the case.

Announcements

The following meetings were announced:

Appropriations and Revenue: Thursday, 11:00 a.m., Room 103.

Labor and Industry: Thursday, 9:00 a.m., Room 104.

State Government: Cancelled tomorrow.

Budget Review: Thursday, 9:00 a.m., Room 103.

Natural Resources and Environment: Thursday, 10:00 a.m., Room 109.

Judiciary-Civil: Tuesday, 11:00 a.m., House Chamber.

Committee on Rules: On adjournment, Room 316.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, January 28, 1982.

On the roll call the vote was yeas 53-Arnold, Bendl, Bennett, Blevins, Boswell, Caldwell, Clark, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Haering, Hancock, Harper, Head, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kidd, Lefevers, Long, McBee, Meyer, Moberly, Nett, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, Yates. Nays 9-Barrows, Deskins, Ford, Guenthner, Handy, Lile, Maggard, Overstreet, Perkins.

The motion to adjourn was adopted.

THURSDAY, JANUARY 28, 1982

FIFTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Dennis W. Jones, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Noland.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 27, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 13.**

Introduction of Bills and Resolutions

HB 347, by Representatives Long and T. Jones: AN ACT relating to fees of public officials.

HB 348, by Representative Seum: AN ACT relating to the public service commission.

Reference of Bills and Resolutions

Appropriations and Revenue: **HB 327, HB 333, HB 342.**

Banking and Insurance: **HB 340, SB 82.**

Business Organizations and Professions: **HB 338, HB 334.**

Cities: **HB 332, HB 336, SB 66.**

Counties and Special Districts: **HB 323, HB 324, HB 325, HB 346.**

Education: **HB 343, SB 62.**

Health and Welfare: **HB 339, HR 25.**

Judiciary-Civil: **HB 335, HB 337.**

Labor and Industry: **HB 330, HB 331, HB 341, HB 344.**

State Government: **HB 345.**

Transportation: **HB 328, HB 329.**

Report of Committees

The Committee on Rules reported **HB 38, HB 39, HB 40, HB 59, HB 205,** and **HJR 4** have been posted for passage in Orders of the Day, January 29, 1982.

The Committee on Rules reported **HB 96** has been recommitted to the Committee on Judiciary-Civil.

The Committee on Agriculture and Small Business reported **HB 45, HB 46,** and **HB 245** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 45, AN ACT relating to sales and use taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.980 is amended to read as follows:

(1) If any taxpayer fails or refuses to file a return or furnish any information requested in writing by the department, the department may make an estimate of the tax liability under this chapter from any information in its possession, assess the tax at not more than twice the amount estimated to be due and add a penalty of ten percent (10%) of the amount of the tax assessed. This penalty shall be in addition to all other applicable penalties in this chapter.

(2) If any taxpayer fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the department, then, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, five percent (5%) of the tax found to be due by the department shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax, provided, however, that in no case shall the penalty be less than ten dollars ($10).

(3) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, five percent (5%) of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this chapter shall apply.

(4) If the tax imposed by this chapter, whether assessed by the department, or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the department. If any assessment made by the department is not paid within the time prescribed, or protested in accordance with KRS 131.110, the taxpayer shall pay as a penalty, in addition to the amount of the tax and other applicable penalties, one percent (1%) of the tax for each thirty (30) days or fraction thereof the tax remains unpaid, *unless it is shown to the satisfaction of the department that the failure was due to reasonable cause.*

(5) Any person required under the provisions of this chapter or regulations adopted thereunder to furnish a statement or certificate (including the certificate referred to in KRS 139.750), who furnishes a statement or certificate containing any false or fraudulent statement, or who willfully fails to furnish such a statement or certificate in the manner and at the time required under this chapter and regulations, shall, for each such failure, be subject to a civil penalty of ten dollars. Such penalty shall be assessed and collected by the department, and the assessment of such penalty may be reviewed only in the manner provided in KRS 131.110.

(6) If any taxpayer fails to pay the tax imposed by this chapter within the time prescribed, unless it is shown to the satisfaction of the department that the failure was due to reasonable cause, the department may assess a penalty of ten percent (10%) of the tax due, provided, however, that in no case shall the penalty be less than ten dollars ($10).

HB 46, AN ACT relating to taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.270 is amended to read as follows:

The certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling tangible personal property and who holds the permit provided for in KRS 139.250, and who, at the time of purchasing the tangible personal property, intends to sell it in the regular course of business. *"Good faith" on the part of the seller shall be demonstrated by the seller determining that the kind of property being sold to the purchaser is normally offered for resale in the type business operated by the purchaser and that the property, if delivered by the seller, is delivered to the purchaser's business address. The seller is also relieved if the purchaser* [~~or~~] is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

Section 2. KRS 139.410 is amended to read as follows:

The certificate relieves the person selling the property from the burden of proof only if taken in good faith from a person who is engaged in the business of selling tangible personal property and who holds the permit provided for by KRS 139.240, and who, at the time of purchasing the tangible personal property, intends to sell it in the regular course of business. *"Good faith" on the part of the seller shall be demonstrated by the seller determining that the kind of property being sold to the purchaser is normally offered for resale in the type business operated by the purchaser and that the property, if delivered by the seller, is delivered to the purchaser's business address. The seller is also relieved if the purchaser* [~~or~~] is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

Section 3. KRS 139.990 is amended to read as follows:

(1) Any person who gives a resale certificate for property, knowing at the time of purchase that such property is not to be resold by him in the regular course of business, for the purpose of evading the tax imposed under this chapter shall, upon conviction, be subject to a fine of not less than *two hundred fifty (250)* [~~ten (10)~~] nor more than one *thousand* [~~hundred~~] dollars *($1,000)* [~~($100)~~] or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment.

(2) A person who engages in business as a seller in this state without a permit or permits as required by this chapter or after a permit has been suspended, and each officer of any corporation which is so engaged in business, is guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten (10) nor more than one hundred dollars ($100), or imprisoned for not more than thirty (30) days, or both such fine and imprisonment.

(3) Any person who violates any of the provisions of KRS 139.220, 139.370, 139.380, 139.700, or 139.750 shall, upon conviction, be subject to a fine of not less than ten (10) nor more than one hundred dollars ($100), or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment.

(4) Any person who violates any of the regulations promulgated by the department under KRS 139.230 shall, upon conviction, be subject to a fine of not less than ten (10) nor more than one hundred dollars ($100) or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment.

HB 245, AN ACT relating to the uniform commercial code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 355.9-307 is amended to read as follows:

(1) A buyer in ordinary course of business (subsection (9) of KRS 355.1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) If any tobacco crop subject to the lien of a security interest is sold at public auction through a duly licensed tobacco warehouse in the ordinary course of business, a bona fide purchaser for value of such crop shall take title thereto free and clear of any such lien, and the warehouseman selling such tobacco crop shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested or by registered mail of such lien and the amount thereof, the name and address of the debtor and proper identification of the property subject to lien, are given to the tobacco warehouseman prior to the payment of the proceeds of sale to the owner or producer of such tobacco crop.

(3) *If any grain or soybean crop subject to the lien of a security interest is sold to any entity which is a bona fide purchaser for value and which holds a current grain storage license issued by the Commonwealth of Kentucky or a current federal warehouse storage license, in the ordinary course of business, such entity shall take title to such crop free and clear of any such lien, and shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested or by registered mail, of such lien and the amount thereof, the name and address of the debtor and proper identification of the property subject to the lien is given to the entity purchasing said crop prior to the payment of the proceeds of purchase to the owner or producer of such grain or soybean crop.*

(4) If any livestock subject to the lien of a security interest is sold at public auction through a duly licensed stockyard in the ordinary course of business, a bona fide purchaser for value of such livestock shall take title thereto free and clear of any such lien, and the stockyard and selling agents selling such livestock shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested or by registered mail of such lien and the amount thereof, the name and address of the debtor and proper identification of the livestock subject to lien is given to the stockyard prior to the time of sale.

(5) In the case of consumer goods and in the case of farm equipment having an original purchase price not in excess of $500 (other than fixtures, see KRS 355.9-313), a buyer takes free of a security interest

even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes or his own farming operations unless prior to the purchase the secured party has filed a financing statement covering such goods.

(6)[~~(4)~~] If any registered breed of horse, the racing of which is regulated by KRS Chapter 230, subject to the lien of a security interest is sold at public auction in the ordinary course of business by an organization engaged in the business of selling such horses at public auction, a bona fide purchaser for value of such horse shall take title thereto free and clear of any such lien, and the organization selling such horse shall not be liable to the holder of such lien, unless written notice by registered mail of such lien and the amount thereof, the name and address of the debtor and proper identification of the horse subject to lien are given to the organization prior to the time of sale.

The Committee Amendment No. 1 to **HB 245** is as follows:

Amend printed copy of **HB 245,** on page 2, lines 10 and 11, by deleting "*and the amount thereof*"

and on lines 24 and 25 by deleting "*and the amount thereof,*"

The Committee on Appropriations and Revenue reported **HB 258** and **HB 288** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 258, AN ACT relating to compensation of employes of the General Assembly and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.230 is amended to read as follows:

Employes of the general assembly shall receive a per diem as follows: chief clerk, *seventy* [~~sixty-five~~] dollars *($70)*[~~($65)~~]; assistant clerk, *sixty* [~~fifty-five~~] dollars *($60)*[~~($55)~~]; enrolling clerk *of the Senate, fifty-five dollars ($55); enrolling clerk of the House of Representatives*, fifty dollars ($50); sergeant-at-arms, *forty-five* [~~forty~~] dollars *($45)*[~~($40)~~]; doorkeeper, *forty-five* [~~forty~~] dollars *($45)*[~~($40)~~]; janitors, *thirty-five* [~~thirty~~] dollars *($35)*[~~($30)~~]; cloakroom keeper, *thirty-five* [~~thirty~~] dollars *($35)*[~~($30)~~]; pages, *seventeen* [~~fifteen~~] dollars *($17)*[~~($15)~~] each.

Section 2. There is hereby appropriated for fiscal year 1981-82 $10,000 from the General Fund to the legislative sessions account.

Section 3. The provisions of this Act relative to the compensation of the employes of the House and Senate shall be effective and shall apply to the present session of the General Assembly and the per diem shall be paid for the one thousand nine hundred and eighty-two session to said employes in the amounts named in section one hereof, beginning January fifth, one thousand nine hundred and eighty-two, provided that there shall be deducted from the amount due said employes the sum already paid them for services rendered during the one thousand nine hundred and eighty-two session.

Section 4. Whereas, the employes of the General Assembly have rendered faithful and efficient services during the present session, and their per diem has remained constant over several years of extreme economic inflation, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

HB 288, AN ACT pertaining to the reporting of tax exempt property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.220 is amended to read as follows:

(1) Deposits belonging to a resident of Kentucky in any national bank not of this state or in any bank, trust company, or combined bank and trust company not organized under the laws of this state, and unmanufactured tobacco insofar as it is subject to taxation by KRS 132.190 and 132.200, shall be listed, assessed and valued as of September 1 of each year. Money in hand shall be listed, assessed, and valued as of September 1 of each year. Shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and all interest in such property, unless otherwise provided by law shall be listed, assessed, and valued as of the beginning of business on January 1 of each year. All other taxable

property and all interest in other taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1, 1962, and January 1 of each year thereafter. It shall be the duty of all persons owning or having any interest in any property taxable in this state to list or have listed such property with the property valuation administrator of the county where it is located, between January 1 and March 1 in each year, except as otherwise provided by law. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.

(2) Any taxpayer who has a reasonable excuse for not listing his property before the property valuation administrator or his deputy may appear before any person authorized to administer an oath and make the necessary affidavit required by the schedule as to the value of his property and may then return the schedule to the property valuation administrator. This shall be a compliance with the law in his particular case.

(3) Real property or any interest therein shall be listed in the taxing district where it is located, by the owner of the first freehold estate therein, and it shall be assessed without reference to conflicting title. If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list.

(4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of such person without designating them by name.

(5) Beginning in the year 1951, all real property exempt from taxation by section 170 of the constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of such tax-exempt property, but such property shall not be placed on the tax rolls. *A copy of this tax exempt inventory shall be filed annually with the department of revenue within thirty (30) days of the close of the taxing period. This inventory shall be in the form prescribed by the department of revenue.*

(6) Each property valuation administrator, under the direction of the department of revenue, shall review annually all real property listed with him under subsection (5) of this section and claimed to be exempt from taxation by section 170 of the constitution. The property valuation administrator shall place on the tax rolls all such property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990 (2).

The Committee on Judiciary-Criminal reported **HB 88,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 88, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug, except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) *(a)* Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell *one (1) pound or less of* marijuana shall[~~, for the first offense,~~] be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both[~~, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both~~].

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell more than one (1) pound but less than five (5) pounds of marijuana shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or both.

(c) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell five (5) pounds or more of marijuana shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years and be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(5) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I or II which is a narcotic drug shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(6) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug, except marijuana, or of any controlled substance classified in schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary for human resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary for human resources or his designee prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary for human resources or his designee shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the department for human resources unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (6) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary for human resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the department to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the department is insufficient to spare one from his regular duties or if no such service may be purchased at regular departmental rates, in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(7) Any person who knowingly and unlawfully possesses for his own use or transfers *one (1) pound or less of* marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250). *Possession of more than one (1) pound of marijuana shall be prima facie evidence of possession of marijuana with intent to sell as provided in subsection (4) of this section.*

(a) Any person found guilty of violating subsection (7) above may be ordered to a facility designated by the secretary for human resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250) or both. Upon discharge of the person from the facility by the secretary for human resources or his designee prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary for human resources or his designee shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the department for human resources unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(8) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be

punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(9) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(10) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(11) Any person who sells or transfers any controlled substance to a person under eighteen (18) years of age shall be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

Committee Substitute to **HB 88** is as follows:

HB 88, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug, except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) *(a)* Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell *one (1) pound or less of* marijuana shall[~~, for the first offense,~~] be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both[~~, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both~~].

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell more than one (1) pound but less than five (5) pounds of marijuana shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or both.

(c) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell five (5) pounds or more of marijuana shall be confined in the penitentiary for not less than five (5) nor

more than ten (10) years and be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(5) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I or II which is a narcotic drug shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(6) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug, except marijuana, or of any controlled substance classified in schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary for human resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary for human resources or his designee prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary for human resources or his designee shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the department for human resources unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (6) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary for human resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the department to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the department is insufficient to spare one from his regular duties or if no such service may be purchased at regular departmental rates, in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(7) Any person who knowingly and unlawfully possesses for his own use or transfers *one (1) pound or less of* marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (7) above may be ordered to a facility designated by the secretary for human resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250) or both. Upon discharge of the person from the facility by the secretary for human resources or his designee prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary for human resources or his designee shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the department for human resources unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(8) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(9) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(10) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(11) Any person eighteen (18) years of age or older who sells or transfers any controlled substance to a person under eighteen (18) years of age shall be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

The Committee on Labor and Industry reported **HB 214** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 214, AN ACT relating to discrimination against employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) An employer, public or private, may not discharge an employe for the sole reason that he marries or plans to marry a co-employe, unless there are justifiable grounds for said discharge other than the existence of the marriage or plans for marriage to one another.

(2) If an employer discharges an employe in violation of subsection (1) of this section, the employe may obtain injunctive relief.

(3) This section shall not supersede any provisions related to marriage of co-employes contained in any collective bargaining agreement.

(4) This section shall not apply where an employer has given notice to any prospective applicant for employment that marriage of co-employes is not allowed.

Calendar

HB 243, HB 139, HB 197, HR 18, HB 198, HB 250, HB 251, HB 252, HB 101, HB 141, and **HB 54** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative LeMaster moved that the House recess for five minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the house to order.

Representative Deskins moved that the rules be suspended to allow the privilege of the floor to a special guest. Agreed.

Dick Harris of the Office of Surface Mining, Washington, D.C., was granted the privilege of the floor and addressed the House.

Orders of the Day

HB 22, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the Committee Amendment No. 1 to **HB 22.** Agreed.

Representative Arnold moved that **HB 22,** as amended, be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 22, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 22,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 78, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved the adoption of the Committee Substitute to **HB 78.** Agreed.

Representative Hines moved that **HB 78,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, White, Williams, Yates. Nays 4-Dawahare, Layman, Van Horn, Worthington.

HB 78, by way of Committee Substitute, was passed.

Representative Hines moved the adoption of the Floor Title Amendment to the Committee Substitute to **HB 78.** Agreed.

Representative Hines moved that the vote by which **HB 78,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 19 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Patrick moved that **HB 19** be passed.

On the roll call the vote was yeas 98-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 19 was passed and the title agreed to.

Representative Patrick moved tha the vote by which **HB 19** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, **HB 144;** Representative Lile, **HB 141, HB 82, HB 192, HB 267, HB 339;** Representative Hancock, **HB 308;** Representative Cowan, **HB 106;** Representative Ellington, **HB 320.**

Announcements

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 3 to the Committee Substitute to **HB 24,** by Representative List:

Amend printed copy of **HB 24/HCS,** on page 4, line 2, by deleting "each county and";

and by deleting lines 3, 4, 5, 6 in their entirety;

and on line 7 by deleting the words "in such pool or pools."

Floor Title Amendment to **HB 275,** by Representative Heleringer:

Amend printed copy of **HB 275,** page 1, Title, following "the" by deleting "enforcement of motor vehicle emissions inspection and maintenance programs" and inserting in lieu thereof "issuance of motor vehicle certificate of registration"

Floor Amendment No. 1 to **HB 275,** by Representative Heleringer:

Amend printed copy of **HB 275,** page 2, following line 17 by adding the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) No issuing authority shall issue a certificate of registration or a registration renewal receipt for any motor vehicle, as defined in KRS 281.011, for any year until the owner has presented to the issuing authority proof of the following:

(a) Payment of all ad valorem taxes based on the assessment of the motor vehicle as of March 1 of the year preceding the year for which the certificate of registration or registration renewal receipt is sought; or

(b) The motor vehicle was not subject to assessment for ad valorem tax on March 1 of the year preceding the year for which the certificate of registration or registration renewal receipt is sought.

(2) No issuing authority shall issue a registration receipt or a transfer of registration for any motor vehicle upon which the state or any other taxing district has filed a notice of lien under the provisions of KRS 134.420 until the tax lien shall have been properly released.

SECTION 4. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) No issuing authority shall issue a certificate of registration or a registration renewal receipt for any motor vehicle for any year until the owner has offered proof that there is in effect the minimum security required by Subtitle 39 of KRS Chapter 304."

Floor Amendment No. 1 to **HB 338,** by Representative Heleringer:

Amend printed copy of **HB 338,** page 4, lines 7 through 17 by deleting Subsection (9) in its entirety.

The following meetings were announced:

Committee Chairmen: Thirty minutes after adjournment today, Room 105.

Committee on Rules: Immediately upon adjournment today.

Representative LeMaster moved that the rules be suspended for introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 349, by Representatives Endicott, Morris, Bruce, Stone, Todd, Ford, and Patrick: AN ACT relating to deputy sheriffs.

HB 350, by Representative Foster: AN ACT changing the classification of the city of Lewisburg, in Logan County.

HB 351, by Representative Maggard: AN ACT relating to underground coal mining.

HB 352, by Representative Maggard: AN ACT relating to underground coal mining.

HB 353, by Representatives LeMaster and O'Brien: AN ACT relating to elevator inspectors.

HB 354, by Representatives LeMaster and O'Brien: AN ACT relating to state employes.

HB 355, by Representatives LeMaster and O'Brien: AN ACT relating to state employment.

HB 356, by Representatives Bronger, Clapp, Yates, Moberly, Rapier, Curd, Mann, Blevins, B. Smith, and Turner: AN ACT relating to the community college system.

HB 357, by Representatives B. Smith, Pearman, Turner, Ellington, Clarke, and Clark: AN ACT relating to livestock.

HB 358, by Representatives Ellington, Layman, Allen, Blevins, Bruce, Burnette, Caldwell, Clapp, Ford, Foster, Fryman, Gray, Harper, Holloway, Lefevers, Maggard, Patrick, Richards, B. Smith, Todd, and Turner: AN ACT relating to bankruptcy cases involving grain.

HB 359, by Representatives Moore, Dawahare, Patrick, Bruce, and Freibert: AN ACT relating to elections.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: **HB 270.**

Appropriations and Revenue: **HB 305, HB 327, HB 342, HB 333.**

Business Organizations and Professions: **HB 284, HB 273, HB 103, HB 153, HB 276.**

Transportation: **HB 261.**

State Government: **SB 57.**

Labor and Industry: **HB 244, HB 249, HB 299.**

Cities: **HB 336, HB 297, HB 296.**

Counties and Special Districts: **HB 206.**

Judiciary-Civil: **HB 262.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Appropriations and Revenue: **HB 184.**

Report of Committees

The Committee on Rules reported **HR 18** has been posted for passage in Orders of the Day, January 29, 1982.

Adjournment

Representative LeMaster moved that the House adjourn until 10:00 a.m., Friday, January 29, 1982.

On the roll call the vote was yeas 61-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Bronger, Burch, Burnette, Caldwell, Clapp, Cline, Cowan, Craddock, Cyrus, Donnermeyer, Dunn, Farrow, Foster, Freibert, Haering, Hancock, Harper, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, List, Long, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Noe, Patrick, Pearman, Petty, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 12-Deskins, Endicott, Ford, Fryman, Guenthner, Handy, Heleringer, Lile, Maggard, Overstreet, Perkins, Priddy.

The motion to adjourn was adopted.

FRIDAY, JANUARY 29, 1982

SIXTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Danny Williams, Campus Minister, Kentucky State University, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Perkins.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 28, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 25, SB 51, SB 67, SB 73,** and **SB 83.**

Introduction of Bills and Resolutions

HB 360, by Representative LeMaster: AN ACT relating to insurance.

HB 361, by Representative Noe: AN ACT relating to admission policies for the Kentucky School for the Blind and the Kentucky School for the Deaf.

HB 362, by Representatives Van Horn and Bennett: AN ACT relating to traffic violations.

HB 363, by Representative Barrows: AN ACT relating to state lands.

HB 364, by F. Smith: AN ACT relating to leave of absence for teachers.

HB 365, by Representative F. Smith: AN ACT relating to police authority.

HB 366, by Representatives Haering and Burnette: AN ACT relating to a moment of silence in the schools.

HR 26, by Representatives Brinkley, B. Richardson, Schmidt, Kenton, Perkins, LeMaster, Kidd, Bruce, Stone, Van Horn, Donnermeyer, Dunn, Blandford, Bronger, and Maggard: A RESOLUTION honoring Vic Hellard, Jr. for his outstanding service to the legislature as Director of the Legislative Research Commission.

HR 27, by Representative LeMaster: A RESOLUTION inviting John Y. Brown, Sr., to address the House of Representatives.

Reference of Bills and Resolutions

Agriculture and Small Business: **HB 357.**

Business Organizations and Professions: **HB 326.**

Cities: **HB 350, SB 13.**

Counties and Special Districts: **HB 347, HB 349.**

Education: **HB 356.**

Energy: **HB 348.**

Judiciary-Civil: **HB 358.**

Labor and Industry: **HB 353.**

Natural Resources and Environment: **HB 351, HB 352.**

State Government: **HB 354, HB 355, HB 359.**

Report of Committees

The Committee on Rules reported **HB 54, HB 118, HB 139, HB 158, HB 197, HB 198, HB 250, HB 251,** and **HB 252** have been posted for passage in Orders of the Day, February 1, 1982.

The Committee on Rules reported the following bills have been recommitted:

Appropriations and Revenue: **HB 43, HB 51, HB 230.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **SB 63.**

Labor and Industry: **HB 344.**

Health and Welfare: **HB 106, HB 269, SB 27.**

Appropriations and Revenue: **HB 43.**

Report of Committees

The Committee on Banking and Insurance reported **HB 194,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 194, AN ACT relating to banks.

WHEREAS, economic growth and development is essential to the Commonwealth of Kentucky and the welfare of its people; and

WHEREAS, a change in the banking structure of the state to permit bank holding companies to expand geographically beyond current limits can provide a vital link in the future growth and development of the Commonwealth; and

WHEREAS, commercial banks and bank holding companies are a primary source of capital funds and a change in the banking structure will provide Kentucky banks with the ability to access the national money and capital markets at the lowest possible cost, thereby assuring a more adequate source of funds for investment in economic development, growth and future technological innovations and services; and

WHEREAS, banking and the entire financial services industry is undergoing dynamic and fundamental change and today commercial banks and bank holding companies compete directly with many other providers of financial services including credit card issuers, money market funds, securities firms, investment banking companies, department stores, and cash management accounts to make but a few.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) Any bank holding company with its principal place of business in this state may acquire any other bank or bank holding company, except that a bank holding company may not acquire any of the shares of another bank which has been in existence less than five (5) years.

(2) No bank holding company may acquire any other bank or bank holding company if such acquisition would result in the bank holding company having control over more than twenty percent (20%) of the total deposits in all banks in Kentucky.

(3) No bank holding company may acquire more than three (3) banks during any year.

Section 2. KRS 287.030 is amended to read as follows:

(1) No persons as individuals or copartners shall engage in the business of private banking in this state.

(2) No bank or banking institution incorporated under the laws of another state shall transact any banking business in this state except to lend money.

(3) *Except as otherwise provided in this chapter,* no person shall, directly or indirectly, hold or own more than one-half of the capital stock of a bank or combined bank and trust company, exclusive of stock held as collateral, except that a person may own or acquire more than one-half of the capital stock of not more than one bank or combined bank and trust company, but no person who hereafter owns or acquires more than one-half of the capital stock of one bank or combined bank and trust company shall: (a) own or acquire directly or indirectly any capital stock in any other bank or combined bank and trust company domiciled in Kentucky, or (b) act as insurance agent or broker with respect to any insurance except credit life insurance, credit health insurance, insurance of the interest of a real property mortgagee in mortgaged property, other than title insurance; but there is no limitation on the amount of capital stock that may be held by the United States or by a corporation in which the United States owns or holds the majority of the stock. As used herein, "person" includes a natural person, partnership, corporation, association, business trust, voting trust, or similar organization. Any person, partnership, corporation, association, business trust, voting trust, or similar organization, or successor or successors thereto, may continue to hold or own capital stock of any bank or combined bank and trust company held or owned by such person or entity upon June 16, 1972, and may thereafter acquire such additional capital stock as is necessary to maintain the same percentage of ownership of capital stock which exists upon June 16, 1972.

(4) No bank incorporated under the laws of the Commonwealth of Kentucky shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, except that a bank may take property of any kind to satisfy or protect a loan previously made in good faith and in the ordinary course of business; and stock so purchased or acquired, shall, within six months from the time of its purchase, be sold or disposed of at public or private sale. This subsection shall not affect or modify in any way KRS 386.025, but said section shall remain in full force and effect.

Committee Substitute to **HB 194** is as follows:

HB 194, AN ACT relating to banks.

WHEREAS, economic growth and development is essential to the Commonwealth of Kentucky and the welfare of its people; and

WHEREAS, a change in the banking structure of the state to permit bank holding companies to expand geographically beyond current limits can provide a vital link in the future growth and development of the Commonwealth; and

WHEREAS, commercial banks and bank holding companies are a primary source of capital funds and a change in the banking structure will provide Kentucky banks with the ability to access the national money and capital markets at the lowest possible cost, thereby assuring a more adequate source of funds for investment in economic development, growth and future technological innovations and services; and

WHEREAS, banking and the entire financial services industry is undergoing dynamic and fundamental change and today commercial banks and bank holding companies compete directly with many other providers of financial services including credit card issuers, money market funds, securities firms, investment banking companies, department stores, and cash management accounts to make but a few.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Bank" means any institution organized under this chapter or the National Bank Act, as amended, to do a banking business, and having its principal place of business in this state; provided, however, it shall not include an "interim bank" chartered solely for the purpose of facilitating the acquisition of an existing bank.

(b) "Bank holding company," "company" and "control" have the meanings accorded them in the Federal Bank Holding Company Act of 1956, as amended.

(c) "Deposit" has the meaning accorded it in the Federal Deposit Insurance Act, as amended, and regulations promulgated thereunder; excluded, however, from deposits are all interbank deposits and all deposits in foreign branches and international banking facilities, as shown in the reports made by all banks to their respective supervisory authorities.

(2) Any bank holding company with its principal place of business in this state may acquire control of any other bank or bank holding company, except any bank holding company may not acquire control of any of the shares of another bank which has been in existence less than five (5) years at the time of such acquisition and which was chartered after January 31, 1982.

(3) No bank holding company may acquire control of any other bank or bank holding company if, upon such acquisition, such bank holding company would control banks holding more than twenty percent (20%) of the total deposits in all banks in Kentucky, as reported in the most recent year-end reports made by such banks to their respective supervisory authorities which are available at the time of such acquisition.

(4) No bank holding company may acquire control of more than three (3) banks during any twelve (12) month period.

(5) No persons as individuals or copartners shall engage in the business of private banking in this state.

(6) No banking institution incorporated under the laws of another state shall transact any banking business in this state except to lend money.

(7) No person who hereafter owns or acquires more than one-half (½) of the capital stock of a bank shall act as insurance agent or broker with respect to any insurance except credit life insurance, credit health insurance and insurance of the interest of the real property mortgagee in mortgaged property, other than title insurance; as used herein, "person" includes a natural person, partnership, corporation, association, business trust, voting trust, or similar organization.

(8) No bank incorporated under the laws of this state shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, except that a bank may take property of any kind to satisfy or protect a loan previously made in good faith and in the ordinary course of business; and stock so purchased or acquired shall, within six (6) months from the date of its purchase, be sold or disposed of at public or private sale. This subsection shall not affect or modify in any way KRS 386.025, but said section shall remain in full force and effect.

Section 2. KRS 287.990 is amended to read as follows:

(1) Any person who violates subsection *(5) of Section 1 of this Act* [~~(1) of KRS 287.030~~] shall be fined not less than twenty ($20.00) nor more than fifty dollars ($50.00) for each day he is engaged in the private banking business.

(2) Any institution that fails to make the report required by KRS 287.420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420, shall pay a penalty of two hundred dollars ($200) to be sued for and collected by the commissioner in the name of the state.

(3) If any person violates subsection (4) of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection (4) of KRS 287.440 shall immediately report such fact to the commissioner of banking and securities, who shall remove the person so offending.

(4) Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall be subject to the same penalties provided for solvent institutions and officers so offending.

(5) Any directors of a bank who knowingly violate, or knowingly permit any officer or employe of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from such violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the attorney general, shall institute proceedings to revoke the corporate powers of the bank.

(6) Any deputy commissioner or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of such facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred ($100) nor more than two thousand dollars ($2,000) for each offense.

(7) Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who

wilfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000) for each offense.

(8) Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in such report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of twenty-five dollars ($25.00) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed two hundred and fifty dollars ($250).

(9) Each person, bank or trust company that wilfully makes or transmits a false report or refuses to submit its books, papers and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than one hundred ($100) nor more than five hundred dollars ($500).

(10) Whenever any penalty imposed by subsections (4), (6), (7), (8), or (9) is not paid, the attorney general shall institute an action, in the name of the state, in the Franklin Circuit Court or the circuit court of the county in which the offense was committed, for the recovery of the penalty.

(11) Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars ($50.00) nor more than two thousand dollars ($2,000).

(12) Any person who willfully makes charges in excess of those permitted by KRS 287.710 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five-hundred dollars ($500.00) or by imprisonment for not more than six (6) months, or both.

(13) Any bank which violates any provision of KRS 287.710 to 287.770, except as a result of an accidental or bona fide error shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of such finance charge; provided such action is commenced within two (2) years from the date such violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 287.760.

(14) Notwithstanding the provisions of subsections (12) and (13) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.

Section 3. KRS 287.030, Limitation on right to engage in business and own stock, is repealed.

Committee Amendment No. 1 to the Committee Substitute to **HB 194** is as follows:

Amend printed copy of Committee Substitute to **HB 194,** page 3, line 2, after the word "bank" by adding the words "*or bank holding company*" and on page 3, line 14, after the word "banks" by adding the words "*or bank holding companies*"

Calendar

HB 45, HB 46, HB 245, HB 258, HB 288, HB 88, and **HB 214** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HR 18 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haering moved the adoption of **HR 18.** Agreed.

Representative LeMaster moved that the vote by which **HR 18** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 38 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved that **HB 38** be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Yates. Nays 3-Brown, Meyer, Worthington.

HB 38 was passed and the title agreed to.

Representative Pearman moved that the vote by which **HB 38** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 39, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved the adoption of the Committee Amendment No. 1 to **HB 39.** Agreed.

Representative Pearman moved that **HB 39,** as amended, be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 3- Dunn, Holbrook, Meyer.

HB 39, as amended, was passed and the title agreed to.

Representative Pearman moved that the vote by which **HB 39,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 40 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBee moved that **HB 40** be passed.

On the roll call the vote was yeas 91-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1- T. Jones.

HB 40 was passed and the title agreed to.

Representative McBee moved that the vote by which **HB 40** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 205 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Richardson moved that **HB 205** be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays-0.

HB 205 was passed and the title agreed to.

Representative P. Richardson moved that the vote by which **HB 205** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 4, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved the adoption of the Committee Amendment No. 1 to **HJR 4.** Agreed.

Representative F. Smith moved that **HJR 4,** as amended, be adopted.

On the roll call the vote was yeas 92-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HJR 4, as amended, was adopted and the title agreed to.

Representative F. Smith moved that the vote by which **HJR 4,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Announcements

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsor of Bills and Resolutions: Representative Blevins, **HB 320;** Representative Riner, **HB 366;** Representative B. Smith, **HB 299.**

The following meetings were announced:

Committee on Rules: On adjournment today, Room 316.

Budget Hearing on Education: Thirty minutes after adjournment today, Room 106.

Central Kentucky Caucus: Today on adjournment, Room 12.

Budget Hearing on Transportation: Monday, 1:00 p.m.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 367, by Representatives Gray, Bennett, Van Horn, Little, Yates, Cyrus, and Stone: AN ACT relating to polygraph examinations.

HB 368, by Representatives B. Smith, Crupper, P. Richardson, Farrow, and Rapier: AN ACT relating to statutory liens.

HB 369, by Representatives Blevins, Little, Noe, and Richards: AN ACT relating to occupations and professions.

HB 370, by Representatives Deskins and R. Jones: AN ACT relating to the treatment and rehabilitation of alcoholics and persons intoxicated or incapacitated by alcohol.

HB 371, by Representative Richards: AN ACT relating to traffic offenses.

HB 372, by Representative Richards: AN ACT relating to school districts.

HB 373, by Representative Richards: AN ACT relating to school districts.

HB 374, by Representative Richards: AN ACT relating to insurance coverage on school district buildings.

HB 375, by Representative Gray: AN ACT relating to unemployment insurance.

HB 376, by Representative Cyrus: AN ACT relating to collective bargaining by fire fighters.

HB 377, by Representative Worthington: AN ACT relating to the Kentucky higher education assistance authority and declaring an emergency.

HB 378, by Representatives Burnette and Worthington: AN ACT relating to county judges/executive.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 306, HB 247, HB 340, HB 104.**

Agriculture and Small Business: **HB 111, HB 120, HB 122, SB 53.**

Education: **HB 36, SB 61, HB 322, HB 313.**

Natural Resources and Environment: **HB 129, HB 131, HB 132, HB 147, HR 17, SB 46, SB 47.**

Business Organizations and Professions: **HB 334, HB 338.**

Judiciary-Criminal: **HB 319.**

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to the Committee Substitute to **HB 88,** by Representatives Rattliff and Priddy:

Amend printed copy of Committee Substitute to **HB 88,** page 3, line 7, by deleting "*one*"; and on page 3, line 8, by deleting "*(1) pound or less of*"; and by substituting in lieu thereof the following: "*less than eight (8) ounces of*"; and on page 3, line 17, by inserting before "*more*" the following: "*eight (8) ounces or*"; and on page 3, line 18, by deleting "*than one (1) pound*"; and on page 3, line 19, by deleting the following: "*confined in the penitentiary for not less*"; and by deleting lines 20, 21 and 22 in their entirety and inserting in lieu thereof: "*guilty of a Class D felony*"; and on page 4, after line 3, by inserting the following: "*(5) Any person eighteen (18) years of age or older who knowingly and unlawfully sells or transfers any amount of marijuana to any person under eighteen (18) years of age shall, for the first offense, be guilty of a Class D felony and for each subsequent offense shall be guilty of a Class C felony.*"

On page 4, line 4, by deleting "(5)" by bracketing and strike through and inserting in lieu thereof "*(6)*"; and on page 4, line 16, by deleting "(6)" by bracketing and strike through and inserting in lieu thereof "*(7)*"; and on page 6, line 25, by deleting "*(6)*" by bracketing and strike through and inserting in lieu thereof "*(7)*"; on page 8, line 21, by deleting "(7)" by bracketing and strike through and inserting in lieu thereof "*(8)*"; and on page 8, line 22, by deleting "*one (1) pound or*" and by inserting after "*less*" the following: "*than eight (8) ounces*"; and on page 9, line 1, by deleting "(7)" and substituting in lieu thereof "*(8)*"; and on page 11, line 13, by deleting "(8)" by bracketing and strike through and inserting in lieu thereof "*(9)*"; and on page 11, line 21, by deleting "(9)" by bracketing and strike through and inserting in lieu thereof "*(10)*"; and on page 12, line 3, by deleting "(10)" by bracketing and strike through and inserting in lieu thereof "*(11)*"; and on page 12 by deleting lines 10 through 16 in their entirety.

Floor Amendment No. 4 to the Committee Substitute to **HB 24,** by Representative Bennett.

Amend printed copy of Committee Substitute to **HB 24,** pages 6 and 7, lines 24, 4, and 9 on page 6, line 24, inserting after "*taxes*" the following: "*, but this subsection shall not be construed to prohibit the sheriff from obtaining his expenses not to exceed the rate of four percent (4%) of the earned monthly investment income for the administration of this investment fund*";

And on page 7, line 4, by inserting after "*cation*" the following: "*in compliance with subsection (3)(b) of this section*";

And on page 7, line 9, by inserting after "*education*" the following: "*in compliance with subsection (3)(b) of this section*".

Adjournment

Representative LeMaster moved that the House adjourn until 4:00 p.m., Monday, February 1, 1982.

On the roll call the vote was yeas 71-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brown, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Gray, Haering, Hancock, Harper, Head, Hines, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, List, Long, Lundergan, Mann, McBee, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Thomas, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 11- Cowan, Deskins, Ford, Fryman, Guenthner, Handy, Holbrook, R. Jones, Lile, Maggard, Overstreet.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 1, 1982

SEVENTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Beryl Spross, Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Lefevers.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 29, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 379, by Representatives Farrow, R. Jones, Allen, Turner, Holloway, Patrick, Caldwell, B. Smith, Clapp, Pearman, and Boswell: AN ACT relating to misdemeanants.

HB 380, by Representative Burnette: AN ACT relating to cities.

HB 381, by Representative Overstreet: AN ACT relating to motor vehicle equipment.

HR 28, by Representatives Bruce and Brinkley: A RESOLUTION requesting the Secretary of Transportation to adopt a policy which would open the lines of communication between the transportation management staff and the members of the General Assembly.

Senate Message

Announcing passage of **SB 8, SB 29, SB 75, SJR 1, HB 14,** and **HB 53** with Senate Amendment.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 360.**

Business Organizations and Professions: **SB 73.**

Cities: **HB 365.**

Counties and Special Districts: **HB 378.**

Education: **HB 361, HB 364, HB 366, HB 372, HB 373, HB 374, HB 377.**

Health and Welfare: **HB 369, HB 370, SB 25.**

Judiciary-Civil: **HB 363, HB 368, HR 26, HR 27, SB 67.**

Judiciary-Criminal: **HB 371.**

Labor and Industry: **HB 367, HB 376, HB 375.**

State Government: **SB 51, SB 83.**

Transportation: **HB 362.**

Report of Committee

The Committee on Rules reported **HB 42, HB 45, HB 88,** and **HB 258** have been posted for passage in Orders of the Day, February 2, 1982.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **SB 41, HB 375.**

Calendar

HB 194 taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 24, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the Committee Substitute to **HB 24.** Agreed.

Representative Arnold moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 24.** Agreed.

Representative Bennett moved the adoption of the Floor Amendment No. 4 to the Committee Substitute to **HB 24.** Agreed.

Representative Arnold moved that **HB 24,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 86-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, Overstreet, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 6-Barrows, Clarke, Fryman, R. Jones, List, Tobin.

HB 24, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 24,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 118 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that **HB 118** be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, Overstreet, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 118 was passed and the title agreed to.

Representative Holbrook moved that the vote by which **HB 118** as passed be reconsidered and said motion be placed on the table. Agreed.

HB 139 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McNutt moved that **HB 139** be passed.

On the roll call the vote was yeas 67-Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Clapp, Clark, Clarke, Cowan, Craddock, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Ford, Gray, Haering, Handy, Heleringer, Hines, Johnson, T. Jones, Kenton, Kidd, LeMaster, Lile, Little, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 25-Allen, Arnold, Burnette, Caldwell, Cline, Crupper, Curd, Farrow, Freibert, Fryman, Guenthner, Hancock, Harper, Head, R. Jones, Layman, List, Long, Patrick, Pearman, Robinson, Schmidt, Seum, Stumbo, Todd.

HB 139 was passed and the title agreed to.

Representative McNutt moved that the vote by which **HB 139** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 14** has been examined and found correctly enrolled. **HB 14** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 14 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (Continued)

HB 158, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Committee Amendment No. 1 to **HB 158.** Agreed.

Representative Farrow moved that **HB 158,** as amended, be passed.

On the roll call the vote was yeas 87-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moore, Morris, Noe, Noland, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 3-Allen, Fryman, Nett.

HB 158, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 158,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 250 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 250** be passed.

On the roll call the vote was yeas 88-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, White, Williams, Worthington, Yates. Nays 2-Allen, Van Horn.

HB 250 was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 250** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 251 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 251** be passed.

On the roll call the vote was yeas 93-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Allen.

HB 251 was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 251** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 252 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 252** be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 252 was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 252** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Recess

Representative LeMaster moved that the House recess for five minutes for a meeting of the Committee on Committees in the Speaker's office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 59,** by Representative Van Horn:

Amend printed copy of **HB 59** on page 2, line 20, following the word "than" the second time it appears on line 20 by inserting, "*seven (7)*" and

on line 21, by placing brackets and strike through around the words "eight (8)".

Floor Amendment No. 2 to **HB 59,** by Representative Mann:

Amend printed copy of the **HB 59** on page 1, line 17 after "the" delete ("County Judge Executive") in its entirety and add in lieu thereof "*Fiscal Court*"

and on page 1, line 20 delete ("county judge/executive upon approval of the")

and on page 2, line 13 after "the" delete ("county judge/executive") in its entirety and insert in lieu thereof "*Fiscal Court*"

and on page 4, line 17 after ("8") delete (county judge/executive) and insert in lieu thereof "*Fiscal Court*".

Floor Amendment No. 1 to **HB 198,** by Representative Robinson:

Amend printed copy of **HB 198** on page 1, line 7 by adding the word "*three (3)*" after the word "designate" and by placing brackets around the word "two (2)" and striking through "two (2)".

Representative O'Brien moved that **HR 20** be laid on the Clerk's desk. Agreed.

Representative Little moved that **HB 328** and **HB 329** be reassigned to the Committee on Judiciary-Civil. Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsor of Bills and Resolutions: Representative Bennett, **HB 353;** Representative Burch, **HB 356;** Representative Clark, **HB 34;** Representative Freibert, **HB 161;** Representative Haering, **HB 88;** Representative Heleringer, **HB 366;** Representative

Holbrook, **HB 269**; Representative Holloway, **HB 315**; Representative LeMaster, **HB 34, HB 133**; Representative Lile, **HB 123**; Representative Moore, **HB 309, HB 366**; Representative Tobin, **HB 88.**

The following members filed requests to have their names withdrawn as co-sponsor of Bills: Representative Cyrus, **HB 196**; Representative Mann, **HB 297.**

Announcements

The following meetings were announced:

State Government: Special meeting, on recess.

Energy: Cancelled tomorrow. Will meet February 9.

Business Organizations and Professions: Public hearing, 10:00 a.m., Room 105.

Jefferson County Delegation: On adjournment, Room 103.

Judiciary-Civil: Public Hearing, 11:00-1:00, House Chamber.

Cities: Tuesday, 9:00 a.m., Room 104.

Rules: On adjournment, Room 316.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 382, by Representative Hancock: AN ACT relating to district courts.

HB 383, by Representatives Brown, Cline, Stone, and Cyrus: AN ACT relating to crimes and punishments.

HB 384, by Representatives Morris, Bruce, and Endicott: AN ACT relating to peace officers.

HB 385, by Representative LeMaster: AN ACT relating to insurance.

HB 386, by Representative LeMaster: AN ACT relating to oil and gas.

HB 387, by Representatives Williams and LeMaster: AN ACT relating to traffic laws.

HB 388, by Representatives Little and LeMaster: AN ACT relating to motor carriers.

HB 389, by Representatives Schmidt and Bendl: AN ACT relating to emergency vehicles.

HB 390, by Representatives Little and Deskins: AN ACT relating to public utility rates.

HB 391, by Representatives Gray, Hancock, Curd, Blandford, and Bronger: AN ACT relating to traffic regulations.

HB 392, by Representatives R. Jones and Farrow: AN ACT relating to district courts.

HR 29, by Representatives Van Horn, Bennett, and Gray: A RESOLUTION honoring the Marmota monax and expressing the desire of the General Assembly for a favorable meteorological prognostication.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 169, HB 180, HB 204.**

Judiciary-Criminal: **HB 253, HB 272.**

The Clerk announced the following Bills have been withdrawn from Committee consideration:

Judiciary-Criminal: **HB 25, HB 174.**

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, February 2, 1982.

On the roll call the vote was yeas 63-Barrows, Bendl, Bennett, Blandford, Boswell, Bronger, Bruce, Burch, Caldwell, Clark, Cline, Craddock, Crupper, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Haering, Hancock, Harper, Head, Hines, Holloway, T. Jones, Kenton, Kidd, Layman, LeMaster, Little, Long, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noland, Pearman, Petty, Priddy, Rapier, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Turner, Van Horn, Williams, Worthington, Yates. Nays 9-Blevins, Deskins, Fryman, Handy, Lile, Maggard, Noe, Overstreet, Perkins.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 2, 1982

EIGHTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Beryl Spross, Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of the Allegiance to the Flag.

The roll was called. All present except Representatives Burnette and Lefevers.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 1, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 4, SB 43, SB 96, SB 115, SB 117, SB 145,** and **SJR 10.**

Introduction of Bills and Resolutions

HB 393, by Representatives Dunn and Priddy: AN ACT relating to fire fighters.

HB 394, by Representative Johnson: AN ACT relating to suspension of teaching contracts.

HB 395, by Representatives Mann and McNutt: AN ACT relating to individual income tax.

HB 396, by Representative Mann: AN ACT relating to sick leave for public school employes.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 385.**

Counties and Special Districts: **HB 384.**

Education: **SB 8.**

Energy: **HB 390, HB 380, SR 1.**

Judiciary-Civil: **HB 382, SB 29, HB 392.**

Judiciary-Criminal: **HB 383, HB 387, HB 379, SB 75.**

Natural Resources and Environment: **HB 386.**

Transportation: **HB 388, HB 389, HB 391, HB 381, HR 28.**

Report of Committees

The Committee on Rules reported **HB 187, HB 214,** and **HB 288** have been posted for passage in Orders of the Day, February 3, 1982.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 41, HB 133.**

Judiciary-Civil: **HB 101.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **HR 27.**

Energy: **HR 23.**

Business Organizations and Professions: **HB 13, HB 143.**

Report of Committees

The Committee on Cities reported **HB 336** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 336, AN ACT relating to the territorial authority of police in cities of the second class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

The chief and members of the police force in cities of the second class may make arrests anywhere in the county in which the city is located, but shall not be required to police any territory outside of the city limits.

The Committee on Transportation reported **HB 44, HB 166** with Committee Amendment attached thereto, **HB 179** with Committee Amendment attached thereto, and **HB 215** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 44, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.340 is amended to read as follows:

(1) Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left of them and shall not again drive to the right until reasonably clear of those vehicles. [~~The person operating or in charge of the overtaking vehicle shall sound his horn or other sound device before passing.~~] Vehicles overtaking street cars may pass either to the right or left when so directed by a police officer, when on a one-way street or where the location of the tracks prevents compliance with this section, with regard for other traffic.

(2) The operator of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn;

(b) Upon a roadway with unobstructed pavement of sufficient width for two (2) or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(3) The operator of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movements in safety. Such movement shall not be made by driving off the roadway unless passing vehicle comes to a complete stop and such movement may be made safely.

(4) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred feet (100') of any vehicle approaching from the opposite direction.

(5) The commissioner of highways is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones, and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.

(6) Whenever any roadway has been divided into three (3) clearly marked lanes for travel the following additional rules shall apply:

(a) A vehicle shall be driven as nearly as may be practical entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety;

(b) A vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where a center lane is at the time allocated exclusively to traffic moving in the direction in which the vehicle is proceeding and is signposted to give notice of the allocation;

(c) Official signs may be erected directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and operators of vehicles shall obey the directions;of such signs.

(7) (a) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of the vehicle and the traffic upon and condition of the highway.

(b) The operator of any motor truck, semitrailer truck, bus or heavy construction equipment unit when traveling upon a highway outside of a business or residential district shall not follow within 250 feet of another such vehicle or equipment unit. This subsection shall not prevent overtaking and passing, nor shall it apply to any lane specially designated for use of motor trucks or semitrailer trucks, buses or heavy construction equipment units.

HB 166, AN ACT relating to the licensing of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Any owner of a motor vehicle required to be registered under the provisions of KRS 186.050(1) or (4)(a) who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Viet Nam War, shall be issued a license plate indicating his status as a former prisoner of war, upon application to the county clerk in the county of his residence and after payment of a registration fee of thirteen dollars fifty cents ($13.50), of which two dollars ($2.00) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the department's fee. Application shall be made on a form prescribed by the department and shall be accompanied by written evidence from the United States department of defense stating the period of time that the applicant was a prisoner of war.

(2) The license plates in subsection (1) of this section shall be printed in three (3) colors; red, white, and blue. Each tag shall contain the name of the state, the year, the registration number and the words "Former P.O.W." Annually thereafter, upon application to the county clerk of the county of his residence, together with proof that he is a former prisoner of war, and after payment of the registration fee provided in subsection (1) of this section, the clerk shall issue a new plate, or a renewal decal, as directed by the department of transportation.

(3) (a) Upon the sale or transfer of a vehicle licensed as authorized under this section, the owner shall remove the prisoner of war license plate and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration upon payment of an eleven dollars fifty cents ($11.50) state fee and a one dollar ($1.00) clerk's fee. When the prisoner of war plate has been presented to the clerk, he shall reissue same free of charge by the department of transportation and upon payment of a one dollar ($1.00) clerk's fee for use on any other vehicle owned by the same person who purchased the prisoner of war plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(4) In the event a prisoner of war license plate is lost, stolen or mutilated, if the owner has not transferred a vehicle during the current license period, he may obtain a regular plate free of charge.

(5) License plates issued under this section shall expire on December 31.

Committee Amendment No. 1 to **HB 166** is as follows:

Amend printed copy of **HB 166** on page 1, line 10, by deleting the word "*thirteen*" and inserting the word "*twelve*" in lieu thereof; and on page 1, line 11, by deleting the word "*($13.50)*" and inserting the word "*($12.50)*" in lieu thereof; and on page 1, line 11, after the word "*which*" by deleting the words "*two dollars ($2.00)*" and inserting the words "*one dollar ($1.00)*" in lieu thereof.

HB 179, AN ACT relating to volunteer firefighters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Upon application to the county clerk of the county of his residence, a member of all volunteer fire departments in the Commonwealth shall be issued a license plate in the same form and character as license plates authorized by law to be used upon similar private vehicles registered in Kentucky, except that such license plates shall bear the inscription "Volunteer Firefighter," a registration number and an appropriate standardized insignia. Each application shall be accompanied by proof of current service as a volunteer firefighter as furnished by the mayor or trustee in such a city or the county judge/executive in appropriate rural areas, and the payment of a fee of eleven dollars and fifty cents ($11.50). Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service as a volunteer firefighter, and payment of the registration fee, the clerk shall issue a current year tag to the applicant to be affixed to the volunteer firefighter license plate originally issued to the applicant.

(2) Upon the sale or transfer of a vehicle licensed as authorized by subsection (1) of this section, the owner shall remove the volunteer firefighter license plate and return it to the county clerk who shall reissue it for use on any other vehicle of the same class and category owned by the same applicant to whom the volunteer firefighter license plate was originally issued.

(3) Upon termination of membership as a volunteer firefighter, an applicant to whom a volunteer firefighter license plate was issued under this section, shall, within thirty (30) days, return the volunteer firefighter plate to the county clerk of the county of his residence.

(4) For the services performed in issuing the volunteer firefighter license plates, in annually issuing a current year tag to be affixed to the volunteer firefighter license plate, the county clerk shall receive from each applicant a fee of one dollar ($1). A like fee shall be charged for the reissuance of such license plate after the sale or transfer of the vehicle for which it was originally issued.

(5) The secretary of the department of transportation shall provide such forms as may be necessary to carry out the purpose of this section.

Section 2. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(5), 186.050, 186.056, 186.060, 186.070, 186.110, 186.130, 186.140, 186.150, 186.160, 186.170, 186.180, 186.210, 186.230, or 186.655 to 186.680 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be fined not less than twenty dollars ($20.00) nor more than two thousand dollars ($2,000) or imprisoned for not more than one (1) year, or both.

(3) Unless another penalty is provided by law, any person who violates any of the provisions of KRS 186.400 to 186.640 shall be fined not less than twelve dollars ($12.00) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(4) Any clerk or judge failing to comply with subsection (1) of KRS 186.550 shall be subject to a penalty of one hundred dollars ($100) which shall accrue to the state and may be recovered with costs of the suit in a civil action brought by the department.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment or cost.

(6) Any person who steals a motor vehicle registration plate shall be guilty of a felony and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.

(8) Any person who makes a false affidavit to secure a license plate under Section 1 of this Act shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for a period of six (6) months.

Committee Amendment No. 1 to **HB 179** is as follows:

Amend printed copy of **HB 179**, on page 1, lines 4-5, after the word "*residence,*" delete the words "*a member of all volunteer fire departments*" and insert "*any volunteer member of a volunteer fire department or fire protection district*" in lieu thereof.

HB 215, AN ACT relating to amateur radio operator's license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.177 is amended to read as follows:

(1) Upon application to the county clerk of the county of residence, owners of motor vehicles required to be registered under the provisions of KRS 186.050(1) or (3)(a) who are residents of this state and who hold an unrevoked and unexpired official amateur radio station and operator's license issued by the federal communications commission, shall be issued an additional license plate. The fee for such a license plate shall be twenty-five dollars ($25.00) and shall also be accompanied with proof of ownership of such amateur radio license. The plate shall bear in lieu of the usual number, the official amateur radio call letters of the station of such applicant as assigned by the federal communications commission and the year for which the plate is issued. License plates issued under this section shall expire on December 31. Annually thereafter, upon application to the county clerk of the county of residence, together with proof of ownership of an amateur radio operator's license and without payment of a registration fee, the clerk shall issue a new plate, or a renewal decal, as directed by the department of transportation.

(2) Upon the sale or transfer of a vehicle licensed as authorized by subsection (1) of this section, the owner shall remove the special license plate and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate, and a certificate of title and registration, upon payment of an eleven dollars and fifty cents ($11.50) state fee and one dollar ($1.00) clerk's fee.

(3) Upon termination of ownership of amateur radio operator's license, an applicant to whom an amateur radio license plate was issued under this section shall, within thirty (30) days, return the plate to the county clerk of the county of residence.

(4) [~~Owners of motor vehicles required to be registered under the provisions of KRS 186.050(1) or (3)(a) who are residents of this state and who hold an unrevoked and unexpired official amateur radio station and operator's license issued by the federal communications commission, upon application for each licensing year, accompanied by proof of ownership of such amateur radio licenses, and upon complying with all other laws of this state relating to the registration and licensing of motor vehicles, and upon the payment of an additional license fee of twenty-five dollars ($25.00) shall be issued an additional license plate upon which shall be inscribed, in lieu of the usual number, the official amateur radio call letters of the station of such applicant as assigned by the federal communications commission, and the year for which the plate is issued. Upon application to the county clerk of the county of his residence, the clerk shall issue said license plate. Upon the sale or transfer of such vehicle bearing such special plate the owner shall remove same and return it and certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration upon payment of the appropriate fee. The application shall be at such time and on such forms as may be reasonably prescribed by the secretary of the department of transportation, and the special plate shall be issued at such time as he shall reasonably prescribe. License plates issued under this section shall expire on December 31. A license plate shall not be issued under this section unless an application accompanied by a fee of twenty-five dollars ($25.00) is received by the department of transportation on or before September 1, preceding the year in which the plate or renewal thereof is to be issued. Any payments required to be made under this section shall be in the form of a certified check, cashier's check or a money order.~~

~~(2)~~] For services performed, the county clerk shall receive from each applicant in addition to the regular registration fee and to the additional license fee as provided for in this section, the additional sum of one dollar ($1.00) for each registration under this section. A like amount shall be charged for the reissuance of such special license plate after the sale or transfer of the vehicle to which it was originally attached.

(5)[~~(3)~~] The secretary of the department of transportation may *require application and payment of the necessary state fee on or before September 1 preceding the year in which the plate or renewal thereof*

is to be issued and may make such reasonable rules and regulations as he deems necessary to further the purpose of this section.

Committee Amendment No. 1 to **HB 215** is as follows:

Amend printed copy of **HB 215** on page 2, line 1, after the word "*and*" by deleting the word "*without*" and on page 2, line 1, after the word "*fee*" by inserting the words "*of eleven dollars and fifty cents ($11.50)*"

The Committee on Counties and Special Districts reported **HB 206,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 206, AN ACT relating to community action agencies.

WHEREAS, the General Assembly finds it is the policy of the Commonwealth to help develop the full potential of each of its citizens so they may live in decency and dignity and contribute to the strength of the Commonwealth as a whole;

WHEREAS, the General Assembly intends the resources of the private sector economy be tapped to increase opportunities for the people of Kentucky to develop their capabilities;

WHEREAS, emphasizing local decision-making capabilities and citizen involvement in carrying out such policy will benefit the Commonwealth;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

There shall be established community action agencies throughout political subdivisions of the Commonwealth.

Section 2. KRS 273.410 is amended to read as follows:

As used in *this Act* [~~KRS 273.410 to 273.455~~], unless the context otherwise requires:

(1) "Commission" shall mean the Kentucky commission on community action.

(2) "Community action *agency* [~~corporation~~]" shall mean a corporation organized for the purpose of alleviating poverty within a community or area by developing employment opportunities; by bettering the conditions under which people live, learn, and work; and by conducting, administering, and coordinating similar programs.

(3) "Federal act" means the omnibus budget reconciliation act of 1981, P.L. 97-35, and any amendments thereto, as the federal act relates to community services block grants.

Section 3. KRS 273.415 is amended to read as follows:

(1) A community action *agency* [~~corporation~~] shall be organized and shall operate subject to the provisions of *this Act* [~~KRS 273.410 to 273.455~~]. To the extent *this Act* [~~KRS 273.410 to 273.455~~] is inconsistent with the provisions of this chapter, the provisions of *this Act* [~~KRS 273.410 to 273.455~~] shall be controlling.

(2) A community action agency shall be organized and operate subject to the provisions of KRS 65.210 through 65.300 and this Act.

Section 4. KRS 273.435 is amended to read as follows:

(1) A community action *agency* [~~corporation~~] may be designated by *the following political subdivisions*:

(a) One (1) or more counties;

(b) One (1) or more municipal corporations; or

(c) One (1) or more counties and one (1) or more municipal corporations.

(2) The chief elected official of the designating political subdivision may designate:

(a) The political subdivision as the community action agency, with the concurrence of the legislative authority of the political subdivision; or

(b) An eligible private nonprofit corporation as a community action agency if such corporation's board of directors is established pursuant to Section 5 of this Act.

(3) In the event a political subdivision elects not to designate a community action agency as provided under this section, the governor may designate an eligible private nonprofit corporation as the community action agency for the political subdivision; provided, however, that the board of directors for the community action agency shall be established pursuant to Section 5 of this Act.

(4) The designating political subdivision shall:

(a) Publish, pursuant to KRS Chapter 424, a notice containing the designation of a community action agency, a summary of the plan for such agency, a location at which the plan can be reviewed, and the time, date, and location of a hearing on the plan;

(b) Not less than thirty (30) nor more than sixty (60) days from the publication of the notice in subsection (1), convene a public hearing specifically for the purpose of receiving public comment on the designation plan.

(5) All community action agencies which were organized and operating subject to the provisions of KRS 273.410 to 273.455 as of September 30, 1981, shall be recognized as the community action agencies for each applicable political subdivision unless and until each political subdivision exercises the authority granted under this section.

(6) No community action agency shall be created after the effective date of this Act unless the:

(a) Population of the political subdivision equals or exceeds fifty thousand (50,000); and

(b) Political subdivisions designating a new community action agency are geographically contiguous and include a combined population equal to or exceeding fifty thousand (50,000) [~~; or~~

~~(d) To conform to area planning districts as provided in KRS Chapter 147A as the agency of each such political subdivision for the alleviation of poverty.~~

~~(2) Such designation may occur when the legislative authority of each such political subdivision has determined that the policy of the political subdivision is to promote the health, safety, morals, and general welfare of its inhabitants and that such policy may be implemented through the designation of a Community Action Corporation as such an agency. Such designation shall be made by the legislative authority of the political subdivision by resolution or ordinance.~~

~~(3) Any political subdivision which has designated a Community Action Corporation as such an agency may enter into an agreement with it to provide that the Corporation shall prepare a plan for the political subdivision for the alleviation of poverty. Such plan shall include the extent to which the Corporation shall participate as the agent of the political subdivision in carrying out such a plan. Such plan shall be confirmed by the legislative authority of the political subdivision.~~

~~(4) The governing board of a Community Action Corporation designated as the agent of one or more political subdivisions shall include appointed or elected officials of the political subdivisions.~~

~~(5) Any agreement entered into under this section may be amended or supplemented from time to time by the parties between whom such agreement was made.~~

~~(6) Any agreement entered into under this section may designate the Community Action Corporation as the agent of the political subdivision for the receipt and expenditures of loans, grants, and other funds, including, but not limited to, General and Special Revenue Sharing funds from the Commonwealth and the United States, for the purpose of alleviating poverty within the subdivision~~].

SECTION 5. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) When a private nonprofit corporation is designated as a community action agency, the board of directors of the community action agency shall be the governing board.

(2) When a political subdivision is designated as the community action agency its board of directors shall be a community action board.

(3) Governing boards and community action boards shall be so established and organized that the poor and residents of the area concerned will be able to influence the character of programs affecting their interests and regularly participate in the planning and implementation of those programs. The articles of incorporation shall be deemed to meet these requirements if they provide that:

(a) One-third (⅓) of the members of the administering board shall be public officers, including elected public officials or their representatives, unless the number of public officers reasonably available or willing to serve is less than one-third (⅓) of the membership of the board;

(b) At least one-third (⅓) of the members of the administering board shall be persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area to be served by the agency;

(c) The remaining members of the administering board shall be officials or members of business, industry, labor, religious, welfare, education, or other major groups and shall be interested in the community;

(d) Each member of the board who is to represent a specific geographic area within a community shall reside in the area he represents; and

(e) Total membership of the board is not less than fifteen (15) and not more than fifty-one (51).

(4) Neighborhood based organizations composed of residents of the area or individual members of the groups served by the community action agency shall be consulted by each community action agency to assist the agency in the planning, conduct, and evaluation of components of the community action program.

SECTION 6. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The governing board of a private, nonprofit community action agency shall have the same legal powers and responsibilities granted under its state charter as the board of directors of any private, nonprofit corporation incorporated in the Commonwealth of Kentucky including the power to enter into legally binding agreements with any federal, state, or local agency, or with any private funding organization for the purpose of administering programs or providing services.

(2) In addition to these general corporate powers which all private, nonprofit corporations possess, the following are specific powers which a governing board of a private nonprofit community action agency shall possess:

(a) To appoint the executive director of the community action agency;

(b) To determine major personnel, organization, fiscal, and program policies;

(c) To determine overall program plans and priorities for the community action agency, including provisions for evaluating progress against performance;

(d) To make final approval of all program proposals and budgets;

(e) To enforce compliance with all conditions of all grants contracts;

(f) To oversee the extent and the quality of the participation of the poor in the programs of the community action agency;

(g) To determine rules and procedures for the governing board;

(h) To select the officers and the executive committee, if any, of the governing board.

(3) When a political subdivision is designated as the community action agency the designating officials possess those powers contained in subsection (2)(b) through (e) of this section and share with the community action board the power contained in subsection (2)(a) of this section. The designating officials may delegate the powers contained in subsection (2)(b) through (d) only to the community action board.

(4) When a political subdivision is designated as the community action agency, it shall administer its program through the community action board. The community action board shall have the following powers:

(a) To participate jointly and to concur formally in the selection of the executive director of the community action agency;

(b) To exercise all powers which the designating officials choose to delegate to the community action board;

(c) To oversee the extent and the quality of the participation of the poor in the programs of the community action agency;

(d) To determine rules and procedures for the community action board;

(e) To select the officers and the executive committee, if any, of the community action board.

(5) When a political subdivision is designated as the community action agency, the community action board shall deliberate upon the following matters and submit its written recommendations to the designating officials before the designating officials render a final decision unless the designating officials have specifically delegated these powers:

(a) Determination of major personnel, organization, fiscal, and program policies;

(b) Determination of overall program plans and priorities;

(c) Approval of all program proposals and budgets;

(d) Approval of all evaluation and assessment studies and reports;

(e) Approval of all arrangements for delegating the planning, conducting, or evaluating a component of the work program.

SECTION 7. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) Each community action agency shall:

(a) Plan systematically for an effective community action program, develop information as to the problems and causes of poverty in the community; determine how much and how effectively assistance is being provided to deal with those problems and causes; and establish priorities among projects, activities, and areas as needed for the best and most efficient use of resources;

(b) Provide planning or technical assistance to agencies; and generally, in cooperation with community agencies and officials, undertake actions to improve existing efforts to reduce poverty, such as improving day-to-day communications, closing service gaps, focusing resources on the most needy, and providing additional opportunities to low-income individuals for regular employment or participation in the programs or activities for which those community agencies and officials are responsible;

(c) Initiate and sponsor projects responsive to needs of the poor which are not otherwise being met, with particular emphasis on providing central or common services that can be drawn upon by a variety of related programs, developing new approaches or new types of services that can be incorporated into other programs, and filling gaps pending the expansion or modification of those programs;

(d) Establish effective procedures by which the poor and area residents concerned will be enabled to influence the character of programs affecting their interests, provide for their regular participation in

the implementation of those programs, and provide technical and other support needed to enable the poor and neighborhood groups to secure on their own behalf available assistance from public and private sources;

(e) Join with and encourage business, labor and other private groups and organizations to undertake, together with public officials and agencies, activities in support of the community action program which will result in the additional use of private resources and capabilities, with a view to developing new employment opportunities, stimulating investment that will have a measurable impact on reducing poverty among residents of areas of concentrated poverty, and providing methods by which residents of those areas can work with private groups, firms, and institutions in seeking solutions to problems of common concern.

(2) If a community action agency places responsibility for the character, funding, extent, administration of, or budgeting for programs of the agency with another agency or organization, public or private, it shall do so by contract. No contract shall be made with an agency or organization which does not have a board which is broadly representative of the citizens of the geographic area served by the agency or organization.

SECTION 8. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The funds made available under this Act shall be used by each grantee of the funds:

(a) To provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem;

(b) To provide activities designed to assist low-income participants including the elderly poor:

(i) To secure and retain meaningful employment;

(ii) To attain an adequate education;

(iii) To make better use of available income;

(iv) To obtain and maintain adequate housing and a suitable living environment;

(v) To obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment related assistance;

(vi) To remove obstacles and solve problems which block the achievement of self-sufficiency;

(vii) To achieve greater participation in the affairs of the community; and

(viii) To make more effective use of other programs related to the purposes of this Act;

(c) To coordinate and establish linkages between governmental and other social programs to assure the effective delivery of such services to low-income individuals;

(d) To encourage the use of entities in the private sector of the community in efforts to ameliorate poverty in the community;

(e) To develop, promote or otherwise encourage economic development activities which result in assisting low-income persons to become economically productive members of their community;

(f) To provide education, counseling and technical assistance on compliance with equal opportunity legislation for individuals and community organizations, both public and private.

(2) In addition to required services and activities to be provided with funds made available under this Act, these funds may be used to provide on an emergency basis for the provision of such supplies and services to meet immediate essential needs of low-income persons including the elderly poor.

Section 9. KRS 273.430 is amended to read as follows:

In order to accomplish its purposes, a community action *agency* [~~corporation~~] may:

(a) Borrow money for any of the purposes of the *agency* [~~corporation~~];

(b) Issue [~~bonds,~~] debentures, notes, or other evidences of indebtedness, whether secured or unsecured, and secure the same by mortgage, pledge, deed of trust, or other lien on its property, franchise, rights and privileges of every kind or nature or any part thereof or interest therein;

(c) Apply for and accept loans, grants, and other assistance from any entity, public or private, including but not limited to, the Commonwealth and the United States;

(d) Perform all acts and things necessary or convenient to carry out its purposes.

SECTION 10. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The governor or his designee shall annually grant community services block grant funds under the federal act to community action agencies designated by political subdivisions as provided under Sections 4 and 5 of this Act.

(2) An allocation formula for community services block grant funds shall be devised by the Kentucky commission on community action as provided under Section 11 of this Act. The allocation formula shall be based on the 1981 federal community services administration grantee based allocation and the incidence and severity of poverty throughout the Commonwealth. The formula shall be set forth in administrative regulation by the commission.

(3) Community services block grant funds made available under the federal act shall be used in accordance with the provisions set forth in Section 7 of this Act.

(4) The governor or his designee may grant to community action agencies such other state and federal funds the purposes of which are in accordance with the provisions set forth in Section 8 of this Act.

(5) For such other state or federal program funds applicable to the services and activities set forth in Section 8 of this Act, the governor shall, upon a determination of community action agencies' capability for utilizing such funds in a manner so as to fulfill the purpose of those funds and to fulfill the policy set forth in Section 1 of this Act, give special consideration to utilizing community action agencies in implementing such programs.

SECTION 11. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) There shall be established the Kentucky commission on community action to be located in the office of the secretary of the department for human resources.

(2) The commission shall be governed by a board of eight (8) commissioners comprised in the following manner:

(a) Two (2) commissioners to be appointed by the governor;

(b) Two (2) commissioners to be appointed by the speaker of the Kentucky house of representatives;

(c) Two (2) commissioners to be appointed by the president pro-tempore of the senate;

(d) One (1) commissioner to be appointed by the governor from a list of three (3) nominees submitted by the county judges/executive association of Kentucky; and

(e) One (1) commissioner to be appointed by the governor from a list of three (3) nominees submitted by the Kentucky municipal league.

(3) Members of the commission shall serve a term of two (2) years, except that the first appointments shall be made as follows: One (1) appointee of the governor, speaker of the house of representatives, president pro-tempore of the senate, and county judges/executive association of Kentucky shall each be initially appointed for three (3) year terms.

(4) A majority of the commission shall constitute a quorum for the transaction of business.

(5) Of the two (2) commissioners appointed by the governor, the governor shall initially appoint one (1) to serve as the chairman of the commission in a non-voting capacity except in the event of a tie vote. Thereafter the commission shall elect, by a majority vote, a chairman who shall preside at all meetings. The chairman shall be elected or re-elected annually by the commission members.

(6) The responsibilities and powers of the commission shall be:

(a) To establish standards in accordance with applicable state and federal laws and regulations by which administrative, fiscal and programmatic effectiveness of the community action agencies shall be measured.

(b) To monitor and evaluate community action agencies' compliance with:

(i) Standards set forth in administrative regulation by the commission;

(ii) Provisions of this Act;

(iii) Provisions of the federal act; and

(iv) All other applicable laws and regulations pertaining to funds received by community action agencies.

(c) To receive and review annual independent audits of all funds received by community action agencies. The commission shall, as practicable, seek to facilitate cost effective measures and reduce administrative burdens for community action agencies by implementing a comprehensive single audit approach for all required community action agency audits.

(d) To direct community action agencies to submit such reports, records or other information necessary to determine community action agencies' administrative, fiscal, and programmatic effectiveness.

(e) To provide for training and technical assistance to the community action agencies.

(f) To receive and administer other programs to be granted or contracted to community action agencies.

(g) To coordinate activities and services of community action agencies and the commission with the department for human resources.

(h) To serve as liaison between community action agencies and other state and federal agencies for the purposes of:

(i) Increasing the awareness of state and federal agencies toward the needs of low-income persons;

(ii) Providing information regarding capabilities of community action agencies;

(iii) Mobilizing resources for utilization by community action agencies;

(iv) Assisting in mediation of conflicts arising between community action agencies and state and federal agencies;

(v) Promoting the services and activities of community action agencies; and

(vi) Developing, promoting, or otherwise encouraging means for private sector involvement in the services and activities of community action agencies.

(7) The commission shall employ an executive director and staff of the appropriate size and composition necessary to carry out its functions and responsibilities.

(8) The commission shall utilize, as necessary, resources of the auditor of public accounts in maintaining fiscal accountability of the community action agencies.

(9) The commission's administrative costs for administering the community services block grant program under the federal act shall not exceed five percent (5%) of available community services block grant funds.

(10) The commission shall develop and implement by administrative regulation necessary procedures for its own operation and administration.

SECTION 12. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The commission may take adverse action in the form of reduction, suspension, withdrawal or otherwise retraction of a community action agency's community services block grant funds under the federal act and other funds over which the commission has such authority, if:

(a) The commission alleges a community action agency violated any law, regulation or duly issued directive related to funds for which the commission has authority; and

(b) The commission notifies the community action agency of its intended adverse action and informs the community action agency of its right to submit written material and/or its right to request an informal hearing to respond to the intended action. The submission of written material and holding of an informal hearing shall not be required in less than five (5) working days of the initial notice to the community action agency; and

(c) After review of written material submitted by the community action agency and after convening an informal meeting with the community action agency, the commission informs the community action agency of its intent to take adverse action. After sufficient prior notice to the public and the community action agency, the commission shall hold a hearing, open to the public, during which the charges against the community action agency and the intended adverse action against the community action agency shall be presented and during which the community action agency has the opportunity to show cause why the intended adverse action should not be taken; and

(d) After conducting said hearing, the community action agency shall be notified by the commission by letter or telegram not less than thirty (30) days prior to the effective date of the adverse action.

(2) The commission may take adverse action without prior notice and opportunity to show cause provided in subsection (1) of this section if it determines that immediate suspension is necessary because of a serious risk of:

(a) Substantial injury or loss of funds or property over which the commission has authority; or

(b) Violation of a federal, state or local criminal statute; and

(c) Such risk is sufficiently serious to outweigh the general policy in favor of advance notice and opportunity to show cause.

(3) In its notice to the community action agency of suspension the commission shall specifically advise the community action agency of the reason for the suspension, effective date of the suspension and the extent, terms and conditions of any suspension and shall inform the community action agency of the date and location of a hearing wherein the community action agency shall have the opportunity to show cause as to why the suspension should be rescinded.

(4) The duration of a suspension without notice shall not exceed thirty (30) days except that a suspension without notice may be renewed for an additional period not to exceed thirty (30) days if during the initial suspension period, the commission has initiated the process described in subsection (1) of this section.

(5) At any time during the processes described in this section the commission may convene an informal meeting with the community action agency to attempt to resolve any contemplated or implemented adverse action.

(6) At all times during the processes described in this section, a community action agency shall have access to evidence upon which the commission has based an intent or a final decision to take adverse action against the community action agency.

(7) No provision of this section shall prevent a community action agency from appealing a decision of adverse action by the commission to the appropriate courts of the Commonwealth or the United States.

Section 13. KRS 281.619 is amended to read as follows:

(1) The term "nonprofit bus certificate" means a certificate authorizing a private, nonprofit corporation or a community action *agency* [~~corporation~~], not otherwise exempt from the provisions of this chapter, to operate motor bus or van equipment to transport passengers for hire, on other than a casual or occasional basis, between certain points within a given county or counties over regular or irregular routes, or a combination of such routes. A nonprofit bus system shall be deemed "for hire" if there is charged, contributed or received any compensation or grant of funds from the passengers themselves, individually or as a group, or from any outside source paying for or subsidizing, in whole or in part, the operating expenses attributable to the transportation services being provided, but a holder of a nonprofit bus certificate shall be deemed to

be exempt from rates and services regulation by the bureau, as provided for by KRS 281.675 through 281.705, unless otherwise provided therein.

(2) If any intracity passenger service is proposed by an applicant for a nonprofit bus certificate, a letter or resolution of support from the affected city shall be filed with the application.

(3) Any nonprofit bus certificate issued by the bureau shall describe the passenger service or services authorized to be performed, including the types of passengers who may be transported if service is not to be held out to the general public, the points between which or the area within which such passengers may be transported, and whether regular or irregular route operations, or both, are authorized. If regular route operations are to be authorized, the certificate may merely set forth that such are permitted between certain points or within a certain area, leaving it to the certificate holder to develop its own specific route structures and schedules.

(4) Any private, nonprofit corporation or community action *agency* [~~corporation~~] engaged, as of June 17, 1978, in the for-hire transportation of persons, as defined in subsection (1), pursuant to a valid certificate of public convenience and necessity or permit shall, upon application, be entitled to the issuance of a nonprofit bus certificate to thereafter authorize a continuation of the same operations. Any such corporation then having an application pending for a certificate of public convenience and necessity or permit shall be entitled to a conversion of such, consistent with principles of procedural due process, to one for a nonprofit bus certificate.

Section 14. KRS 65.060 is amended to read as follows:

As used in KRS 65.065 and 65.070, the term "district" shall mean and the provisions of KRS 65.065 and 65.070 shall apply to any board, commission or special district created pursuant to the following statutes: KRS 65.040, 65.050, 65.210 to 65.300, 65.510 to 65.650, 66.610 to 66.650, 74.010 to 74.416, 75.010 to 75.260, 76.005 to 76.210, 76.241 to 76.273, 76.274 to 76.279, 76.295 to 76.420, 76.600 to 76.640, 77.005 to 77.305, 80.262 to 80.610, 83.340 to 83.350, 96A.010 to 96A.230, 104.450 to 104.680, 107.310 to 107.500, 108.010 to 108.070, 108.080 to 108.180, 108A.010 to 108A.130, 109.071 to 109.250, 147.610 to 147.710, 147A.050 to 147A.120, 152.810 to 152.930, 164.605 to 164.675, 173.450 to 173.650, 173.710 to 173.800, 175A.010 to 175A.990, 183.132 to 183.160, 184.010 to 184.300, 210.460 to 210.480, 212.720 to 212.760, 215.080 to 215.390, 216.310 to 216.360, 220.010 to 220.613, 249.510 to 249.631, 262.100 to 262.660, 262.700 to 262.990, 266.010, to 266.990, 267.010 to 267.990, 268.010 to 268.990, or *the provisions of this Act* [~~273.410 to 273.455~~].

Section 15. The following KRS sections are repealed:

273.420	Articles of incorporation.
273.425	Filing articles of incorporation.
273.440	Designation by Commonwealth.
273.445	Requirement for filing of financial report.
273.450	Action when financial report not filed.
273.455	Distribution of assets when dissolved or liquidated.

Committee Substitute to **HB 206** is as follows:

HB 206, AN ACT relating to community action agencies.

WHEREAS, the General Assembly finds it is the policy of the Commonwealth to help develop the full potential of each of its citizens so they may live in decency and dignity and contribute to the strength of the Commonwealth as a whole;

WHEREAS, the General Assembly intends the resources of the private sector economy be tapped to increase opportunities for the people of Kentucky to develop their capabilities;

WHEREAS, emphasizing local decision-making capabilities and citizen involvement in carrying out such policy will benefit the Commonwealth;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

There shall be established community action agencies throughout political subdivisions of the Commonwealth.

Section 2. KRS 273.410 is amended to read as follows:

As used in *this Act* [~~KRS 273.410 to 273.455~~], unless the context otherwise requires:

(1) "Commission" shall mean the Kentucky commission on community action.

(2) "Community action *agency* [~~corporation~~]" shall mean a corporation organized for the purpose of alleviating poverty within a community or area by developing employment opportunities; by bettering the conditions under which people live, learn, and work; and by conducting, administering, and coordinating similar programs.

(3) "Federal act" means the omnibus budget reconciliation act of 1981, P.L. 97-35, and any amendments thereto, as the federal act relates to community services block grants.

Section 3. KRS 273.415 is amended to read as follows:

(1) A community action *agency* [~~corporation~~] shall be organized and shall operate subject to the provisions of *this Act* [~~KRS 273.410 to 273.455~~]. To the extent *this Act* [~~KRS 273.410 to 273.455~~] is inconsistent with the provisions of this chapter, the provisions of *this Act* [~~KRS 273.410 to 273.455~~] shall be controlling.

(2) A community action agency shall be organized and operate subject to the provisions of KRS 65.210 through 65.300 and this Act.

Section 4. KRS 273.435 is amended to read as follows:

(1) A community action *agency* [~~corporation~~] may be designated by *the following political subdivisions*:

(a) One (1) or more counties;

(b) One (1) or more municipal corporations; or

(c) One (1) or more counties and one (1) or more municipal corporations.

(2) The chief elected official of the designating political subdivision may designate:

(a) The political subdivision as the community action agency, with the concurrence of the legislative authority of the political subdivision; or

(b) An eligible private nonprofit corporation as a community action agency if such corporation's board of directors is established pursuant to Section 5 of this Act.

(3) In the event a political subdivision elects not to designate a community action agency as provided under this section, the governor may designate an eligible private nonprofit corporation as the community action agency for the political subdivision; provided, however, that the board of directors for the community action agency shall be established pursuant to Section 5 of this Act.

(4) The designating political subdivision shall:

(a) Publish, pursuant to KRS Chapter 424, a notice containing the designation of a community action agency, a summary of the plan for such agency, a location at which the plan can be reviewed, and the time, date, and location of a hearing on the plan;

(b) Not less than thirty (30) nor more than sixty (60) days from the publication of the notice in subsection (1), convene a public hearing specifically for the purpose of receiving public comment on the designation plan.

(5) All community action agencies which were organized and operating subject to the provisions of KRS 273.410 to 273.455 as of September 30, 1981, shall be recognized as the community action agencies for each applicable political subdivision unless and until each political subdivision exercises the authority granted under this section.

(6) No community action agency shall be created after the effective date of this Act unless the:

(a) Population of the political subdivision equals or exceeds fifty thousand (50,000); or

(b) Political subdivisions designating a new community action agency are geographically contiguous and include a combined population equal to or exceeding fifty thousand (50,000) [~~; or~~

~~(d) To conform to area planning districts as provided in KRS Chapter 147A as the agency of each such political subdivision for the alleviation of poverty.~~

~~(2) Such designation may occur when the legislative authority of each such political subdivision has determined that the policy of the political subdivision is to promote the health, safety, morals, and general welfare of its inhabitants and that such policy may be implemented through the designation of a Community Action Corporation as such an agency. Such designation shall be made by the legislative authority of the political subdivision by resolution or ordinance.~~

~~(3) Any political subdivision which has designated a Community Action Corporation as such an agency may enter into an agreement with it to provide that the Corporation shall prepare a plan for the political subdivision for the alleviation of poverty. Such plan shall include the extent to which the Corporation shall participate as the agent of the political subdivision in carrying out such a plan. Such plan shall be confirmed by the legislative authority of the political subdivision.~~

~~(4) The governing board of a Community Action Corporation designated as the agent of one or more political subdivisions shall include appointed or elected officials of the political subdivisions.~~

~~(5) Any agreement entered into under this section may be amended or supplemented from time to time by the parties between whom such agreement was made.~~

~~(6) Any agreement entered into under this section may designate the Community Action Corporation as the agent of the political subdivision for the receipt and expenditures of loans, grants, and other funds,~~

~~including, but not limited to, General and Special Revenue Sharing funds from the Commonwealth and the United States, for the purpose of alleviating poverty within the subdivision~~].

SECTION 5. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) When a private nonprofit corporation is designated as a community action agency, the board of directors of the private nonprofit corporation, if constituted in compliance with subsection (3) of this section, shall be the governing board.

(2) When a political subdivision is designated as the community action agency the board of directors of the community action agency shall be a community action board constituted as required by subsection (3) of this section.

(3) Governing boards and community action boards shall be so established and organized that the poor and residents of the area concerned will be able to influence the character of programs affecting their interests and regularly participate in the planning and implementation of those programs. The articles of incorporation shall be deemed to meet these requirements if they provide that:

(a) One-third (⅓) of the members of the administering board shall be public officers, including elected public officials or their representatives, unless the number of public officers reasonably available or willing to serve is less than one-third (⅓) of the membership of the board;

(b) At least one-third (⅓) of the members of the administering board shall be persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area to be served by the agency;

(c) The remaining members of the administering board shall be officials or members of business, industry, labor, religious, welfare, education, or other major groups and shall be interested in the community;

(d) Each member of the board who is to represent a specific geographic area within a community shall reside in the area he represents; and

(e) Total membership of the board is not less than fifteen (15) and not more than fifty-one (51).

(4) Neighborhood based organizations composed of residents of the area or individual members of the groups served by the community action agency shall be consulted by each community action agency to assist the agency in the planning, conduct, and evaluation of components of the community action program.

SECTION 6. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The governing board of a private, nonprofit community action agency shall have the same legal powers and responsibilities granted under its state charter as the board of directors of any private, nonprofit corporation incorporated in the Commonwealth of Kentucky including the power to enter into legally binding agreements with any federal, state, or local agency, or with any private funding organization for the purpose of administering programs or providing services.

(2) In addition to these general corporate powers which all private, nonprofit corporations possess, the following are specific powers which a governing board of a private nonprofit community action agency shall possess:

(a) To appoint the executive director of the community action agency;

(b) To determine major personnel, organization, fiscal, and program policies;

(c) To determine overall program plans and priorities for the community action agency, including provisions for evaluating progress against performance;

(d) To make final approval of all program proposals and budgets;

(e) To enforce compliance with all conditions of all grants contracts;

(f) To oversee the extent and the quality of the participation of the poor in the programs of the community action agency;

(g) To determine rules and procedures for the governing board;

(h) To select the officers and the executive committee, if any, of the governing board.

(3) When a political subdivision is designated as the community action agency the designating officials possess those powers contained in subsection (2)(b) through (e) of this section and share with the community action board the power contained in subsection (2)(a) of this section. The designating officials may delegate the powers contained in subsection (2)(b) through (d) only to the community action board.

(4) When a political subdivision is designated as the community action agency, it shall administer its program through the community action board. The community action board shall have the following powers:

(a) To participate jointly and to concur formally in the selection of the executive director of the community action agency;

(b) To exercise all powers which the designating officials choose to delegate to the community action board;

(c) To oversee the extent and the quality of the participation of the poor in the programs of the community action agency;

(d) To determine rules and procedures for the community action board;

(e) To select the officers and the executive committee, if any, of the community action board.

(5) When a political subdivision is designated as the community action agency, the community action board shall deliberate upon the following matters and submit its written recommendations to the designating officials before the designating officials render a final decision unless the designating officials have specifically delegated these powers:

(a) Determination of major personnel, organization, fiscal, and program policies;

(b) Determination of overall program plans and priorities;

(c) Approval of all program proposals and budgets;

(d) Approval of all evaluation and assessment studies and reports;

(e) Approval of all arrangements for delegating the planning, conducting, or evaluating a component of the work program.

SECTION 7. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) Each community action agency shall:

(a) Plan systematically for an effective community action program, develop information as to the problems and causes of poverty in the community; determine how much and how effectively assistance is being provided to deal with those problems and causes; and establish priorities among projects, activities, and areas as needed for the best and most efficient use of resources;

(b) Provide planning or technical assistance to agencies; and generally, in cooperation with community agencies and officials, undertake actions to improve existing efforts to reduce poverty, such as improving day-to-day communications, closing service gaps, focusing resources on the most needy, and providing additional opportunities to low-income individuals for regular employment or participation in the programs or activities for which those community agencies and officials are responsible;

(c) Initiate and sponsor projects responsive to needs of the poor which are not otherwise being met, with particular emphasis on providing central or common services that can be drawn upon by a variety of related programs, developing new approaches or new types of services that can be incorporated into other programs, and filling gaps pending the expansion or modification of those programs;

(d) Establish effective procedures by which the poor and area residents concerned will be enabled to influence the character of programs affecting their interests, provide for their regular participation in the implementation of those programs, and provide technical and other support needed to enable the poor and neighborhood groups to secure on their own behalf available assistance from public and private sources;

(e) Join with and encourage business, labor and other private groups and organizations to undertake, together with public officials and agencies, activities in support of the community action program which will result in the additional use of private resources and capabilities, with a view to developing new employment opportunities, stimulating investment that will have a measurable impact on reducing poverty among residents of areas of concentrated poverty, and providing methods by which residents of those areas can work with private groups, firms, and institutions in seeking solutions to problems of common concern.

(2) If a community action agency places responsibility for the character, funding, extent, administration of, or budgeting for programs of the agency with another agency or organization, public or private, it shall do so by contract. No contract shall be made with an agency or organization which does not have a board which is broadly representative of the citizens of the geographic area served by the agency or organization.

SECTION 8. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The funds made available under this Act shall be used by each grantee of the funds:

(a) To provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem;

(b) To provide activities designed to assist low-income participants including the elderly poor:

(i) To secure and retain meaningful employment;

(ii) To attain an adequate education;

(iii) To make better use of available income;

(iv) To obtain and maintain adequate housing and a suitable living environment;

(v) To obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment related assistance;

(vi) To remove obstacles and solve problems which block the achievement of self-sufficiency;

(vii) To achieve greater participation in the affairs of the community; and

(viii) To make more effective use of other programs related to the purposes of this Act;

(c) To coordinate and establish linkages between governmental and other social programs to assure the effective delivery of such services to low-income individuals;

(d) To encourage the use of entities in the private sector of the community in efforts to ameliorate poverty in the community;

(e) To develop, promote or otherwise encourage economic development activities which result in assisting low-income persons to become economically productive members of their community;

(f) To provide education, counseling and technical assistance on compliance with equal opportunity legislation for individuals and community organizations, both public and private.

(2) In addition to required services and activities to be provided with funds made available under this Act, these funds may be used to provide on an emergency basis for the provision of such supplies and services to meet immediate essential needs of low-income persons including the elderly poor.

Section 9. KRS 273.430 is amended to read as follows:

In order to accomplish its purposes, a community action *agency* [~~corporation~~] may:

(a) Borrow money for any of the purposes of the *agency* [~~corporation~~];

(b) Issue [~~bonds,~~] debentures, notes, or other evidences of indebtedness, whether secured or unsecured, and secure the same by mortgage, pledge, deed of trust, or other lien on its property, franchise, rights and privileges of every kind or nature or any part thereof or interest therein;

(c) Apply for and accept loans, grants, and other assistance from any entity, public or private, including but not limited to, the Commonwealth and the United States;

(d) Perform all acts and things necessary or convenient to carry out its purposes.

SECTION 10. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The governor or his designee shall annually grant community services block grant funds under the federal act to community action agencies designated by political subdivisions as provided under Sections 4 and 5 of this Act.

(2) An allocation formula for community services block grant funds shall be devised by the Kentucky commission on community action as provided under Section 11 of this Act. The allocation formula shall be based on the 1981 federal community services administration grantee based allocation and the incidence and severity of poverty throughout the Commonwealth. The formula shall be set forth in administrative regulation by the commission.

(3) Community services block grant funds made available under the federal act shall be used in accordance with the provisions set forth in Section 7 of this Act.

(4) The governor or his designee may grant to community action agencies such other state and federal funds the purposes of which are in accordance with the provisions set forth in Section 8 of this Act.

(5) For such other state or federal program funds applicable to the services and activities set forth in Section 8 of this Act, the governor shall, upon a determination of community action agencies' capability for utilizing such funds in a manner so as to fulfill the purpose of those funds and to fulfill the policy set forth in Section 1 of this Act, give special consideration to utilizing community action agencies in implementing such programs.

SECTION 11. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) There shall be established the Kentucky commission on community action to be located in the office of the secretary of the department for human resources.

(2) The commission shall be governed by a board of eight (8) commissioners comprised in the following manner:

(a) Two (2) commissioners to be appointed by the governor;

(b) Two (2) commissioners to be appointed by the speaker of the Kentucky house of representatives;

(c) Two (2) commissioners to be appointed by the president pro-tempore of the senate;

(d) One (1) commissioner to be appointed by the governor from a list of three (3) nominees submitted by the Kentucky association of counties; and

(e) One (1) commissioner to be appointed by the governor from a list of three (3) nominees submitted by the Kentucky municipal league.

(3) Members of the commission shall serve a term of two (2) years, except that the first appointments shall be made as follows: One (1) appointee of the governor, speaker of the house of representatives, president pro-tempore of the senate, and Kentucky association of counties shall each be initially appointed for three (3) year terms.

(4) A majority of the commission shall constitute a quorum for the transaction of business.

(5) Of the two (2) commissioners appointed by the governor, the governor shall initially appoint one (1) to serve as the chairman of the commission in a non-voting capacity except in the event of a tie vote. Thereafter the commission shall elect, by a majority vote, a chairman who shall preside at all meetings. The chairman shall be elected or re-elected annually by the commission members.

(6) The commission shall meet no less than quarterly. Any commissioner who is absent from two (2) consecutive commission meetings shall be notified by registered mail by the chairman, or presiding commissioner in the absence of the chairman, that the seat is vacant. The chairman or presiding commissioner

in the chairman's absence shall by registered mail notify the appointing authority that the seat is vacant and that a new appointment shall be made to fill the vacant term of the vacated seat.

(7) The responsibilities and powers of the commission shall be:

(a) To establish standards in accordance with applicable state and federal laws and regulations by which administrative, fiscal and programmatic effectiveness of the community action agencies shall be measured.

(b) To monitor and evaluate community action agencies' compliance with:

(i) Standards set forth in administrative regulation by the commission;

(ii) Provisions of this Act;

(iii) Provisions of the federal act; and

(iv) All other applicable laws and regulations pertaining to funds received by community action agencies.

(c) To receive and review annual independent audits of all funds received by community action agencies. The commission shall, as practicable, seek to facilitate cost effective measures and reduce administrative burdens for community action agencies by implementing a comprehensive single audit approach for all required community action agency audits.

(d) To direct community action agencies to submit such reports, records or other information necessary to determine community action agencies' administrative, fiscal, and programmatic effectiveness.

(e) To provide for training and technical assistance to the community action agencies.

(f) To receive and administer other programs to be granted or contracted to community action agencies.

(g) To coordinate activities and services of community action agencies and the commission with the department for human resources.

(h) To serve as liaison between community action agencies and other state and federal agencies for the purposes of:

(i) Increasing the awareness of state and federal agencies toward the needs of low-income persons;

(ii) Providing information regarding capabilities of community action agencies;

(iii) Mobilizing resources for utilization by community action agencies;

(iv) Assisting in mediation of conflicts arising between community action agencies and state and federal agencies;

(v) Promoting the services and activities of community action agencies; and

(vi) Developing, promoting, or otherwise encouraging means for private sector involvement in the services and activities of community action agencies.

(vii) To develop annually a plan describing the intended use and distribution of the community services block grant.

(8) The commission shall employ an executive director and staff of the appropriate size and composition necessary to carry out its functions and responsibilities.

(9) The commission shall utilize, as necessary, resources of the auditor of public accounts in maintaining fiscal accountability of the community action agencies.

(10) The commission's administrative costs for administering the community services block grant program under the federal act shall not exceed five percent (5%) of available community services block grant funds.

(11) The commission shall develop and implement by administrative regulation necessary procedures for its own operation and administration.

SECTION 12. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The commission may take adverse action in the form of reduction, suspension, withdrawal or otherwise retraction of a community action agency's community services block grant funds under the federal act and other funds over which the commission has such authority, if:

(a) The commission alleges a community action agency violated any law, regulation or duly issued directive related to funds for which the commission has authority; and

(b) The commission notifies the community action agency of its intended adverse action and informs the community action agency of its right to submit written material and/or its right to request an informal hearing to respond to the intended action. The submission of written material and holding of an informal hearing shall not be required in less than five (5) working days of the initial notice to the community action agency; and

(c) After review of written material submitted by the community action agency and after convening an informal meeting with the community action agency, the commission informs the community action agency of its intent to take adverse action. After sufficient prior notice to the public and the community action agency, the commission shall hold a hearing, open to the public, during which the charges against the community action agency and the intended adverse action against the community action agency shall

be presented and during which the community action agency has the opportunity to show cause why the intended adverse action should not be taken; and

(d) After conducting said hearing, the community action agency shall be notified by the commission by letter or telegram not less than thirty (30) days prior to the effective date of the adverse action.

(2) The commission may take adverse action without prior notice and opportunity to show cause provided in subsection (1) of this section if it determines that immediate suspension is necessary because of:

(a) Substantial injury or loss of funds or property over which the commission has authority; or

(b) Violation of a federal, state or local criminal statute.

(3) In its notice to the community action agency of suspension the commission shall specifically advise the community action agency of the reason for the suspension, effective date of the suspension and the extent, terms and conditions of any suspension and shall inform the community action agency of the date and location of a hearing wherein the community action agency shall have the opportunity to show cause as to why the suspension should be rescinded.

(4) The duration of a suspension without notice shall not exceed thirty (30) days except that a suspension without notice may be renewed for an additional period not to exceed thirty (30) days if during the initial suspension period, the commission has initiated the process described in subsection (1) of this section.

(5) At any time during the processes described in this section the commission may convene an informal meeting with the community action agency to attempt to resolve any contemplated or implemented adverse action.

(6) At all times during the processes described in this section, a community action agency shall have access to evidence upon which the commission has based an intent or a final decision to take adverse action against the community action agency.

(7) No provision of this section shall prevent a community action agency from appealing a decision of adverse action by the commission to the appropriate courts of the Commonwealth or the United States.

SECTION 13. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The appropriate legislative committee, as determined by the legislative research commission, shall conduct oversight hearings on the performance of the commission. At least one (1) hearing shall be held annually for this purpose. The legislative committee's performance review shall consider all responsibilities and powers of the commission as contained in this Act.

(2) The appropriate legislative committee shall hold a public hearing no less than thirty (30) days prior to the submission of the community services block grant plan to the appropriate federal authority to allow for public comment on the plan.

Section 14. KRS 281.619 is amended to read as follows:

(1) The term "nonprofit bus certificate" means a certificate authorizing a private, nonprofit corporation or a community action *agency* [~~corporation~~], not otherwise exempt from the provisions of this chapter, to operate motor bus or van equipment to transport passengers for hire, on other than a casual or occasional basis, between certain points within a given county or counties over regular or irregular routes, or a combination of such routes. A nonprofit bus system shall be deemed "for hire" if there is charged, contributed or received any compensation or grant of funds from the passengers themselves, individually or as a group, or from any outside source paying for or subsidizing, in whole or in part, the operating expenses attributable to the transportation services being provided, but a holder of a nonprofit bus certificate shall be deemed to be exempt from rates and services regulation by the bureau, as provided for by KRS 281.675 through 281.705, unless otherwise provided therein.

(2) If any intracity passenger service is proposed by an applicant for a nonprofit bus certificate, a letter or resolution of support from the affected city shall be filed with the application.

(3) Any nonprofit bus certificate issued by the bureau shall describe the passenger service or services authorized to be performed, including the types of passengers who may be transported if service is not to be held out to the general public, the points between which or the area within which such passengers may be transported, and whether regular or irregular route operations, or both, are authorized. If regular route operations are to be authorized, the certificate may merely set forth that such are permitted between certain points or within a certain area, leaving it to the certificate holder to develop its own specific route structures and schedules.

(4) Any private, nonprofit corporation or community action *agency* [~~corporation~~] engaged, as of June 17, 1978, in the for-hire transportation of persons, as defined in subsection (1), pursuant to a valid certificate of public convenience and necessity or permit shall, upon application, be entitled to the issuance of a nonprofit bus certificate to thereafter authorize a continuation of the same operations. Any such corporation then having an application pending for a certificate of public convenience and necessity or permit shall be entitled to a conversion of such, consistent with principles of procedural due process, to one for a nonprofit bus certificate.

Section 15. KRS 65.060 is amended to read as follows:

As used in KRS 65.065 and 65.070, the term "district" shall mean and the provisions of KRS 65.065 and 65.070 shall apply to any board, commission or special district created pursuant to the following statutes: KRS 65.040, 65.050, 65.210 to 65.300, 65.510 to 65.650, 66.610 to 66.650, 74.010 to 74.416, 75.010 to 75.260, 76.005 to 76.210, 76.241 to 76.273, 76.274 to 76.279, 76.295 to 76.420, 76.600 to 76.640, 77.005 to 77.305, 80.262 to 80.610, 83.340 to 83.350, 96A.010 to 96A.230, 104.450 to 104.680, 107.310 to 107.500, 108.010 to 108.070, 108.080 to 108.180, 108A.010 to 108A.130, 109.071 to 109.250, 147.610 to 147.710, 147A.050 to 147A.120, 152.810 to 152.930, 164.605 to 164.675, 173.450 to 173.650, 173.710 to 173.800, 175A.010 to 175A.990, 183.132 to 183.160, 184.010 to 184.300, 210.460 to 210.480, 212.720 to 212.760, 215.080 to 215.390, 216.310 to 216.360, 220.010 to 220.613, 249.510 to 249.631, 262.100 to 262.660, 262.700 to 262.990, 266.010, to 266.990, 267.010 to 267.990, 268.010 to 268.990, or *the provisions of this Act* [~~273.410 to 273.455~~].

Section 16. The following KRS sections are repealed:

273.420 Articles of incorporation.
273.425 Filing articles of incorporation.
273.440 Designation by Commonwealth.
273.445 Requirement for filing of financial report.
273.450 Action when financial report not filed.
273.455 Distribution of assets when dissolved or liquidated.

Orders of the Day

HB 59, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Amendment No. 1 to **HB 59.** Agreed.

Representative Mann moved the adoption of the Floor Amendment No. 2 to **HB 59.** Agreed.

Representative Van Horn moved the adoption of the Floor Amendment No. 1 to **HB 59.**

On the roll call the vote was yeas 47-Arnold, Bendl, Bennett, Brinkley, Brown, Caldwell, Clark, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Endicott, Ford, Freibert, Fryman, Gray, Guenthner, Haering, Harper, Heleringer, Holbrook, Johnson, T. Jones, Long, Maggard, Mann, Meyer, Noe, Noland, Overstreet, Perkins, Petty, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, Yates. Nays 31-Allen, Barrows, Blandford, Blevins, Boswell, Bronger, Bruce, Burch, Clapp, Clarke, Craddock, Deskins, Dunn, Foster, Head, Kenton, LeMaster, Little, McBee, McNutt, Moberly, Morris, Nett, Patrick, Pearman, Rapier, B. Smith, F. Smith, Thomason, Tobin, White.

Floor Amendment No. 1 to **HB 59** was adopted.

Representative Stone moved that **HB 59,** as amended, be passed.

On the roll call the vote was yeas 83-Arnold, Bendl, Bennett, Boswell, Brinkley, Bronger, Brown, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Turner, Van Horn, Williams, Worthington, Yates. Nays 7- Allen, Barrows, Blevins, Ford, Fryman, Todd, White.

HB 59, as amended, was passed and the title agreed to.

Representative Stone moved that the vote by which **HB 59,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 197 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved that **HB 197** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0.

HB 197 was passed and the title agreed to.

Representative Dunn moved that the vote by which **HB 197** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 198, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Robinson moved the adoption of the Floor Amendment No. 1 to **HB 198.** Agreed.

Representative Holbrook moved that **HB 198,** as amended, be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4- Barrows, Clapp, Fryman, McNutt.

HB 198, as amended, was passed and the title agreed to.

Representative Holbrook moved that the vote by which **HB 198,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 42 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBee moved that **HB 42** be passed.

On the roll call the vote was yeas 67-Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ford, Foster, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Kenton, Kidd, Layman, LeMaster, Lile, Little, Lundergan, Maggard, Mann, McBee, Meyer, Morris, Nett, Noland, O'Brien, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Schmidt, Seum, B. Smith, Stone, Stumbo, Thomas, Tobin, White, Yates. Nays 25-Allen, Arnold, Barrows, Blevins, Ellington, Endicott, Farrow, Freibert, Fryman, Hancock, T. Jones, List, Long, Moberly, Moore, Noe, Patrick, Pearman, Riner, F. Smith, Thomason, Todd, Turner, Van Horn, Worthington.

HB 42 was passed and the title agreed to.

Representative McBee moved that the vote by which **HB 42** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 45 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 45** be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 45 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 45** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 258 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 258** be passed.

On the roll call the vote was yeas 86-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Gray, Haering, Hancock, Handy, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 258 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 258** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

Representative Van Horn moved that the rules be suspended to report and act upon a Resolution. Agreed.

Representative Van Horn moved the adoption of the following **HR 29:**

HR 29, A RESOLUTION honoring the Marmota monax and expressing the desire of the General Assembly for a favorable meteorological prognostication.

WHEREAS, February 2 is recognized throughout North America as groundhog day; and

WHEREAS, this humble animal has, since time immemorial, prognosticated climatic changes for mankind; and

WHEREAS,nowhere in the annals of recorded history have such prognostications been proven inaccurate, erroneous or false; and

WHEREAS, the minds and hearts of men eagerly await the result of this annual shadow boxing, and never more than this year would all so eagerly awaiting hope for his favorable prediction;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the House adjourn this day, Tuesday, February 2, 1982, in honor of the humble woodchuck with the hope for his favorable prediction of an early spring.

HR 29 was adopted and by voice vote.

Representative Van Horn moved that the vote by which **HR 29** was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that the rules be suspended to report and act upon a Resolution. Agreed.

Representative LeMaster moved that **HR 20** be taken from the Clerk's desk. Agreed.

Representative Bendl moved the adoption of the following **HR 20:**

HR 20, A RESOLUTION adjourning the House of Representatives in honor and memory of Arthur S. Kling.

WHEREAS, Arthur Kling, a great humanitarian, passed away on Wednesday, October 7, 1981, at the distinguished age of 85; and

WHEREAS, in a society obsessed with the pursuit of perpetual youth, Arthur Kling's dynamism affirmed the notion that the elderly are vital members of the community; and

WHEREAS, Arthur Kling was instrumental in the founding of the Kentucky Association for Older Persons and the Kentucky Combined Committee on Aging, thus improving the quality of life of countless Kentuckians; and

WHEREAS, Arthur Kling's tenacity and thorough knowledge of human service programs made him the first effective legislative advocate in the Commonwealth for his peer group; and

WHEREAS, Arthur Kling combined a philosophy of intellectual humanism with a strong sense of justice; and

WHEREAS, at a time in which many programs established for the benefit of senior citizens are in jeopardy, the eloquent voice of Arthur Kling will be sorely missed;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body expresses its sense of bereavement upon the loss of Arthur Kling and extends its condolences to his family.

Section 2. That when the House of Representatives adjourns this day, Tuesday, February 2, 1982, it does so in honor and memory of Arthur Kling.

Section 3. That the Clerk of the House of Representatives be directed to transmit a copy of this resolution to the family of Arthur S. Kling.

HR 20 was adopted by voice vote.

Representative Gray announced that members wishing to co-sponsor **HB 315** have permission to do so.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Bennett, **HB 298;** Representative Blandford, **HB 315;** Representative Boswell, **HB 155,**

HB 298; Representative Brown, **HB 298**; Representative Burch, **HB 298**; Representative Clapp, **HB 298**; Representative Clark, **HB 88, HB 376**; Representative Cyrus, **HB 125, HB 298**; Representative Dunn, **HB 298, HB 106**; Representative Freibert, **HB 333**; Representative Guenthner, **HB 275, HB 298**; Representative Holloway, **HB 298**; Representative Kenton, **HB 206**; Representative Pearman, **HB 298**; Representative Perkins, **HB 298**; Representative Petty, **HB 298**; Representative Priddy, **HB 376**; Representative Rattliff, **HB 88**; Representative B. Smith, **HB 260**; Representative Thomason, **HB 35**; Representative Worthington, **HB 298.**

Representative Cyrus requested that his name be withdrawn as co-sponsor of **HB 106.**

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 397, by Representative Worthington: AN ACT relating to motor vehicle dealers and manufacturers.

HB 398, by Representatives Foster, Fryman, Maggard, Ellington, Harper, Hancock, and Ford: AN ACT relating to mineral interests.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 353, HB 330, HB 331.**

State Government: **HR 14, HB 177, HB 200, HB 285, HB 345, HB 354, HB 355, HJR 19.**

Education: **HB 356, HB 361, HB 372, HB 373, HB 374.**

Report of Committees

The Committee on Health and Welfare reported **HB 106,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 106, AN ACT relating to long term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Long term care facilities" means those health care facilities in the Commonwealth which are defined by the Kentucky health facilities and health services certificate of need and licensure board to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Department" means the department for human resources.

(3) "Resident" means any person admitted to a long term care facility as defined by this Act.

(4) "Licensee" in the case of a licensee who is an individual means the individual, and in the case of a licensee who is a corporation, partnership, or association means the corporation, partnership, or association.

(5) "Secretary" means the secretary of the department for human resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

In order to satisfy the requirements for licensure, a long term care facility shall establish daily visiting hours which, at a minimum, shall consist of six (6) hours between 8 a.m. and 5 p.m. and two (2) hours between 5 p.m. and 8 p.m.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) A long term care facility shall assure that during the visiting hours established in accordance with Section 1 of this Act, access to the facility is permitted for:

(a) Family members, guardians, and friends of an individual resident, as well as other persons who wish to visit one (1) or more residents and whose purpose is other than the unsolicited sale of a product or service;

(b) Individuals representing community organizations or service agencies who will provide, free of charge, a service or educational program to residents;

(c) An employe or representative of any private nonprofit corporation or association that qualifies for tax-exempt status under Section 501(a) of the Internal Revenue Code of 1954, 26 U.S.C.A. 1, as amended, whose purposes include counseling residents in resolving problems and complaints concerning their care and treatment, and assisting the residents in securing adequate services to meet their needs.

(2) Persons assured access to a long term care facility pursuant to this section shall have the right to enter the facility without prior notice, meet with one (1) or more residents, and observe the operation of the facility as it affects the resident. Such authority shall not include the right to examine the financial records of the facility without the consent of the administrator, nor the clinical and financial records of any resident without the prior consent of the resident or the resident's guardian or committee.

(3) Persons assured access to a long term care facility pursuant to this section shall:

(a) Upon entering such facility, promptly advise the administrator or his designated representative of their presence;

(b) Not enter the living area of any resident without identifying themselves to the resident.

(4) Individual residents shall have the right to terminate or deny any visit to them by persons assured access to the facility pursuant to this section.

(5) Nothing in this section shall be construed to limit access to a long term care facility by any representative of the department or by any representative or employe of any local government entity that has a responsibility regarding residents of long term care facilities or by the legal guardian of any individual resident.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Every long term care facility shall post in a conspicuous place, accessible to residents, employes and visitors the following:

(a) A copy of the long term care facility's current license;

(b) The name, address, and current telephone number of the current long term care ombudsman in the department;

(c) A copy of the statement required by subsection (1) of Section 5 of this Act;

(d) A list of the material available for public inspection required by Section 6 of this Act; and

(e) The current rating assigned to the facility by the department.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The department shall prepare a statement of the requirements of Sections 2 and 3 of this Act which shall become part of the public notice required to be posted in each facility in accordance with Section 4 of this Act.

(2) All long term care facilities shall provide every resident, upon admission, with a personal copy of the statement required in subsection (1) of this section. In the case of current residents, a statement shall be provided within ninety (90) days after the effective date of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

All long term care facilities shall retain the following for public inspection in the office of the administrator and in the lobby of the facility:

(1) A complete copy of every inspection report of the facility received from the department during the past five (5) years, including the most recent inspection report;

(2) (a) A description of the services currently provided by the facility;

(b) A listing of the rates currently charged for services provided by the facility; and

(c) A listing together with the charges for the services and items not included in the basic rate for which residents may be charged separately;

(3) A copy of every court order issued pertaining to the quality of care or services provided in the facility.

SECTION 7. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The department shall develop and implement a system for rating the quality of care provided by all long term care facilities and shall promulgate rules and regulations establishing uniform criteria for the evaluation of long term care facilities based on their compliance with licensure and statutory requirements in at least the following areas as relates to the particular level of care:

(a) Administration;
(b) Nursing service;
(c) Dietary and nutritional services;
(d) Life safety code;
(e) Physical environment;
(f) Physical and restorative therapy;
(g) Social services and activities;
(h) Drugs and biologicals;
(i) Medical services;
(j) Patient rights; and
(k) Record keeping.

(2) The department shall categorize areas listed in subsection (1) of this section into two (2) levels. Areas designated by the department as "level A" shall be those areas which are essential to maintaining the health, safety, or security of patients. Areas designated by the department as "level B" shall be those areas which are less directly related to the health, safety, or security of residents but which are important to the overall quality of care and services provided by long term care facilities. In promulgating regulations pursuant to the provisions of this section, the department may divide the areas listed in subsection (1) of this section into subareas for the purpose of appropriate categorization according to levels A and B.

(3) The department shall, on an annual basis, evaluate all long term care facilities in the Commonwealth and make a determination as to the degree of compliance by each facility with minimum standards under this section and the regulations promulgated thereunder as a basis for assigning a rating to each facility. The department shall base its evaluation on the most recent annual licensure inspection report, taking into consideration findings from other official reports, surveys, interviews, investigations, and inspections.

(4) In order to achieve a superior rating, a long term care facility shall exceed minimum standards in a majority of all levels designated in subsection (1) of this section and shall comply with the minimum standards for the remaining levels. Within a period of time specified by the department, any deficient level A or B area may be corrected by a long term care facility in order to qualify for a superior rating. A facility receiving a superior rating shall have the words "superior facility" marked in block letters not less than one (1) inch in height on its license. A facility which meets, but does not exceed, minimum standards shall receive an unrated license. A facility which is not in compliance with minimum standards shall receive a conditional rating and shall have the words "conditional rating" marked in block letters not less than one (1) inch in height on its license. Such facilities shall be rated as "conditional" from the time of the rating inspection until such time as the department finds the facility in compliance with minimum standards. Facilities receiving a conditional rating shall prepare, within ten (10) working days of the assignment of a rating, a plan for correction of all deficiencies and shall submit the plan to the department for approval. Correction of all deficiencies, within the period approved by the department, shall result in the termination of the conditional rating. Any deficiency that is classified as a type A or B violation shall result in the imposition of sanctions pursuant to Section 9 of this Act.

(5) In making its determination as to the degree of compliance with the areas specified by subsection (1) of this section and the overall quality of care and services in a long term care facility, the department shall consider the results of interviews and surveys of a representative sampling of residents, families of residents, ombudsman committee members in the district in which the facility is located, guardians of residents, and staff of the long term care facility.

(6) If at any time during the rating year the department finds a facility out of compliance with minimum standards under this section, the department may alter a facility's rating pursuant to subsection (4) of this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

All long term care facilities shall have the right to appeal the assignment of a particular rating to the department as provided in Section 14 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

If upon inspection or investigation the department determines that a long term care facility has violated the regulations, standards, and requirements as set forth by the department pursuant to Section 7 of this Act or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long term care facility under Title 18 or 19 of the Social Security Act and such *violation has been classified in Section 10 of this Act, the department shall immediately issue a citation to the licensee of the long term care facility. Each notice of violation shall be prepared in writing and shall specify the nature of the violation, and the statutory provision or regulation alleged to have been violated.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Citations issued pursuant to this Act shall be classified according to the nature of the violation as follows:

(1) Type "A" violation means a violation by a long term care facility of the regulation, standards, and requirements as set forth by the department pursuant to Sections 7 and 12 of this Act, or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long term care facility under Title 18 or 19 of the Social Security Act, which presents an imminent danger to any resident of a long term care facility or a risk that death or serious mental or physical harm to a resident will occur. A type A violation shall be abated or eliminated immediately, unless a fixed period of time not to exceed ten (10) days, as determined by the department, is required for correction. A type A violation is subject to a civil penalty in an amount not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each and every violation.

(2) Type "B" violation means a violation by a long term care facility of the regulations, standards and requirements as set forth by the department pursuant to Sections 7 and 12 of this Act, or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long term care facility under Title 18 or 19 of the Social Security Act, which presents a direct or immediate relationship to the health, safety or security of any resident, but which does not create an imminent danger. A type B violation is subject to a civil penalty in an amount not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each and every violation. A citation for a type B violation shall specify the time within which the violation is required to be corrected as approved or determined by the department. If a type B violation is corrected within the time specified, no civil penalty shall be imposed.

SECTION 11. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) Where a licensee has failed to correct a type A violation within the time specified for correction by the department, the department shall assess the licensee a civil penalty in the amount of five hundred dollars ($500) for each day that such deficiency continues beyond the date specified for correction.

(2) Where a licensee has failed to correct a type B violation within the time specified for correction by the department, the department shall assess the licensee a civil penalty in the amount of two hundred dollars ($200) for each day that such deficiency continues beyond the date specified for correction.

(3) The civil penalties authorized by this Act shall be trebled when a licensee has received a citation for violating a statute or regulation which it has received a citation for during the previous twelve (12) months.

(4) Payment of penalties shall not be made from monies used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.

(5) KRS 216.990 shall not apply to the offenses defined herein.

(6) All administrative fines collected by the department pursuant to this Act shall be deposited in a revolving account, which is hereby created, and shall be used for the administration of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The department shall, upon consultation with industry, professional and consumer groups affected by this Act, publish proposed regulations setting forth the criteria and, where feasible, the specific acts that constitute type A and B violations as specified by this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

In determining the amount of the initial penalty to be imposed under this Act, the department shall consider at least the following factors:

(1) The gravity of the violation, including the probability that death or serious physical or mental harm to a resident will result or has resulted; the severity of the actual or potential harm, and the extent to which the provisions of the applicable statutes or regulations were violated;

(2) The reasonable diligence exercised by the licensee and efforts to correct violations;

(3) The number and type of previous violations committed by the licensee; and

(4) The amount of assessment necessary to insure immediate and continued compliance.

SECTION 14. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The manner in which appeals are presented from any decision on ratings, citations or penalties pursuant to this Act shall be in accordance with regulations prescribed by the secretary for determining the rights of the parties, such hearings to be conducted in a summary manner. A complete record shall be kept of all proceedings in connection with any appeal.

(2) The secretary shall appoint one (1) or more impartial hearing officers to hear and decide upon appealed decisions. The decision of the hearing officer shall be the final decision of the department. No hearing officer shall participate in any hearing in which he is an interested party.

SECTION 15. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) Within twenty (20) days after the date of the decision of the hearing officer, any party aggrieved thereby may secure judicial review thereof by filing a complaint against the department in the Franklin circuit court. The complaint shall state fully the grounds upon which review is sought, assign all errors relied on, and shall be verified by the plaintiff or his attorney.

(2) Summons shall issue upon the complaint directing the department to file an answer within twenty (20) days after service thereof. Such summons will be served upon such person as the department shall designate. The department may be represented by any qualified attorney designated by it for that purpose or, at the request of the secretary, by the attorney general. With its answer, the department shall certify and file as an exhibit with the court all documents and papers, and a transcript of all testimony taken in the matter, and orders made therein, together with the findings of fact and conclusions of law made by the hearing officer. If consented to by the plaintiff, an abstract of any portion of the record may be certified by the department in place of certifying such portion of the record in full. The department may certify to the court questions of law involved in any decisions by it.

(3) Such actions, and the questions so certified, shall be heard by the court in a summary manner upon the record certified by the department. The court on its own motion or on the motion of an interested party shall assign a date certain for the review. The clerk of the court shall notify the attorneys of record, the date assigned for the review at least ten (10) days in advance thereof. The court shall enter judgment, affirming, modifying, or setting aside the order and the decision appealed from or determining the question of law certified to it by the department, and may in advance of judgment, remand the case to the department for further proceedings in accordance with the direction of the court.

(4) An appeal may be taken from the decision of the circuit court to the Court of Appeals, in the same manner, but not inconsistent with the provisions of this chapter, as is provided in equity cases.

(5) An appeal of a decision on ratings, citations, or penalties shall stay the enforcement of any penalty by the department against the licensee until such time as a final decision of the department. A petition for judicial review of the department's final decision shall act as a stay of enforcement of any penalty by the department. Upon final determination of such judicial proceeding, the department shall enter an order in accordance with such determination.

(6) Upon the failure of a party aggrieved by a decision of the hearing officer to secure judicial review in accordance with subsection (1) of this section, the department shall have authority to file an action to enforce the decision of the hearing officer in the Franklin circuit court.

SECTION 16. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The department may institute injunctive proceedings in circuit court to enforce the provisions of this Act or to terminate the operation of a long term care facility where any of the following exists:

(1) Failure of the licensee to take appropriate action to correct a Type A or B violation; or

(2) Failure of the licensee to abide by any final order of the department once it has become effective and binding.

Such injunctive relief may include temporary and permanent injunction.

SECTION 17. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Any employe of the department who gives or causes to be given any advance notice to any long term care facility, directly or indirectly, that an inspection or investigation is under consideration or is impending, unless specifically mandated by federal or state regulations to give advance notice, may be subject to dismissal, suspension or demotion.

SECTION 18. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Upon a finding that conditions in a long term care facility constitute a Type A violation, and the licensee fails to correct the violation within the time specified for correction by the department, the secretary shall take at least one (1) of the following actions with respect to the facility in addition to the issuance of a citation, or the assessment of a civil penalty therefor:

(1) Institute proceedings to obtain an order compelling compliance with the regulations, standards, or requirements as set forth by the Kentucky health facilities and health services certificate of need and licensure board, the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long term care facility under Title 18 or 19 of the Social Security Act;

(2) Institute injunctive proceedings in circuit court to terminate the operation of the facility;

(3) Selectively transfer residents whose care needs are not being adequately met by the long term care facility; or

(4) Initiate an action to place the long term care facility in receivership as provided in Section 20 of this Act.

SECTION 19. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) Upon the request of a resident or the resident's legal guardian, or upon his own initiative, the secretary may file an application in Franklin circuit court to appoint a receiver for a long term care facility. Such application shall state the conditions in the facility that constitute the grounds for appointment of a receiver pursuant to Section 20 of this Act. The court shall hold a hearing not later than ten (10) days after the date the application is filed. Notice of such hearing shall be served upon the owner of such facility not less than five (5) days prior to such hearing. Such notice shall be posted by the court in a conspicuous place inside the facility for not less than three (3) days prior to such hearing.

(2) Notwithstanding the provisions of subsection (1) of this section, the court may appoint a receiver upon an ex parte motion when affidavits, testimony or any other evidence presented indicates that there is a reasonable likelihood an emergency exists in such facility which must be remedied immediately to insure the health, safety and welfare of the residents of such facility. Notice of the application and order shall be served on the owner of the facility and shall be posted in a conspicuous place inside the facility not later than twenty-four (24) hours after issuance of such order. A hearing on the application shall be held not later than five (5) days after the issuance of such order unless the owner of the facility consents to a later date.

SECTION 20. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Following a hearing at which interested parties may present evidence, the court may grant an application for the appointment of a receiver for a long term care facility upon a finding that suitable alternatives are not available and of any of the following:

(1) Such facility intends to close and adequate arrangements for relocation of its residents have not been made at least thirty (30) days prior to closing;

(2) There exists in such facility a condition in substantial violation of the regulations, standards, and requirements as set forth by the department pursuant to Sections 7 and 12 of this Act, or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long term care facility under Title 18 or 19 of the Social Security Act;

(3) There exists in such facility a practice of habitual violation of the standards established by the statutes and regulations designated in subsection (2) of this section which presents a reasonable likelihood of serious physical or mental harm to residents of such facility;

(4) Such facility is operating without a license as required pursuant to KRS 216B.105 or such facility's license has been suspended or revoked by the Kentucky health facilities and health services certificate of need and licensure board.

SECTION 21. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) A receiver appointed pursuant to Section 21 of this Act shall have the same powers as a receiver as set forth in KRS 425.600, except as provided in this section. The receiver shall exercise the powers to remedy the conditions which constituted the grounds for the imposition of receivership, assure adequate health care for the residents, and preserve the assets and property of the owner. These powers include, but are not limited to, the authority to utilize private and third party reimbursements, including that received from the Medicare and Medicaid programs.

(2) The receiver shall have full power to direct and manage and to discharge employes of the facility, subject to any contract rights they may have. The receiver shall pay employes at a rate of compensation, including benefits, approved by the court. Receivership does not relieve the owner of any obligation to employes made prior to the appointment of a receiver and not carried out by the receiver.

(3) If a facility is placed in receivership it shall be the duty of the receiver to notify the residents, unless medically contraindicated, and their families or legal guardian of the receivership. Such receiver may correct or eliminate any deficiency in the structure or furnishings of the facility which endangers the health or safety of the residents while they remain in the facility, provided the total cost of correction does not exceed three thousand dollars ($3,000). The court may order expenditures for this purpose in excess of three thousand dollars ($3,000) on application from such receiver.

(4) If any resident is transferred or discharged such receiver shall provide for:

(a) Transportation of the resident and such resident's possessions and medical records to the place where such resident is being transferred or discharged;

(b) Assistance in locating an alternative placement and discharge planning;

(c) Preparation for transfer to alleviate transfer trauma, including but not limited to, participation by the resident or the resident's legal guardian in the selection of the resident's alternative placement, explanation of alternative placements and orientation concerning the placement chosen by the resident or the resident's legal guardian; and

(d) Custodial care of all property or assets of residents which are in the possession of the facility. The receiver shall preserve all property, assets, and records of residents which the receiver has custody of and shall provide for the prompt transfer of the property, assets, and records to the alternative placement for any transferred resident.

(5) In no event may the receiver transfer all residents and close a facility without a court order and without preparing a discharge plan for each resident.

SECTION 22. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) A receiver may not be required to honor any lease, mortgage, secured transaction or other contract entered into by the owner of the facility if, upon application to the circuit court, said court determines that;

(a) The person seeking payment under the agreement was an owner or controlling stockholder of the facility or was an affiliate of such owner or controlling stockholder at the time the agreement was made;

(b) The rental, price, or rate of interest required to be paid under the agreement was substantially in excess of a reasonable rental, price, or rate of interest at the time the contract was entered into; or

(c) The services or goods provided by contract were in fact, not provided, or resulted in noncompliance with applicable state or federal laws and regulations.

(2) If the receiver is in possession of real estate or goods subject to a lease, mortgage or security interest which the receiver is permitted to avoid under subsection (1) of this section, and if the real estate or goods are necessary for the continued operation of the facility under this Act, the receiver may apply to the court to set a reasonable rental, price, or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing not later than fifteen (15) days after application is made. Any known owners of the property involved shall receive notice of such application from the receiver at least ten (10) days prior to the hearing. Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or for possession of the goods or real estate subject to the lease, security interest or mortgage involved by any person who received such notice, but the payment does not relieve the owner of the facility of any liability for the difference between the amount paid by the receiver and the amount due under such lease, security interest or mortgage involved.

(3) The provisions of this section shall not apply to a lease, mortgage, secured transaction or other contract entered into with any financial institution regulated by a state or federal agency.

SECTION 23. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) Together with the petition for receivership, the secretary shall submit to the court a list of individuals who meet the qualifications for those who serve as receivers for long term care facilities as set forth in regulations established by the secretary. The court may name any individual to act as a receiver whose name appears upon that list with the exception of the owner, administrator or other person or agent with a financial interest in the long term care facility subject to the receivership. Neither the secretary nor any employe of the department shall be named a receiver at any time.

(2) The receiver may not be liable for any injury to person or property by reason of the condition of the long term care facility. He shall only be liable for acts or omissions constituting negligence in the fulfillment of his duties as a receiver.

(3) Before taking control of the long term care facility, the receiver shall file a bond in the court in which the receiver was appointed. The penalty of the bond may not be greater than the aggregate value of the facility and its assets. The receiver shall be entitled to pay and be allowed the cost of the premium of the bond out of the income of the facility, unless the court directs otherwise.

(4) The receiver shall report to the court in the form and manner required by the court.

(5) A receiver appointed pursuant to this Act shall be entitled to a reasonable receiver's fee as determined by the court, payable out of the income of the facility.

SECTION 24. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The owner of a long term care facility, the receiver of such facility, or the secretary may petition the court to terminate the receivership. The court may terminate the receivership if it finds after a hearing at which interested parties may present evidence that the facility has been rehabilitated so that the violation complained of no longer exists, or if the receivership was instituted pursuant to subsection (1) of Section 20 of this Act, the orderly transfer of the residents has been completed and the facility is ready to be closed.

(2) The sale of the long term care facility or any of its assets may not terminate the receivership.

(3) Unless terminated sooner, a receivership shall automatically terminate upon the expiration of one (1) year after the date of the court order instituting it. The court may extend the receivership for up to one (1) additional year if the secretary requests an extension and the court finds after a hearing at which interested parties may present evidence that the grounds for appointment of a receiver as set forth in Section 20 of this Act still exist.

(4) The secretary may petition the court for the appointment of a new receiver if the death, disability, or adverse interest of the receiver can be shown, or if there is lack of reasonable progress in accomplishing the purpose of the receivership.

SECTION 25. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

There is hereby created a long term care coordinating council within the department for administrative purposes only.

SECTION 26. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The long term care coordinating council shall be composed of the following members from within the department: the commissioner of the bureau for health services; the commissioner of the bureau for social services; the commissioner of the bureau for social insurance; the inspector general; the director of the division for licensing and regulation; the director of the division for aging services; the director of the medical assistance program; and the long term care ombudsman.

SECTION 27. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The long term care coordinating council shall have a chairman, appointed by the secretary, and shall meet at least quarterly and at such times as the council deems necessary.

SECTION 28. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The long term care coordinating council shall have the following duties:

(1) To develop a state-wide plan for the provision of long term care and supervise the implementation of such plan;

(2) To coordinate the activities of the department with respect to long term care;

(3) To render final decisions on unresolved conflicts related to long term care within the department;

(4) To prepare an annual report on long term care to the General Assembly and to the Governor containing the following:

(a) The status of implementation of the state long term care plan;

(b) An appraisal of the problems of residents of long term care facilities;

(c) An overview of the activities of the council; and

(d) Recommendations for improving the quality and delivery of long term care services in the Commonwealth.

Section 29. KRS 216.515 is amended to read as follows:

Every resident in a long-term care facility shall have at least the following rights:

(1) Before admission to a long-term care facility, the resident and his responsible family member or his guardian or his committee shall be fully informed in writing as evidenced by the resident's written acknowledgment and that of his responsible family member or his guardian or his committee of all services available at the long-term care facility. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(2) Before admission to a long-term care facility, the resident and his responsible family member or his guardian or his committee shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of his responsible family member or his guardian or his committee of all resident's responsibilities and rights as defined in KRS 216.515 to 216.530. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(3) The resident and his responsible family member or his guardian or his committee shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of his responsible family member, or his guardian or his committee prior to or at the time of admission and quarterly during the resident's stay at the facility of all service charges for which the resident and his responsible family member or his guardian or his committee are responsible for paying. The resident and his responsible family member or his guardian or his committee shall have the right to file complaints concerning charges which they deem unjustified to appropriate local and state consumer protection agencies. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for nonpayment, except where prohibited by law or regulation. Reasonable notice of such action shall be given to the resident and his responsible family member or his guardian or his committee.

(5) All residents shall be encouraged and assisted throughout their periods of stay in long-term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination or reprisal.

(6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies or except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in the resident's medical record.

(7) All residents shall have confidential treatment of their medical and personal records. Each resident and his responsible family member or his guardian or his committee shall approve or refuse the release of such records to any individuals outside the facility, except as otherwise specified by statute or regulation.

(8) Each resident may manage the use of his personal funds. If the facility accepts the responsibility for managing the resident's personal funds as evidenced by the facility's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include each facility giving quarterly itemized statements to the resident and his responsible family member or his guardian or his committee which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The facility shall return to the resident his valuables, personal possessions and any unused balance of monies from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged the resident's valuables, personal possessions and funds that the facility is not liable for shall be promptly returned to the resident's responsible family member, or his guardian, or his committee, or his executor.

(9) If a resident is married, privacy shall be assured for spouse's visits and if they are both residents in the facility, they may share the same room unless they are in different levels of care or unless medically contraindicated and documented by a physician in the resident's medical record.

(10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.

(11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened.

(12) Residents may retain the use of their personal clothing unless it would infringe upon the rights of others.

(13) No responsible resident shall be detained against his will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless a legitimate reason can be shown and documented for refusing such activity.

(14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(15) Residents shall be assured of at least visual privacy in multi-bed rooms and in tub, shower, and toilet rooms.

(16) The resident and his responsible family member or his guardian or his committee shall be permitted the choice of a physician.

(17) If the resident is adjudicated incompetent in accordance with state law, the resident's guardian or committee shall act on the resident's behalf in order that his rights be implemented.

(18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.

(19) Every resident and his responsible family member or his guardian or his committee has the right to be fully informed of the resident's medical condition unless medically contraindicated and documented by a physician in the resident's medical record.

(20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.

(21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.

(22) The resident's responsible family member or his guardian or his committee shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.

(23) Residents have the right to have private meetings with the appropriate long-term care facility inspectors from the department for human resources.

(24) Each resident and his responsible family member or his guardian or his committee has the right to have access to all inspection reports on the facility.

(25) The above-stated rights shall apply in all cases unless medically contraindicated and documented by a physician in writing in the resident's medical record.

(26) Any resident whose rights as specified in this section are deprived or infringed upon shall have a cause of action against any facility responsible for the violation. The action may be brought by the resident or his guardian. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any deprivation or infringement on the rights of a resident. Any plaintiff who prevails in such action against the facility may be entitled to recover reasonable attorney's fees, costs of the action and damages, unless the court finds the plaintiff has acted in bad faith, with malicious purpose, or that there was a complete absence of justifiable issue of either law or fact. Prevailing

defendants may be entitled to recover reasonable attorney's fees. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident and to the department.

SECTION 30. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 12.025 and 194.040(1) shall not apply to this Act.

Committee Substitute to **HB 106** is as follows:

HB 106, AN ACT relating to long term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Long term care facilities" means those health care facilities in the Commonwealth which are defined by the Kentucky health facilities and health services certificate of need and licensure board to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Department" means the department for human resources.

(3) "Resident" means any person admitted to a long term care facility as defined by this Act.

(4) "Licensee" in the case of a licensee who is an individual means the individual, and in the case of a licensee who is a corporation, partnership, or association means the corporation, partnership, or association.

(5) "Secretary" means the secretary of the department for human resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

In order to satisfy the requirements for licensure, a long term care facility shall establish daily visiting hours which, at a minimum, shall consist of six (6) hours between 8 a.m. and 5 p.m. and two (2) hours between 5 p.m. and 8 p.m.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) A long term care facility shall assure that during the visiting hours established in accordance with Section 2 of this Act, access to the facility is permitted for:

(a) Family members, guardians, and friends of an individual resident, as well as other persons who wish to visit one (1) or more residents and whose purpose is other than the unsolicited sale of a product or service;

(b) Individuals representing community organizations or service agencies who will provide, free of charge, a service or educational program to residents;

(c) An employe or representative of any private nonprofit corporation or association that qualifies for tax-exempt status under Section 501(a) of the Internal Revenue Code of 1954, 26 U.S.C.A. 1, as amended, whose purposes include counseling residents in resolving problems and complaints concerning their care and treatment, and assisting the residents in securing adequate services to meet their needs.

(2) Persons assured access to a long term care facility pursuant to this section shall have the right to enter the facility without prior notice, meet with one (1) or more residents, and observe the operation of the facility as it affects the resident. Such authority shall not include the right to examine the financial records of the facility without the consent of the administrator, nor the clinical and financial records of any resident without the prior consent of the resident or the resident's guardian or committee.

(3) Persons assured access to a long term care facility pursuant to this section shall:

(a) Upon entering such facility, promptly advise the administrator or his designated representative of their presence except that members of a resident's family, or the legal guardian of a resident need not advise the administrator or his designated representative of his presence upon entering the facility;

(b) Not enter the living area of any resident without identifying themselves to the resident.

(4) Individual residents shall have the right to terminate or deny any visit to them by persons assured access to the facility pursuant to this section.

(5) Any representative or employe of the department including the long term care ombudsman or the ombudsman's designee, any representative or employe of any local government entity that has a responsibility regarding residents of long term care facilities or the legal guardian of any individual resident shall

have unrestricted access to all long term care facilities; however, access as permitted pursuant to subsection (1)(b) and (c) of Section 3 of this Act shall be limited to the resident's dining area, living area, recreation area, lounges, and areas open to the general public.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Every long term care facility shall post in a conspicuous place, accessible to residents, employes and visitors the following:

(a) A copy of the long term care facility's current license;

(b) The name, address, and current telephone number of the current long term care ombudsman in the department;

(c) A copy of the statement required by subsection (1) of Section 5 of this Act;

(d) A list of the material available for public inspection required by Section 6 of this Act; and

(e) The current rating assigned to the facility by the department.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The department shall prepare a statement of the requirements of Sections 2 and 3 of this Act which shall become part of the public notice required to be posted in each facility in accordance with Section 4 of this Act.

(2) All long term care facilities shall provide every resident, upon admission, with a personal copy of the statement required in subsection (1) of this section. In the case of current residents, a statement shall be provided within ninety (90) days after the effective date of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

All long term care facilities shall retain the following for public inspection in the office of the administrator and in the lobby of the facility:

(1) A complete copy of every inspection report of the facility received from the department during the past three (3) years, including the most recent inspection report;

(2) (a) A description of the services currently provided by the facility;

(b) A listing of the rates currently charged for services provided by the facility; and

(c) A listing together with the charges for the services and items not included in the basic rate for which residents may be charged separately;

(3) A copy of every court order issued pertaining to the quality of care or services provided in the facility.

(4) Nothing in this section shall be construed to limit access to public records otherwise allowed pursuant to the provisions of KRS 61.872 to 61.884.

SECTION 7. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The department shall develop and implement a system for rating the quality of care provided by all long term care facilities and, within six (6) months of the effective date of this Act, shall promulgate rules and regulations establishing uniform criteria for the evaluation of long term care facilities based on their compliance with licensure and statutory requirements in at least the following areas as relates to the particular level of care:

(a) Administration;
(b) Nursing service;
(c) Dietary and nutritional services;
(d) Life safety code;
(e) Physical environment;
(f) Physical and restorative therapy;
(g) Social services and activities;
(h) Drugs and biologicals;
(i) Medical services;
(j) Patient rights; and
(k) Record keeping.

Such regulations shall take into consideration the differences between types of long term care facilities defined in Section 1 of this Act. No rating shall be assigned until such regulations are effective pursuant to KRS Chapter 13.

(2) The department shall categorize areas listed in subsection (1) of this section into two (2) levels. Areas designated by the department as "level I" shall be those areas which are essential to maintaining the health, safety, or security of patients. Areas designated by the department as "level II" shall be those areas which are less directly related to the health, safety, or security of residents but which are important to the overall quality of care and services provided by long term care facilities. In promulgating regulations

pursuant to the provisions of this section, the department may divide the areas listed in subsection (1) of this section into subareas for the purpose of appropriate categorization according to levels I and II.

(3) The department shall, at the time of the annual licensure inspection, evaluate all long term care facilities in the Commonwealth and make a determination as to the degree of compliance by each facility with minimum standards under this section and the regulations promulgated thereunder as a basis for assigning a rating to each facility. The department shall base its evaluation on the most recent annual licensure inspection report, taking into consideration findings from other official reports, surveys, interviews, investigations, and inspections.

(4) In order to achieve a superior rating, a long term care facility shall exceed minimum standards in a majority of all levels designated in subsection (1) of this section and shall comply with the minimum standards for the remaining levels. Within a period of time specified by the department, any deficient level A or B area may be corrected by a long term care facility in order to qualify for a superior rating. A facility receiving a superior rating shall have the words "superior facility" marked in block letters not less than one (1) inch in height on its license. A facility which meets, but does not exceed, minimum standards shall receive an unrated license. A facility which is not in compliance with minimum standards shall receive a conditional rating and shall have the words "conditional rating" marked in block letters not less than one (1) inch in height on its license. Such facilities shall be rated as "conditional" from the time of the rating inspection until such time as the department finds the facility in compliance with minimum standards. Facilities receiving a conditional rating shall prepare, within ten (10) working days of the assignment of a rating, a plan for correction of all deficiencies and shall submit the plan to the department for approval. Correction of all deficiencies, within the period approved by the department, shall result in the termination of the conditional rating. Any deficiency that is classified as a type A or B violation shall result in the imposition of sanctions pursuant to Section 9 of this Act.

(5) In making its determination as to the degree of compliance with the areas specified by subsection (1) of this section and the overall quality of care and services in a long term care facility, the department shall consider the results of interviews and surveys of a representative sampling of residents, families of residents, ombudsman committee members in the district in which the facility is located, guardians of residents, and staff of the long term care facility.

(6) If at any time during the rating year the department finds a facility out of compliance with minimum standards under this section, the department may alter a facility's rating pursuant to subsection (4) of this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

All long term care facilities shall have the right to appeal the assignment of a particular rating to the department within twenty (20) days after final notice of its assignment pursuant to Section 14 of this Act. If the assignment of a rating is appealed to the department, no rating shall be posted in the facility until such time as a final decision of the department.

SECTION 9. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

If upon inspection or investigation the department determines that a long term care facility has violated the regulations, standards, and requirements as set forth by the department pursuant to Section 7 of this Act or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long term care facility under Title 18 or 19 of the Social Security Act and such violation has been classified in Section 10 of this Act, the department shall immediately issue a citation to the licensee of the long term care facility. Each notice of violation shall be prepared in writing and shall specify the nature of the violation, and the statutory provision or regulation alleged to have been violated.

SECTION 10. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Citations issued pursuant to this Act shall be classified according to the nature of the violation as follows:

(1) Type "A" violation means a violation by a long term care facility of the regulation, standards, and requirements as set forth by the department pursuant to Sections 7 and 12 of this Act, or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long term care facility under Title 18 or 19 of the Social Security Act, which presents an imminent danger to any resident of a long term care facility or a risk that death or serious mental or physical harm to a resident will occur. A type A violation shall be abated or eliminated immediately, unless a fixed period of time not to exceed ten (10) days, as determined by the department, is required for correction. A type A violation is subject to a civil penalty in an amount not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each and every violation.

(2) Type "B" violation means a violation by a long term care facility of the regulations, standards and requirements as set forth by the department pursuant to Sections 7 and 12 of this Act, or the provisions

of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long term care facility under Title 18 or 19 of the Social Security Act, which presents a direct or immediate relationship to the health, safety or security of any resident, but which does not create an imminent danger. A type B violation is subject to a civil penalty in an amount not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each and every violation. A citation for a type B violation shall specify the time within which the violation is required to be corrected as approved or determined by the department. If a type B violation is corrected within the time specified, no civil penalty shall be imposed.

SECTION 11. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) Where a licensee has failed to correct a type A violation within the time specified for correction by the department, the department shall assess the licensee a civil penalty in the amount of five hundred dollars ($500) for each day that such deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed ten (10) days, may be granted by the department upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents.

(2) Where a licensee has failed to correct a type B violation within the time specified for correction by the department, the department shall assess the licensee a civil penalty in the amount of two hundred dollars ($200) for each day that such deficiency continues beyond the date specified for correction.

(3) The civil penalties authorized by this Act shall be trebled when a licensee has received a citation for violating a statute or regulation which it has received a citation for during the previous twelve (12) months.

(4) Payment of penalties shall not be made from monies used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.

(5) KRS 216.990 shall not apply to the offenses defined herein.

(6) All administrative fines collected by the department pursuant to this Act shall be deposited in a trust and revolving fund, which is hereby created, and the balance of said fund shall lapse at the end of the fiscal year to the general fund.

SECTION 12. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The department shall, within six (6) months of the effective date of this Act, upon consultation with industry, professional and consumer groups affected by this Act, publish proposed regulations setting forth the criteria and, where feasible, the specific acts that constitute type A and B violations as specified by this Act. No violation or civil penalty for violations of this Act shall be assessed until such regulations are effective pursuant to KRS Chapter 13.

SECTION 13. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

In determining the amount of the initial penalty to be imposed under this Act, the department shall consider at least the following factors:

(1) The gravity of the violation, including the probability that death or serious physical or mental harm to a resident will result or has resulted; the severity of the actual or potential harm, and the extent to which the provisions of the applicable statutes or regulations were violated;

(2) The reasonable diligence exercised by the licensee and efforts to correct violations;

(3) The number and type of previous violations committed by the licensee; and

(4) The amount of assessment necessary to insure immediate and continued compliance.

SECTION 14. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The manner in which appeals are presented from any decision on ratings, citations or penalties pursuant to this Act shall be in accordance with regulations prescribed by the secretary for determining the rights of the parties. A complete record shall be kept of all proceedings in connection with any appeal.

(2) The secretary shall appoint one (1) or more impartial hearing officers to hear and decide upon appealed decisions. The decision of the hearing officer shall be the final decision of the department. No hearing officer shall participate in any hearing in which he is an interested party.

SECTION 15. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) Within twenty (20) days after the date of the decision of the hearing officer, any party aggrieved thereby may secure judicial review thereof by filing a complaint against the department in the Franklin circuit court. The complaint shall state fully the grounds upon which review is sought, and assign all errors relied on.

(2) Summons shall issue upon the complaint directing the department to file an answer within twenty (20) days after service thereof. Such summons will be served upon such person as the department shall designate. The department may be represented by any qualified attorney designated by it for that purpose or, at the request of the secretary, by the attorney general. With its answer, the department shall certify

and file as an exhibit with the court all documents and papers, and a transcript of all testimony taken in the matter, and orders made therein, together with the findings of fact and conclusions of law made by the hearing officer. If consented to by the plaintiff, an abstract of any portion of the record may be certified by the department in place of certifying such portion of the record in full. The department may certify to the court questions of law involved in any decisions by it.

(3) Such actions, and the questions so certified, shall be heard by the court in a summary manner upon the record certified by the department. The court on its own motion or on the motion of an interested party shall assign a date certain for the review. The clerk of the court shall notify the attorneys of record, the date assigned for the review at least ten (10) days in advance thereof. The court shall enter judgment, affirming, modifying, or setting aside the order and the decision appealed from or determining the question of law certified to it by the department, and may in advance of judgment, remand the case to the department for further proceedings in accordance with the direction of the court.

(4) An appeal may be taken from the decision of the circuit court to the Court of Appeals, in the same manner as in the Rules of Civil Procedure for original appeals from circuit court to the Court of Appeals.

(5) An appeal of a decision on ratings, citations, or penalties shall stay the enforcement of any penalty by the department against the licensee until such time as a final decision of the department. A petition for judicial review of the department's final decision shall act as a stay of enforcement of any penalty by the department. Upon final determination of such judicial proceeding, the department shall enter an order in accordance with such determination.

(6) Upon the failure of a party aggrieved by a decision of the hearing officer to secure judicial review in accordance with subsection (1) of this section, the department shall have authority to file an action to enforce the decision of the hearing officer in the Franklin circuit court.

SECTION 16. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The department may institute injunctive proceedings in circuit court to enforce the provisions of this Act or to terminate the operation of a long term care facility where any of the following exists:

(1) Failure of the licensee to take appropriate action to correct a Type A or B violation; or

(2) Failure of the licensee to abide by any final order of the department once it has become effective and binding.

Such injunctive relief may include temporary and permanent injunction.

SECTION 17. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Any employe of the department who gives or causes to be given any advance notice to any long term care facility, directly or indirectly, that an inspection or investigation is under consideration or is impending, unless specifically mandated by federal or state regulations to give advance notice, may be subject to dismissal, suspension or demotion.

SECTION 18. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Upon a finding that conditions in a long term care facility constitute a Type A violation, and the licensee fails to correct the violation within the time specified for correction by the department, the secretary shall take at least one (1) of the following actions with respect to the facility in addition to the issuance of a citation, or the assessment of a civil penalty therefor:

(1) Institute proceedings to obtain an order compelling compliance with the regulations, standards, or requirements as set forth by the Kentucky health facilities and health services certificate of need and licensure board, the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long term care facility under Title 18 or 19 of the Social Security Act;

(2) Institute injunctive proceedings in circuit court to terminate the operation of the facility;

(3) Selectively transfer residents whose care needs are not being adequately met by the long term care facility; or

(4) Initiate an action to place the long term care facility in receivership as provided in Section 20 of this Act.

SECTION 19. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) Upon the request of a resident or the resident's legal guardian, or upon his own initiative, the secretary may file an application in Franklin circuit court to appoint a receiver for a long term care facility. Such application shall state the conditions in the facility that constitute the grounds for appointment of a receiver pursuant to Section 20 of this Act. The court shall hold a hearing not later than ten (10) days after the date the application is filed. Notice of such hearing shall be served upon the owner of such facility not less than five (5) days prior to such hearing. Such notice shall be posted by the court in a conspicuous place inside the facility for not less than three (3) days prior to such hearing.

(2) Notwithstanding the provisions of subsection (1) of this section, the court may appoint a receiver upon an ex parte motion when affidavits, testimony or any other evidence presented indicates that there is a reasonable likelihood an emergency exists in such facility which must be remedied immediately to insure the health, safety and welfare of the residents of such facility. Notice of the application and order shall be served on the owner of the facility and shall be posted in a conspicuous place inside the facility not later than twenty-four (24) hours after issuance of such order. A hearing on the application shall be held not later than five (5) days after the issuance of such order unless the owner of the facility consents to a later date.

SECTION 20. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Following a hearing at which interested parties may present evidence, the court may grant an application for the appointment of a receiver for a long term care facility upon a finding that suitable alternatives are not available and of any of the following:

(1) Such facility intends to close and adequate arrangements for relocation of its residents have not been made at least thirty (30) days prior to closing;

(2) There exists in such facility a condition in substantial violation of the regulations, standards, and requirements as set forth by the department pursuant to Sections 7 and 12 of this Act, or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long term care facility under Title 18 or 19 of the Social Security Act;

(3) There exists in such facility a practice of habitual violation of the standards established by the statutes and regulations designated in subsection (2) of this section which presents a reasonable likelihood of serious physical or mental harm to residents of such facility;

(4) Such facility is operating without a license as required pursuant to KRS 216B.105 or such facility's license has been suspended or revoked by the Kentucky health facilities and health services certificate of need and licensure board.

SECTION 21. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) A receiver appointed pursuant to Section 21 of this Act shall have the same powers as a receiver as set forth in KRS 425.600, except as provided in this section. The receiver shall exercise the powers to remedy the conditions which constituted the grounds for the imposition of receivership, assure adequate health care for the residents, and preserve the assets and property of the owner. These powers include, but are not limited to, the authority to utilize private and third party reimbursements, including that received from the Medicare and Medicaid programs.

(2) The receiver shall have full power to direct and manage and to discharge employes of the facility, subject to any contract rights they may have. The receiver shall pay employes at a rate of compensation, including benefits, approved by the court. Receivership does not relieve the owner of any obligation to employes made prior to the appointment of a receiver and not carried out by the receiver.

(3) If a facility is placed in receivership it shall be the duty of the receiver to notify the residents, unless medically contraindicated, and their families or legal guardian of the receivership. Such receiver may correct or eliminate any deficiency in the structure or furnishings of the facility which endangers the health or safety of the residents while they remain in the facility, provided the total cost of correction does not exceed three thousand dollars ($3,000). The court may order expenditures for this purpose in excess of three thousand dollars ($3,000) on application from such receiver.

(4) If any resident is transferred or discharged such receiver shall provide for:

(a) Transportation of the resident and such resident's possessions and medical records to the place where such resident is being transferred or discharged;

(b) Assistance in locating an alternative placement and discharge planning;

(c) Preparation for transfer to alleviate transfer trauma, including but not limited to, participation by the resident or the resident's legal guardian in the selection of the resident's alternative placement, explanation of alternative placements and orientation concerning the placement chosen by the resident or the resident's legal guardian; and

(d) Custodial care of all property or assets of residents which are in the possession of the facility. The receiver shall preserve all property, assets, and records of residents which the receiver has custody of and shall provide for the prompt transfer of the property, assets, and records to the alternative placement for any transferred resident.

(5) In no event may the receiver transfer all residents and close a facility without a court order and without preparing a discharge plan for each resident.

SECTION 22. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) A receiver may not be required to honor any lease, mortgage, secured transaction or other contract entered into by the owner of the facility if, upon application to the circuit court, said court determines that;

(a) The person seeking payment under the agreement was an owner or controlling stockholder of the facility or was an affiliate of such owner or controlling stockholder at the time the agreement was made;

(b) The rental, price, or rate of interest required to be paid under the agreement was substantially in excess of a reasonable rental, price, or rate of interest at the time the contract was entered into; or

(c) The services or goods provided by contract were in fact, not provided, or were not in compliance with applicable state or federal laws and regulations.

(2) If the receiver is in possession of real estate or goods subject to a lease, mortgage or security interest which the receiver is permitted to avoid under subsection (1) of this section, and if the real estate or goods are necessary for the continued operation of the facility under this Act, the receiver may apply to the court to set a reasonable rental, price, or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing not later than fifteen (15) days after application is made. Any known owners of the property involved shall receive notice of such application from the receiver at least ten (10) days prior to the hearing. Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or for possession of the goods or real estate subject to the lease, security interest or mortgage involved by any person who received such notice, but the payment does not relieve the owner of the facility of any liability for the difference between the amount paid by the receiver and the amount due under such lease, security interest or mortgage involved.

SECTION 23. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) Together with the petition for receivership, the secretary shall submit to the court a list of individuals who meet the qualifications for those who serve as receivers for long term care facilities as set forth in regulations established by the secretary. The court may name any individual to act as a receiver whose name appears upon that list with the exception of the owner, administrator or other person or agent with a financial interest in the long term care facility subject to the receivership. Neither the secretary nor any employe of the department shall be named a receiver at any time.

(2) The receiver may not be liable for any injury to person or property by reason of the condition of the long term care facility. He shall only be liable for acts or omissions constituting negligence in the fulfillment of his duties as a receiver.

(3) Before taking control of the long term care facility, the receiver shall file a bond in the court in which the receiver was appointed. The penalty of the bond may not be greater than the aggregate value of the facility and its assets. The receiver shall be entitled to pay and be allowed the cost of the premium of the bond out of the income of the facility, unless the court directs otherwise.

(4) The receiver shall report to the court in the form and manner required by the court.

(5) A receiver appointed pursuant to this Act shall be entitled to a reasonable receiver's fee as determined by the court, payable out of the income of the facility.

SECTION 24. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The owner of a long term care facility, the receiver of such facility, or the secretary may petition the court to terminate the receivership. The court may terminate the receivership if it finds after a hearing at which interested parties may present evidence that the facility has been rehabilitated so that the violation complained of no longer exists, or if the receivership was instituted pursuant to subsection (1) of Section 20 of this Act, the orderly transfer of the residents has been completed and the facility is ready to be closed.

(2) The sale of the long term care facility or any of its assets may not terminate the receivership.

(3) Unless terminated sooner, a receivership shall automatically terminate upon the expiration of one (1) year after the date of the court order instituting it. The court may extend the receivership for up to one (1) additional year if the secretary requests an extension and the court finds after a hearing at which interested parties may present evidence that the grounds for appointment of a receiver as set forth in Section 20 of this Act still exist.

(4) The secretary may petition the court for the appointment of a new receiver if the death, disability, or adverse interest of the receiver can be shown, or if there is lack of reasonable progress in accomplishing the purpose of the receivership.

(5) The license and medicaid certification of any facility placed in receivership pursuant to this Act shall remain in effect for the duration of the receivership, and the same state reimbursement formula which applies to other long term care facilities shall apply to any facility placed in receivership.

SECTION 25. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

There is hereby created a long term care coordinating council within the department for administrative purposes only.

SECTION 26. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The long term care coordinating council shall be composed of the following members from within the department: the commissioner of the bureau for health services; the commissioner of the bureau for *social services; the commissioner of the bureau for social insurance; the inspector general; the director of the division for licensing and regulation; the director of the division for aging services; the director of the medical assistance program; the general counsel; and the long term care ombudsman.*

SECTION 27. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The long term care coordinating council shall have a chairman, appointed by the secretary, and shall meet at least quarterly and at such times as the council deems necessary.

SECTION 28. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The long term care coordinating council shall have the following duties:

(1) To develop a state-wide policy for the provision of long term care and supervise the implementation of such policy;

(2) To coordinate the activities of the department with respect to long term care;

(3) To prepare an annual report on long term care to the General Assembly and to the Governor containing the following:

(a) The status of implementation of the state long term care policy;

(b) An appraisal of the problems of residents of long term care facilities;

(c) An overview of the activities of the council; and

(d) Recommendations for improving the quality and delivery of long term care services in the Commonwealth.

SECTION 29. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The department shall provide training for surveyors and investigators who perform duties related to this Act.

Section 30. KRS 216.515 is amended to read as follows:

Every resident in a long-term care facility shall have at least the following rights:

(1) Before admission to a long-term care facility, the resident and his responsible family member or his guardian or his committee shall be fully informed in writing as evidenced by the resident's written acknowledgment and that of his responsible family member or his guardian or his committee of all services available at the long-term care facility. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(2) Before admission to a long-term care facility, the resident and his responsible family member or his guardian or his committee shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of his responsible family member or his guardian or his committee of all resident's responsibilities and rights as defined in KRS 216.515 to 216.530. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(3) The resident and his responsible family member or his guardian or his committee shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of his responsible family member, or his guardian or his committee prior to or at the time of admission and quarterly during the resident's stay at the facility of all service charges for which the resident and his responsible family member or his guardian or his committee are responsible for paying. The resident and his responsible family member or his guardian or his committee shall have the right to file complaints concerning charges which they deem unjustified to appropriate local and state consumer protection agencies. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for nonpayment, except where prohibited by law or regulation. Reasonable notice of such action shall be given to the resident and his responsible family member or his guardian or his committee.

(5) All residents shall be encouraged and assisted throughout their periods of stay in long-term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination or reprisal.

(6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies or except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in the resident's medical record.

(7) All residents shall have confidential treatment of their medical and personal records. Each resident and his responsible family member or his guardian or his committee shall approve or refuse the release of such records to any individuals outside the facility, except as otherwise specified by statute or regulation.

(8) Each resident may manage the use of his personal funds. If the facility accepts the responsibility for managing the resident's personal funds as evidenced by the facility's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include each facility giving quarterly itemized statements to the resident and his responsible family member or his guardian or his committee which

detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The facility shall return to the resident his valuables, personal possessions and any unused balance of monies from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged the resident's valuables, personal possessions and funds that the facility is not liable for shall be promptly returned to the resident's responsible family member, or his guardian, or his committee, or his executor.

(9) If a resident is married, privacy shall be assured for spouse's visits and if they are both residents in the facility, they may share the same room unless they are in different levels of care or unless medically contraindicated and documented by a physician in the resident's medical record.

(10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.

(11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened.

(12) Residents may retain the use of their personal clothing unless it would infringe upon the rights of others.

(13) No responsible resident shall be detained against his will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless a legitimate reason can be shown and documented for refusing such activity.

(14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(15) Residents shall be assured of at least visual privacy in multi-bed rooms and in tub, shower, and toilet rooms.

(16) The resident and his responsible family member or his guardian or his committee shall be permitted the choice of a physician.

(17) If the resident is adjudicated incompetent in accordance with state law, the resident's guardian or committee shall act on the resident's behalf in order that his rights be implemented.

(18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.

(19) Every resident and his responsible family member or his guardian or his committee has the right to be fully informed of the resident's medical condition unless medically contraindicated and documented by a physician in the resident's medical record.

(20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.

(21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.

(22) The resident's responsible family member or his guardian or his committee shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.

(23) Residents have the right to have private meetings with the appropriate long-term care facility inspectors from the department for human resources.

(24) Each resident and his responsible family member or his guardian or his committee has the right to have access to all inspection reports on the facility.

(25) The above-stated rights shall apply in all cases unless medically contraindicated and documented by a physician in writing in the resident's medical record.

(26) Any resident whose rights as specified in this section are deprived or infringed upon shall have a cause of action against any facility responsible for the violation. The action may be brought by the resident or his guardian. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any deprivation or infringement on the rights of a resident. Any plaintiff who prevails in such action against the facility may be entitled to recover reasonable attorney's fees, costs of the action and damages, unless the court finds the plaintiff has acted in bad faith, with malicious purpose, or that there was a complete absence of justifiable issue of either law or fact. Prevailing defendants may be entitled to recover reasonable attorney's fees. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident and to the department.

SECTION 31. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 12.025 and 194.040(1) shall not apply to this Act.

Announcments

The following Floor Amendments were filed:

Floor Amendment No. 1 to **HB 54,** by Representative Harper:

Amend printed copy of **HB 54** on page 1, line 17 following the word "exceed" by inserting "Forty-Eight (48)" and on page 4, line 25 following the word "exceed" by inserting "Forty-Eight (48)"

Floor Amendment No. 1 to **HB 124** by Representative Pearman:

Amend printed copy of **HB 124** page 3, lines 13 through 17, by deleting subsection (3) in its entirety and renumbering the remaining subsections correspondingly; and on line 21 after the word "*than*" by deleting the words "*one hundred and twenty (120)*" and inserting in lieu thereof the word "*forty(40)*"; and on line 22, after the word "the" by deleting the word "*three*" and inserting in lieu thereof the word "*two*"; and on lines 22 and 23 after the word "*period*" by deleting the phrase *(including no less than twenty (20) hours in each year)*; and on lines 23, 24, and 25, after the word "*of*" by deleting the phrase "*such kinds and in such subjects as shall have been specified by the board of rule*" and inserting in lieu thereof the following language "*financial accounting standards and statements on auditing standards promulgated by the financial accounting standards board and the auditing standards board.*"

Floor Amendment No. 1 to Committee Substitute to **HB 194,** by Representative Meyer:

Amend printed copy of Committee Substitute to **HB 194,** page 8, after line 21, Section 4, this action shall become effective January 1, 1983.

Floor Amendment No. 1 to **HB 243,** by Representative Morris:

Amend printed copy of **HB 243,** page 14, line 14, by adding after "purposes" the words "*, if not paid to the lender or a person related to the lender*"

The following meetings were announced:

Committee Chairmen: Thirty minutes after adjournment, Room 105.

Committee on Rules: On adjournment, Room 316.

State Government: Special meeting, tomorrow at noon, Room 109.

Budget Hearing on Education: Tomorrow, 9:00 a.m.

Business Organizations and Professions: Wednesday, 9:00 a.m., Room 105.

Banking and Insurance: Cancelled Wednesday.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, February 3, 1982.

On the roll call the vote was yeas 61-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Farrow, Foster, Fryman, Gray, Haering, Hancock, Harper, Holloway, R. Jones, Kenton, Kidd, Layman, Little, Long, McBee, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, B. Smith, Stone, Todd, Turner, Van Horn, White, Williams. Nays 11-Blevins, Deskins, Endicott, Ford, Guenthner, Handy, Holbrook, Lile, Maggard, Overstreet, Perkins.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 3, 1982

NINETEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Beryl Spross, Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Lefevers.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 2, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 31, SB 54, SB 70, SB 97, SB 116,** and **SB 136.**

Introduction of Bills and Resolutions

HB 399, by Representative Lile: AN ACT relating to motor vehicles.

HB 400, by Representative Burch: AN ACT relating to revenue and taxation.

HB 401, by Representatives LeMaster and Bendl: AN ACT relating to the prevention of lead poisoning.

HB 402, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 403, by Representatives Little and Van Horn: AN ACT relating to the public service commission.

HB 404, by Representative Little: AN ACT relating to the state building code.

HB 405, by Representatives P. Richardson and Holbrook: AN ACT relating to bank installment loans.

HB 406, by Representatives Gray and Dunn: AN ACT relating to teachers.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 395.**

Banking and Insurance: **SB 96.**

Business Organizations and Professions: **HB 393.**

Education: **HB 394, HB 396, SB 4, SB 115, SB 117.**

Judiciary-Civil: **HB 398.**

Judiciary-Criminal: **SR 10.**

Natural Resources and Environment: **SB 145.**

State Goverment: **SB 43.**

Transportation: **HB 397.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Transportation: **HB 241.**

Report of Committees

The Committee on Rules reported **HB 46** and **HB 194** have been posted for passage in Orders of the Day, February 4, 1982.

The Committee on Rules reported **HB 141** has been recommitted to the Committee on Counties and Special Districts.

The Committee on Business Organizations and Professions reported **HB 273, HB 276** with Committee Amendment attached thereto, **HB 284,** and **HB 334** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 273, AN ACT relating to licensing and regulating the practice of landscape architecture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 323A.040 is amended to read as follows:

(1) To obtain a license to practice landscape architecture in Kentucky an applicant must satisfactorily pass an examination as prescribed by the board, except as otherwise provided in this chapter.

(2) Every applicant for examination shall fulfill the following requirements:

(a) Must be of good moral character; and

(b) Must be [~~a citizen of the United States of America~~] at least 21 years of age; and either

(c) Must be a graduate of an accredited landscape architecture curriculum approved by the board with at least 2 years of professional landscape architectural experience satisfactory to the board; or

(d) A graduate of an accredited high school or have had education equivalent thereto as determined by the board, and, in addition, at least seven years varied landscape architectural experience under the supervision of a landscape architect registered under this chapter or other qualified person approved by the board.

(3) Examinations shall be given at least annually, if qualified applicants have applied, the time and place to be established by the board.

Section 2. KRS 323A.060 is amended to read as follows:

(1) Fees for the following services shall be established by the rules of the board, and in no case shall they exceed the following schedule:

(a) For an examination .... *$100.00*[~~$ 50~~]

(b) For the original license certificate .... *$50.00*[~~$ 35~~]

(c) For the restoration of an expired license .... *$125.00*[~~$100~~]

(d) For a license to a landscape architect satisfactorily licensed in another state .... *$75.00*[~~$ 35~~]

(2) The proper fee as prescribed *in subsection (1) of this section* [~~above~~] shall be paid to the board, and shall not be refunded in whole or in part.

Section 3. KRS 323A.070 is amended to read as follows:

Any applicant who fails to pass an examination may, by paying an additional fee, *not to exceed thirty-five dollars ($35) per part failed, and not to exceed one hundred dollars ($100) for repetition of the whole examination* [~~of $5 per section failed, not to exceed $50~~], enter any subsequent examination held within three years from the date of examination he failed to pass.

HB 276, AN ACT relating to harness racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.390 is amended to read as follows:

Any person claiming an interest in any unclaimed pari-mutuel ticket which has been paid or surrendered to the commission in accordance with the provisions of KRS 230.385 to 230.398 may file his claim to it at any time *within five (5) years* after it was paid to the commission. *No claim may be paid after this time period.*

Section 2. KRS 230.700 is amended to read as follows:

Every person not required to be licensed under KRS 230.690 who desires to participate in standardbred horse racing in the Commonwealth as a horse owner, trainer, driver, apprentice driver, agent, stable employe, racing official, association employe, mutuel clerk or employe of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, shall first apply to the commission for a license to participate in such activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. The commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interests of standardbred horse racing and the maintenance of the honesty, integrity, and high quality thereof. Such license shall be issued for the calendar year in which it is issued and may be renewed by the commission. The license shall be valid at all standardbred horse race meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the rules and regulations prescribed by the commission under KRS 230.610 to 230.760. *Fees for all licenses issued under this section shall be prescribed by and paid to the commission.*

Committee Amendment No. 1 to **HB 276** is as follows:

Amend printed copy of **HB 276,** on page 1, line 7 by deleting the words "*five (5)*" and inserting the words "*two (2)*" in lieu thereof.

HB 284, AN ACT relating to advertising of alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.130 is amended to read as follows:

(1) Except in conformity with regulations of the board, no licensee under KRS 243.020 to 243.670 shall:

(a) Advertise or cause or permit to be advertised in any manner any product which he is licensed to manufacture or sell; nor

(b) Have or exhibit in a window any display of alcoholic beverages.

(2) Subsection (1) of this section shall not prohibit:

(a) Advertising in newspapers, magazines or periodicals having a general circulation among regular paying subscribers or patrons;

(b) Promotional advertising on radio or television limited to no more than the name of the licensee and the products the licensee is permitted to manufacture or sell;

(c) Promotional advertising containing the names of establishments or products displayed on uniforms or equipment of sporting teams.

(d) Advertising on window signs or on premises signs by brand name and the price thereof, any product the licensee is permitted to sell.

Section 2. KRS 244.140 is amended to read as follows:

No sign of any kind, advertising any brand of alcoholic beverages, shall be placed on the exterior or so as to be visible from the exterior of any premises licensed for the sale of alcoholic beverages at retail, except in cities of the first *four classes* [~~or second class~~].

Section 3. KRS 244.530 is amended to read as follows:

No malt beverage retailer shall advertise or permit to be advertised on the outside of his licensed premises any malt beverage by trade name, trade-mark or other particular characteristic, *except* [~~excepting~~] in a city of the first *four classes* [~~or second class~~] where such outside advertising shall be permitted if located upon [~~a wall of~~] the licensed premises. [~~No such advertising shall be done or permitted by him within his licensed premises so as to be visible from without such premises.~~]

HB 334, AN ACT relating to solicitations for charitable and civic purposes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.655 is amended to read as follows:

The following acts are hereby declared unlawful:

(1) Solicitation by any professional fund raiser or professional solicitor on behalf of any person or organization unless the professional fund raiser or professional solicitor has filed with the attorney general a complete and detailed statement in writing, sworn to by the professional fund raiser or professional solicitor making the statement or in the case of a corporation, by its president or treasurer, providing all information required by this section.

(2) Payment of any proceeds by a person or organization for which contributions are solicited for charitable or civic purposes, to any professional fund raiser or professional solicitor who has not filed a sworn statement with the attorney general as required by this section.

(3) Failure to file a sworn statement with the attorney general by any professional fund raiser or professional solicitor which shall be submitted in the manner prescribed by the attorney general and shall be open to public inspection and shall contain the following information:

(a) The name of the professional fund raiser or professional solicitor;

(b) The address of the professional fund raiser or professional solicitor;

(c) The names and addresses of any chapters, branches, or affiliates and other persons who will share in the charitable contributions received from persons in this state;

(d) The place and date the professional fund raiser or professional solicitor was legally established, if applicable, and a reference to any determination of its tax-exempt status under the internal revenue code. In the initial application, true copies shall be submitted of any articles of incorporation or constitution, any bylaws, any tax-exempt status letter from the internal revenue service including any letter of determination status and any agreements of affiliation. Subsequent applications shall contain only any change or revocation of these documents;

(e) The names, addresses and occupations of the officers, directors, trustees, persons who are directly in charge of the fund-raising activities and persons who have custody of the financial records or custody of the contributions and a statement whether any such person has been convicted of a felony;

(f) A copy of a financial statement in a consolidated report audited by an independent public accountant for the professional fund raiser's or professional solicitor's immediately preceding fiscal year or, if none, for the present fiscal year or part thereof, provided that if total profits exceed two hundred fifty thousand dollars ($250,000) for the fiscal year or part thereof, the report shall be audited by a certified public accountant. Information as to the total profits and revenue from all of the fund-raising activities including the balance sheet, kind and amounts of funds raised, costs and expenses incidental thereto, allocation or disbursement of funds raised, and percent of funds raised by the professional fund raiser or professional solicitor on behalf of the charitable organization which are actually paid to the charitable organization for use in accomplishing the charitable purpose;

(g) A statement indicating whether the professional fund raiser or professional solicitor is authorized by any other governmental authority to solicit contributions and whether it, or any officer, professional fund-raising counsel or other employe thereof, is or has ever been enjoined by any court or otherwise prohibited from soliciting contributions in any jurisdiction;

(h) A statement indicating the names of all charitable organizations on whose behalf solicitations are to be conducted;

(i) The location of the professional fund raiser's or professional solicitor's financial records;

(j) Method by which solicitation is made, including a statement as to whether such solicitation is conducted by voluntary, unpaid solicitors or employes paid by the professional fund raiser, professional solicitor, or both, and a narrative description of the promotional plan together with copies of all advertising material which has been prepared for public distribution by any means of communication and the location of all telephone solicitation facilities;

(k) The names and addresses of any professional fund-raising counsel and employes of the professional fund raiser or professional solicitor who are acting or who have agreed to act on the behalf of the organization together with a statement setting forth the terms of the arrangements for salaries, bonuses, commissions, or other remuneration with the professional fund raising counsel and professional solicitors and their employes;

(l) The period of time during which the solicitations are made and, if less than statewide, the areas in which such solicitation generally takes place;

(m) The purposes for which contributions to be solicited are used, the total amount of funds proposed to be raised thereby, and the use or disposition made of the charitable contributions received;

(n) The names under which the person solicits contributions;

(o) A sample copy of the authorization issued to individuals soliciting by means of personal contact in its behalf;

(p) The name and address of an agent authorized to accept service of process in this state;

(q) A statement indicating whether an agreement exists which permits another to use its name in a charitable sales promotion and a copy of any accounting of the charitable sales promotion;

(r) Such other information as may be reasonably required by the attorney general for the public interest or for the protection of contributors.

[~~The payment by a person or organization for which contributions are solicited to all professional fund raisers and solicitors of more than fifteen percent (15%) of gross contributions of money and property received and of net proceeds of social and spectator events and sales of goods and services, or the receipt by a professional fund raiser or solicitor, either directly or indirectly, of more than fifteen percent (15%) of gross contributions of money and property raised by him or through his efforts or more than fifteen percent (15%) of net proceeds of social and spectator events and sales of goods and services organized and conducted by him.~~]

The Committee on Education reported **HB 171,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 171, AN ACT relating to university regents and trustees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.130 is amended to read as follows:

(1) The government of the University of Kentucky is vested in a board of trustees consisting of sixteen (16) competent citizens of Kentucky appointed by the governor, two (2) members of the teaching faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The initial terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. Whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term. Four (4) of the sixteen (16) appointed members shall be appointed each year. Three (3) of the appointed members shall be representative of agricultural interests, three shall be alumni of the university, and ten (10) shall be other distinguished citizens of the state representative of the learned professions. The governor shall so make the appointments as to divide the representation on the board as equally as possible between the two (2) leading political parties of this state. Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(2) The two (2) University of Kentucky faculty members shall be teaching or research members of the rank of assistant professor, or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor and above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualify. Faculty members shall be eligible for re-election, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the teaching staff of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) The faculty member representing the community college system shall be a teaching or research member at one of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. *The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year during which the student body president will serve the majority of his presidential term.*

(5) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment or services, with exception of compensation to the three (3) faculty members.

(6) The number of student and employe trustees of the University of Kentucky elected to the board shall not exceed four (4).

Section 2. KRS 164.320 is amended to read as follows:

(1) The board of regents for Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky University shall each consist of eight (8) members appointed by the governor, one (1) member of the teaching faculty, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairman annually.

(2) The initial terms of appointed members shall be for four (4) years, and until their successors are appointed and qualified. Whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term. Such appointments shall be made by the governor within thirty (30) days after the expiration of the term of each member. If the governor should fail to make any such appointment within thirty (30) days after the expiration of the term of any member, the remaining members of the board of regents of the particular university or college whose terms shall not have expired, shall make such appointment within sixty (60) days after the expiration of such term.

(3) Not more than two (2) appointed members of any board shall be residents of one (1) county; nor more than four (4) of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of such board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(8) The student member shall be the president of the student body of the university or college on whose board of regents he is to serve. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. *The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year during which the student body president will serve the majority of his presidential term.*

Section 3. KRS 164.820 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees consisting of fifteen (15) competent citizens of Kentucky appointed by the governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body; however, if the student body president is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. *The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year during which the student body president will serve the majority of his presidential term.* The faculty member, staff member and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring by reason of such termination shall be filled for the remainder of the respective terms in the same manner. The fifteen (15) citizen members of the board shall annually elect one of their number to serve as chairman of the board.

(2) To facilitate transition of the University of Louisville to full status as a state institution, terms of members of the board of trustees in office on July 1, 1970, shall be terminated as of that date or as of the date their successors are appointed and qualify, and their successors shall be appointed by the governor according to the following schedule:

(a) Two (2) for one (1) year terms;

(b) Two (2) for two (2) year terms, one (1) of which shall be an alumnus or alumna of the university, selected from a list of three (3) names submitted by the alumni of the university in such manner and according to rules prescribed by the board of trustees;

(c) Three (3) for three (3) year terms;

(d) Eight (8) for four (4) year terms, one (1) of whom shall be an alumnus or alumna of the university, selected as under subsection (2)(b) of this section.

(3) At the expiration of the respective terms of the citizen members of the board of trustees as prescribed in subsection (2) of this section, successors shall be appointed by the governor for terms of four (4) years each, except that whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term, and in making such appointments the governor shall observe the requirements relating to nominations by the alumni members. Subject to such requirements the governor shall make his appointments from the state at large so as to divide the citizen representation upon the board as nearly equally as possible between the two (2) leading political parties in this state.

(4) Vacancies among the citizen members of the board occurring by death, resignation, removal of residence from the Commonwealth or any other cause shall be filled by appointments made by the governor for the expiration of the term, subject to the qualifications set forth in subsection (3) of this section.

(5) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

(6) Subsection (2) of KRS 63.080 is hereby expressly made applicable to members of the board of trustees of the University of Louisville.

Committee Substitute to **HB 171** is as follows:

HB 171, AN ACT relating to university regents and trustees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.130 is amended to read as follows:

(1) The government of the University of Kentucky is vested in a board of trustees consisting of sixteen (16) competent citizens of Kentucky appointed by the governor, two (2) members of the teaching faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The initial terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. Whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term. Four (4) of the sixteen (16) appointed members shall be appointed each year. Three (3) of the appointed members shall be representative of agricultural interests, three shall be alumni of the university, and ten (10) shall be other distinguished citizens of the state representative of the learned professions. The governor shall so make the appointments as to divide the representation on the board as equally as possible between the two (2) leading political parties of this state. Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(2) The two (2) University of Kentucky faculty members shall be teaching or research members of the rank of assistant professor, or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor and above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualify. Faculty members shall be eligible for re-election, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the teaching staff of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) The faculty member representing the community college system shall be a teaching or research member at one of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university *during the appropriate academic year*. If the [~~president of the~~] student *member does not* [~~body is not a full-time student who~~] maintain[~~s~~] *his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his* permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. *The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.*

(5) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment or services, with exception of compensation to the three (3) faculty members.

(6) The number of student and employe trustees of the University of Kentucky elected to the board shall not exceed four (4).

Section 2. KRS 164.320 is amended to read as follows:

(1) The board of regents for Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky University shall each consist of eight (8) members appointed by the governor, one (1) member of the teaching faculty, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairman annually.

(2) The initial terms of appointed members shall be for four (4) years, and until their successors are appointed and qualified. Whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term. Such appointments shall be made by the governor within thirty (30) days after the expiration of the term of each member. If the governor should fail to make any such appointment within thirty (30) days after the expiration of the term of any member, the remaining members of the board of regents of the particular university or college whose terms shall not have expired, shall make such appointment within sixty (60) days after the expiration of such term.

(3) Not more than two (2) appointed members of any board shall be residents of one (1) county; nor more than four (4) of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of such board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(8) The student member shall be the president of the student body of the university *during the appropriate academic year* [~~or college on whose board of regents he is to serve~~]. If the [~~president of the~~] student *member does not* [~~body is not a full-time student who~~] maintain[~~s~~] *his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his* permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. *The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.*

Section 3. KRS 164.820 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees consisting of fifteen (15) competent citizens of Kentucky appointed by the governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body *during the appropriate academic year.* [~~; however,~~] If the student *member does not* [~~body president is not a full-time student who~~] maintain[~~s~~] *his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his* permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. *The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.* The faculty member, staff member and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring by reason of such termination shall be filled for the remainder of the respective terms in the same manner. The fifteen (15) citizen members of the board shall annually elect one of their number to serve as chairman of the board.

(2) To facilitate transition of the University of Louisville to full status as a state institution, terms of members of the board of trustees in office on July 1, 1970, shall be terminated as of that date or as of

the date their successors are appointed and qualify, and their successors shall be appointed by the governor according to the following schedule:

(a) Two (2) for one (1) year terms;

(b) Two (2) for two (2) year terms, one (1) of which shall be an alumnus or alumna of the university, selected from a list of three (3) names submitted by the alumni of the university in such manner and according to rules prescribed by the board of trustees;

(c) Three (3) for three (3) year terms;

(d) Eight (8) for four (4) year terms, one (1) of whom shall be an alumnus or alumna of the university, selected as under subsection (2)(b) of this section.

(3) At the expiration of the respective terms of the citizen members of the board of trustees as prescribed in subsection (2) of this section, successors shall be appointed by the governor for terms of four (4) years each, except that whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term, and in making such appointments the governor shall observe the requirements relating to nominations by the alumni members. Subject to such requirements the governor shall make his appointments from the state at large so as to divide the citizen representation upon the board as nearly equally as possible between the two (2) leading political parties in this state.

(4) Vacancies among the citizen members of the board occurring by death, resignation, removal of residence from the Commonwealth or any other cause shall be filled by appointments made by the governor for the expiration of the term, subject to the qualifications set forth in subsection (3) of this section.

(5) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

(6) Subsection (2) of KRS 63.080 is hereby expressly made applicable to members of the board of trustees of the University of Louisville.

The Committee on Judiciary-Civil reported **HB 262, HB 239, HR 27,** and **SB 63** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 262, AN ACT relating to parent and child.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 405.021 is amended to read as follows:

(1) The circuit court may grant reasonable visitation rights to either the paternal or maternal grandparents of a child [~~whose parent is deceased~~] and issue any necessary orders to enforce the decree if it determines that it is in the best interest of the child to do so.

(2) The action shall be brought in circuit court in the county in which the child resides.

HB 239, AN ACT relating to master commissioners and receivers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 31A.010 is amended to read as follows:

(1) A master commissioner may be appointed for each county within a judicial circuit.

(a) In single-judge circuits the appointment shall be made by the circuit judge.

(b) In judicial circuits with more than one judge the master commissioner shall be chosen by a majority of the judges and in the event of a tie the chief circuit judge shall choose from those receiving the tie vote.

(2) The master commissioner shall be governed by such rules not inconsistent with the statutes of the Commonwealth as may be set by the Supreme Court and by the court employing him.

(3) The master commissioner shall serve at the pleasure of the court as follows:

(a) In a single-judge circuit the master commissioner shall serve at the pleasure of the circuit judge, but in no case shall his term exceed four (4) years without reappointment. The term of the commissioner shall automatically terminate following the death, resignation, or permanent replacement of the circuit judge who appointed him.

(b) In a judicial circuit with more than one judge the master commissioner shall serve at the pleasure of the judges of the circuit, but in no case shall his term exceed four (4) years without reappointment. The master commissioner may be removed at any time by a majority vote of the judges of the circuit and in the event of a tie the decision shall be made by the chief circuit judge.

(4) The master commissioner shall be compensated by fees as provided by rule of the Supreme Court. [~~In counties other than those containing cities of the first and second class and urban-county governments his compensation shall not exceed the sum of seven thousand two hundred dollars ($7,200) per year exclusive of actual expenses.~~] The circuit court may allow the commissioner a reasonable fee for performing judicial type functions in actions where the master commissioner does not execute a judicial sale[~~, and such fee shall be allowed even if the allowance of such fee shall cause the annual salary of the master commissioner to exceed seven thousand two hundred dollars ($7,200) per year~~].

(5) The master commissioner shall maintain his office at such locations and during such hours as the chief circuit judge shall direct.

(6) The master commissioner shall perform such functions, including those of a receiver, as may be directed by an appropriate order of court.

(7) The master commissioner may have such deputies and assistants, approved by order of the chief circuit judge, as are necessary to perform the functions of his office.

(8) The Supreme Court may make such rules, regulations, and accounting procedures as it may deem necessary for the appointment, conduct, and other matters relating to the master commissioner or receiver.

HR 27, A RESOLUTION inviting John Y. Brown, Sr., to address the House of Representatives.

WHEREAS, the observance of Lincoln Day across this great Commonwealth seems never complete without oratory thereon by the Honorable John Y. Brown, Sr.; and

WHEREAS, this remarkable gentleman, former Speaker of this House of Representatives, is able as is none other to enunciate the virtues of "The Great Emancipator"; and

WHEREAS, this moving manifestation of affectionate remembrance leaves all who are fortunate enough to share its splendor the richer and wiser for having so participated;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Honorable John Y. Brown, Sr., be and he is hereby invited to offer his traditional Lincoln Day Address to the House of Representatives on Thursday, February 11, 1982, at the hour of 3:30 p.m.

Section 2. That the Clerk is directed to transmit a copy of this resolution to the Honorable John Y. Brown, Sr.

SB 63, AN ACT relating to interest rates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.040 is amended to read as follows:

Except as provided in KRS 342.020 no compensation shall be payable for the first seven days of disability unless disability continues for a period of more than two weeks in which case compensation shall be allowed from the first day of disability. All compensation shall be payable on the regular pay day of the employer, commencing with the first regular pay day after seven days after the injury or disability resulting from an occupational disease, with interest at the rate of *twelve* [~~six~~] percent *(12%)* per annum on each installment from the time it is due until paid. In no event shall income benefits be instituted later than the 15th day after the employer has knowledge of the disability or death. Benefits shall be due and payable not less often than semimonthly. If the employer should terminate, or fail to make payments when due, the employer shall notify the board of such termination or failure to make payments and the board shall, in writing, advise the employe or known dependent of right to prosecute a claim under this chapter.

Section 2. KRS 360.040 is amended to read as follows:

A judgment shall bear *twelve* [~~eight~~] percent *(12%)*[~~(8%)~~] interest from its date. A judgment may be for the principal and accrued interest; but if rendered for accruing interest *on a written obligation,* it shall bear interest *in accordance with the instrument reporting such accruals, whether higher or lower than twelve percent (12%)* [~~only according to its terms~~]. Provided, that when a claim for unliquidated damages is reduced to judgment, such judgment may bear less interest than *twelve* [~~eight~~] percent *(12%)*[~~(8%)~~] if the court rendering such judgment, after a hearing on that question, is satisfied that the rate of interest should be less than *twelve* [~~eight~~] percent *(12%)*[~~(8%)~~]. All interested parties must have due notice of said hearing.

Section 3. KRS 360.050 is amended to read as follows:

Any indebtedness incurred or judgment rendered out of this state is presumed to bear [~~the same~~] interest *in accordance with the provisions of KRS 360.040* [~~as if incurred or rendered in this state~~].

Committee Amendment No. 1 to **SB 63** is as follows:

Amend printed copy of **SB 63,** page 2, line 4, by inserting after the word "interest", the following: "*compounded annually*".

The Committee on Natural Resources and Environment reported **HB 132, HR 6** with Committee Amendment attached thereto, **HR 17,** and **SB 46** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 132, AN ACT relating to the pollution abatement authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky pollution abatement authority may finance solid waste management facilities in the manner provided for waste water treatment facilities pursuant to this chapter, except that the provisions of KRS 224A.070(8) relating to the exercise of the power of eminent domain shall not apply.

(2) Any construction of a solid waste management facility initiated by a county, urban county government, waste management district, or city consistent with the provisions of KRS Chapters 224 and 109 shall be considered an eligible project.

(3) For purposes of this section, solid waste management facility shall mean any resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated with facilities generating such waste or otherwise.

HCR 6, A CONCURRENT RESOLUTION relating to the management of low level radioactive waste in Kentucky and providing for legislative oversight.

WHEREAS, the Congress of the United States has by enactment of the Low Level Radioactive Waste Policy Act of 1980, PL 96-573, delegated responsibility for the management of low level radioactive waste to the states; and

WHEREAS, in order to properly manage the low level radioactive waste generated in the Commonwealth, various data relating to the types, volumes, and form of the waste generated is required and such data is needed on a periodic basis; and

WHEREAS, currently available data indicates that the University of Kentucky and the University of Louisville generate 97% of the low level radioactive waste produced in the Commonwealth; and

WHEREAS, generators of waste should be accountable for the waste they produce; and

WHEREAS, given the limited availability of disposal capacity nationwide, the feasibility of a storage/treatment facility instate should be examined; and

WHEREAS, given the technical nature of the issue and the timeliness with which it must be addressed there is a need for continuing oversight by experts and citizens in the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission be directed to appoint a Special Advisory Committee on Nuclear Issues for the 1982-83 interim to assume an oversight role on behalf of the Kentucky General Assembly on all matters pertaining to the nuclear industry and nuclear waste disposal. The committee shall consist of membership from both houses of the legislature, which shall choose from among its members a chairperson and vice-chairperson, by mutual agreement. In addition, the Legislative Research Commission shall appoint to the committee members recognized as experts in areas related to nuclear issues, representatives from environmental groups, and lay members representing the general public, but in no case shall total membership exceed fifteen (15) members. The committee shall meet at least quarterly and shall report its findings and recommendations to the Legislative Research Commission no later than January 1, 1984.

Section 2. That the University of Kentucky and the University of Louisville conduct a feasibility study, coordinated by the Kentucky Department for Human Resources (DHR), of building and operating a storage/treatment facility to manage all Kentucky generated radioactive waste, not otherwise managed by the generator. Such feasibility study should include, but not be limited to:

(1) Size of such facility, based on Kentucky's present and projected needs.

(2) Identification of environmental and occupational hazards of such a facility.

(3) Identification of regulatory requirements, federal, state, and local, which must be met.

(4) All costs for such a facility, including capital, operating, and closure. The DHR shall report at least every six (6) months to the Special Advisory Committee on Nuclear Issues during the 1982-83 interim on the scope and status of the feasibility study.

Section 3. That the DHR be directed to require by regulation certain information of all nuclear licensees in the Commonwealth on an annual basis relating to management of their nuclear waste. This information should include the volume of waste produced by radioisotope, radioactivity, physical and chemical form; the method and place of disposal; and source reduction and volume reduction practices.

Section 4. It is estimated that the operation of the Special Advisory Committee on Nuclear Issues and the provision of staff services will cost approximately $30,000, such monies to be provided from the regular budget of the Legislative Research Commission.

Committee Amendment No. 1 to **HR 6** is as follows:

Amend printed copy of **HR 6** on pages 2 and 3 as follows:

On page 2, line 21, by deleting the words "Human Resources" and inserting in lieu thereof the words "Natural Resources and Environmental Protection"; and

On page 3, line 1, by deleting "(DHR)" and inserting in lieu thereof "(DNREP)"; and

On page 3, line 12, by deleting "DHR" and inserting in lieu thereof "DNREP"; and

On page 3, line 16, by deleting "DHR" and inserting in lieu thereof "Department for Human Resources".

HR 17, A RESOLUTION commending the Falcon Coal Company.

WHEREAS, The Falcon Coal Company, a division of Diamond - Shamrock Corporation, has reclaimed 5,000 acres of land in Eastern Kentucky; and

WHEREAS, the Falcon Coal Company has established itself as a leader in innovative land reclamation techniques; and

WHEREAS, the Falcon Coal Company has demonstrated a concern for the environment by working closely with environmental groups and government officials and by initiating procedures that go beyond federal and state requirements; and

WHEREAS, Secretary Swigart of the Kentucky Department for Natural Resources and Environmental Protection presented to the Falcon Coal Company the Secretary's Award for Outstanding Environmental Contributions at the 1981 Kentucky Environmental Conference;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Falcon Coal Company is highly commended for its outstanding efforts in reclamation of strip mine areas and for receiving the Secretary's Award for Outstanding Environmental Contributions.

Section 2. That copies of this resolution be sent to the office of Falcon Coal Company in Lexington, Kentucky and to the office of Diamond - Shamrock Corporation in Dallas, Texas.

SB 46, AN ACT relating to litter control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.217 is amended to read as follows:

(1) The secretary of the department for natural resources and environmental protection shall assume the primary responsibility in state government for implementing a program to recycle used paper products, produced by all agencies of state government.

(2) The secretary of the department for natural resources and environmental protection shall take or cause to be taken such actions as may be necessary to:

(a) Identify the geographical location of existing or potential markets for recovered materials and energy generated;

(b) Identify the economic and technical barriers to the use of recovered materials and energy generated;

(c) Identify sound technologies, techniques, and processes for resource recovery and energy generated applicable to both urban and rural areas of Kentucky;

(d) Encourage the development of new uses for recovered materials; and

(e) Encourage and promote the development of new markets for recovered materials.

(3) Funds received by the department for natural resources and environmental protection from recycling efforts as described in this section shall be utilized by the department to defray the cost of conducting the activities outlined in this section. Any monies generated in excess of the amounts needed to conduct these activities shall be placed in the resource conservation *and* recovery [~~and beautification~~] fund and be used for other litter abatement activities.

(4) There is created within the state treasury a trust and agency fund, which shall not lapse, to be known as the resource conservation and recovery fund. Any appropriations, gifts, grants or program revenues received by the department relating to resource recovery and litter abatement shall be deposited in the fund. Monies in the fund shall be used for resource recovery and litter abatement activities.

(5) Any monies contained, on the effective date of this Act, in the resource conservation recovery and beautification fund, created pursuant to KRS 224.965, shall be deposited in the resource conservation and recovery fund.

Section 2. KRS 224.994 is amended to read as follows:

(1) Any person who violates KRS 224.060, 224.140, 224.330 or who fails to perform any duties imposed by these sections, or who violates any determination, permit, rule, regulation or order of the department promulgated pursuant thereto shall be liable to a civil penalty not to exceed the sum of ten thousand dollars ($10,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section.

(2) Any person who willfully or with criminal negligence violates KRS 224.060, 224.140, 224.330 or any determination, permit, rule, regulation or order of the department promulgated pursuant to those sections which have become final or who knowingly provides false information in any document filed or required to be maintained under this chapter or who knowingly renders inaccurate any monitoring device or method shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than fifteen thousand dollars ($15,000) or by imprisonment for a term of not more than one year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(3) Any person who violates any provision of this chapter other than KRS 224.060, 224.140, and 224.330, except as provided in KRS 224.992, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the department promulgated pursuant thereto shall be liable to a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section.

(4) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the department or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders, rules, and regulations of the department promulgated pursuant thereto.

(5) Any person who deposits leaves, clippings, prunings, garden refuse or household waste materials in any litter receptacle except with permission of the owner of such receptacle is guilty of a class B misdemeanor.

(6) Any person who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a class B misdemeanor.

(7) [~~Any person knowingly violating any provision of KRS 224.905 to 224.970 or any rule or regulation adopted hereunder shall be guilty of a class B misdemeanor.~~

~~(8)~~] In addition to or in lieu of the penalties set forth in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

Section 3. The following KRS sections are repealed:

224.905	Purpose.
224.910	Definitions.
224.915	Department for natural resources and environmental protection to administer.
224.920	Duties of the department.
224.925	Advice by environmental commission.
224.930	Programs to be provided.
224.935	Litter receptacles.
224.940	Litter bags.
224.945	Anti-litter personnel.
224.950	Posting of penalties.
224.955	Anti-litter assessment against seller of covered item — "Seller" and "covered item" defined.
224.960	Penalty assessments.
224.965	Resource conservation recovery and beautification fund.
224.970	Short title.

The Committee on State Government reported **HB 294,** with Committee Substitute attached thereto, and **SB 57** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 294, AN ACT relating to state legislative districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.041 is amended to read as follows:

Any reference in KRS 6.011 and 6.031 to a *census unit,* city, *county, road, highway or stream means that census unit, city, county, road, highway or stream as its boundaries or location existed on January 1, 1980. Any reference to a* ward, *commissioner's* district *or precinct means that ward, commissioner's district or precinct as its boundaries existed on July 15, 1980* [~~, boundary, precinct, road, highway, street, stream or other line means as they existed on January 4, 1972, except that the following references to precincts in KRS 6.031 shall mean such precincts as they existed on January 1, 1978: In Trigg County, precincts Canton, West Cadiz, South Cadiz 1, South Cadiz 2, North Cadiz 1, North Cadiz 2, Wallonia, Cerulean, Bethesda, Maggie and Caledonia-Roaring Spring; in Jefferson County, precincts A35, A38, A50, A74, A80, A81, A123, A136 and A149 of A District of the county~~].

Committee Substitute to **HB 294** is as follows:

HB 294, AN ACT relating to state legislative districts.

WHEREAS, the General Assembly finds that the 1980 population of Kentucky is 3,660,777 and that the ideal Representative District population is therefor approximately 36,608; and

WHEREAS, The General Assembly recognizes that federal constitutional law requires substantial equality of population among state legislative districts while allowing some flexibility to effectuate other rational state policies; and

WHEREAS, the General Assembly finds, as have the federal courts, that it is a practical impossibility to achieve precise equality among districts as numerous and small as Kentucky's representative districts; and

WHEREAS, it is the intent of the General Assembly to achieve substantial equality among state representative districts while balancing the overriding principle of population equality with other legitimate and rational considerations, including the Kentucky Constitution's mandate to respect the integrity of counties and the desire to offer voters and their representatives the opportunity to adequately and appropriately deal with local problems and issues;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.031 is amended to read as follows:

The Commonwealth of Kentucky is divided into representative districts as follows:

(1) First District: Ballard, Carlisle, Fulton, and Hickman Counties *and that part of McCracken County contained in the election precincts of Ragland, Grahamville, Woodville, Lamont and Maxon and in that part of the election precinct of Messac-Milan lying north-northwest of U.S. Highway 62.*

(2) Second District: Graves County.

(3) Third District: That part of McCracken County *not* contained in the *First and Fourth Districts* [~~city of Paducah~~].

(4) Fourth District: Livingston County*; that part of Crittenden County not contained in the Twelfth District* and that part of McCracken County [~~not~~] contained in the *election precincts of Reidland No. 1, Reidland No. 2, Clark River, Hovekamp, Oaks Station, Hendron No. 2, Florence Station, Harper, New Hope-Melber, Rolling Hills, Lone Oak No. 1 and Lone Oak No. 2, and that part of the election precinct of Messac-Milan lying south-southwest of U.S. Highway 62* [~~Third District~~].

(5) Fifth District: Calloway County and that part of Trigg County contained in the *Land Between the Lakes and in the* voting precincts of *Bethesda,* Canton, West Cadiz, *North Cadiz 1, North Cadiz 2,* South Cadiz 1 and South Cadiz 2.

(6) Sixth District: Lyon and Marshall Counties and *that part of Caldwell County contained in election precincts Princeton #1, Princeton #4, Princeton #5 and Harmony* [~~Crittenden County except for voting precincts Marion 4, Marion 6, Rosebud 11, and Shady Grove 12~~].

(7) Seventh District: Union County; that part of Henderson County not contained in the Eleventh District; that part of Daviess County contained in the voting precincts of *Pleasant* [~~Pleasure~~] Ridge, Utica, Snyder [~~School~~], West Louisville, Curdsville, St. Joseph, Rome, *Sorgho* [~~Sorgo~~], Masonville, Stanley, North Town, South Town, Fields, *and* Habit *but excluding those parts of North Town, South Town and Fields precincts that are completely surrounded by one or more election precincts of the city of Owensboro.*

(8) Eighth District: That part of Trigg County contained *in Fort Campbell Military Reservation and* in the voting precincts of [~~North Cadiz 1, North Cadiz 2,~~] Wallonia, Cerulean, [~~Bethesda,~~] Maggie and Caledonia-Roaring Spring; that part of Christian County *not* contained within the *Ninth District* [~~following voting precincts: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 24, 25~~].

(9) Ninth District: That part of Christian County contained *in Fort Campbell Military Reservation and* within the following voting precincts: *Beverly, North Pembroke, Elmo, South Pembroke, Oak Grove, Lafayette, Sinking Fork, Consolation, West Crofton, East Crofton, Pilot Rock, Fearsville and Apex* [~~19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32~~]; that part of Hopkins County contained within the following voting precincts: *East Dawson, Charleston and Ilsley* [~~14, 16, 17~~].

(10) Tenth District: *That part of* Hopkins County *not contained in the Ninth and Twelfth Districts* [~~except for voting precincts: 14, 16, 17~~].

(11) Eleventh District: Henderson County, except for the voting precincts of South Corydon, Niagara, *Hebbardsville-Bluff City and South Robards* [~~and Hebbardsville, and that portion of the county lying south of Kentucky Highway 416, beginning at its junction with U.S. 41A and proceeding eastward to its junction with Niagara precinct~~].

(12) Twelfth District: *Webster County; that part of Crittenden County contained in election precincts Rosebud, Shady Grove, Marion #5 and Marion #6; that part of Hopkins County contained in election precincts Ashbyburg, Hanson, East Hanson, Manitou and Nebo; that part of Caldwell County not contained in the Sixth District; and* [~~Caldwell and Webster Counties; that part of Crittenden County not included in the Sixth District;~~] that part of McLean County not contained in the Fifteenth District.

(13) Thirteenth District: That part of Daviess County contained in the *following election precincts: Owensboro #1, #2, #5, #8, #12, #13, #16, #21, #22, #23, #25, #26, #27, #28, #29, #30, #31, #33, #34, #35, #36, #37, #38, #39, #40, #41, #42, #43, #44 and #45 and those parts of the election precincts of North Town, Southtown or Fields that are completely surrounded by one or more of the Owensboro precincts contained within the Thirteenth District* [~~city of Owensboro but excluding the following voting precincts: 4, 6, 7, 10, 11, 15, 17, 18, 19, 20, 32~~].

(14) Fourteenth District: That part of Daviess County not contained in the Seventh District or in the Thirteenth District.

(15) Fifteenth District: Muhlenberg County and that part of McLean County contained in voting precincts: *Sacramento, Livermore #2, Livermore #8 and Island* [~~2, 3, 6, 8~~].

(16) Sixteenth District: Todd and Logan Counties.

(17) Seventeenth District: [~~Hancock,~~] Ohio and Butler Counties *and that part of Hancock County contained in election precincts Boiling Chappell, Pellville, Chambers and Utility.*

(18) Eighteenth District: [~~Meade County and~~] Breckinridge County*; that part of Hancock County not contained in the Seventeenth District; and that part of Meade County contained in election precincts Concordia, Woodlawn, Flaherty, Guston, Ekron, Payneville, Battletown and Wolfe Creek.*

(19) Nineteenth District: Edmonson and Grayson Counties; that part of *Hardin* [~~Hart~~] County contained in voting precincts *Upton, White Mills, Eastview and Meeting Creek* [~~: 3, 13, 14, 16, 17~~].

(20) Twentieth District: That part of Warren County containing *voting precincts Courthouse, Potter Gray, Nellums, Whayne Supply, Briarwood-Richland, Laurel and Broadway, Ogden College, Municipal*

Park, Shive-Kiel, 11th Street School, D and F Market, Greenwood, Carver-Harris, T. C. Cherry, Millers, 17th and Normal, Cabell Fire Station, Crestmoor, Millers #2, Carver Harris II, 11th Street Fire Station, Church Street, Watts Mill #2, [~~all of the city of Bowling Green excluding the voting precincts of Reels Garage, Octogan Inn, Green Meadows and Delefield but including the voting precincts of Miller's Bottled Gas,~~] Watts Mill and Mt. Victor.

(21) Twenty-first District: That part of Simpson County contained in the voting precincts of *West Simpson, North Simpson* [~~Harristown, Public School, West Door~~] and Prospect Hill and that part of Warren County not contained in the Twentieth District.

(22) Twenty-second District: Allen and Monroe Counties, and that part of Simpson County not contained in the Twenty-first District.

(23) Twenty-third District: Barren County and that part of Metcalfe County containing voting precincts Randolph-Wisdom No. 3, Knob Lick No. 4, Savoyard No. 5, Summer Shade No. 8 and Willow Shade-Beaumont No. 9.

(24) Twenty-fourth District: *Hart* [~~Larue~~] County; Marion County; that part of *Larue* [~~Hart~~] County [~~not~~] contained in the *election precincts of Buffalo, Buffalo East, Attilla, Otter and Mt. Sherman* [~~Nineteenth District~~].

(25) Twenty-fifth District: That part of Hardin County *not* contained in the *Nineteenth, Twenty-sixth and Twenty-seventh Districts* [~~voting precincts of Elizabethtown East, Elizabethtown West, Elizabethtown Northeast, Elizabethtown Northwest, Elizabethtown North, Helmwood Heights, Mantle, Valley Creek, City Park, Colesburg, Tunnel Hill, Helm, Chelf, Van Meter, South Dixie, Glendale, Nolin, Sonora, Upton, Melrose and White Mills, and that part of the Fort Knox Military Reservation that lies east of a line beginning at the intersection of the southern boundary of the Fort Knox Military Reservation and State Road 447, and extends northward along State Road 447 and a line extending northward through Pleasant View Cemetery and Fort Hill Cemetery and Fort Hill Cemetery to the Jefferson County line at Salt River~~].

(26) Twenty-sixth District: That part of Hardin County contained in the voting precincts of *Radcliff Northwest, Radcliff Southwest, Radcliff Southeast, Radcliff East,* Radcliff North, Radcliff South, Radcliff West, Vine Grove *East* [~~North, Vine Grove South~~], Vine Grove West, Longview, *Colesburg, that part of Yates precinct north of State Highway 144,* [~~Yates, Rineyville, Howevalley, St. John, Cecilia, East View, Meeting Creek, and Long Grove~~] and that part of the Fort Knox Military Reservation not included in the [~~Twenty-fifth and~~] Twenty-seventh *District; that part of Larue County not contained in the Twenty-forth District* [~~Districts~~].

(27) Twenty-seventh District: That part of *Meade County not contained in the Eighteenth District; that part of Bullitt County contained in election precincts Cupio, Brooks 12 and Brooks 12A; that part of* Hardin County [~~not~~] contained in *West Point election precinct and in* [~~the Twenty-fifth and Twenty-sixth Districts,~~] that part of the Fort Knox Military Reservation whose southern boundary is Chaffee Avenue extended westward to the Hardin-Meade County line and eastward to *Park Road; thence southward to Eleventh Avenue; thence eastward on Eleventh Avenue and a line extending due eastward to the Bullitt County-Hardin County line* [~~State Road 447; thence northward on State Road 447 and a line extending northward through Pleasant View Cemetery and Fort Hill Cemetery to the Jefferson County line at Salt River and that part of Jefferson County contained in voting precincts C8, C18, C19, C23, C44, C53, C70 and C87 of C District of the county~~].

(28) Twenty-eighth District: That part of Jefferson County containing voting precincts *C7, C8, C14, C31, C32, C33, C40, C43, C44, C45, C47, C53, C56, C57, C58, C64, C65, C66, C72, C73, C78, C79, C82, C90, C91, C98, C99, C101, C103, C107, C108, C109 of Commissioner's District C.* [~~C7, C31, C33, C40, C43, C45, C47, C56, C57, C58, C65, C66, C72, C73, C78, C79, C82, C90 and C91 of C District of the county.~~]

(29) Twenty-ninth District: That part of Jefferson County containing voting precincts *C5, C6, C11, C16, C19, C21, C24, C30, C34, C39, C46, C50, C54, C55, C59, C61, C67, C69, C71, C74, C75, C80, C81, C85, C94, C97, C100, C112 of Commissioner's District C.* [~~C5, C6, C11, C21, C30, C34, C39, C46, C50, C54, C55, C59, C60, C64, C67, C69, C71, C74, C75, C80, C81, C85, and C94 of C District of the county.~~]

(30) Thirtieth District: That part of Jefferson County containing voting precinct *37 of the Third Ward of the city of Louisville, and voting precincts B10, B13, B18, B19, B21, B22, B24, B25, B31, B40, B42, B43, B48, B49, B54, B58, B64, B67, B70, B71, B72, B78, B84, B85, B87, B89 of Commissioner's District B.* [~~37 of the Third Ward of the city of Louisville, and voting precincts B7, B10, B13, B14, B15, B18, B19, B21, B22, B24, B38, B42, B43, B48, B54, B58, B64 and B67 of B District of the county.~~]

(31) Thirty-first District: That part of Jefferson County containing voting precincts *16, 17, 19, 26, 29, 34, 35, 36, 38 and 39 of the Second Ward of the city of Louisville; and voting precincts A22, A35, A39, A63, A80, A81, A85, A86, A89, A91, A98, A99, A100, A102, A105, A114, A117, A118, A119, A123, A125, A127, A128, A135, A138, A139, A146 and A151 of Commissioner's District A.* [~~16, 17, 19, 26, 29, 34, 35, 36 and 38 of the Second Ward of the city of Louisville; voting precincts A22, A35, A36, A39, A43, A63, A80, A81 and A123 of A District of the county, and voting precincts B4, B5, B6, B9, B17, B27, B28, B35, B39, B45, B55, B56 and B68 of B District of the county.~~]

(32) Thirty-second District: That part of Jefferson County containing voting precincts *4, 5, 6, 7, 8, 9, 10, 23A, 23B, 23, 24, 25, 27, 28, 29, 30 and 33 of the First Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6, 7A, 7, 8, 10, 13, 15, 18, 20, 27, 32, 40 and 41 of the Second Ward of the city of Louisville; voting precincts 1 and 2 of the Third Ward of the city of Louisville; and voting precincts A4, A5, A6, A17, A18, A19, A24, A26, A27, A31, A32, A34, A46, A51, A64, A68, A71, A82, A83 and A94 of Commissioner's District A.* [~~3, 4, 5, 6, 7, 9, 10, 13, 14, 20, 21, 23, 24, 25, 27, 28, 29, 30, 32 and 33 of the First Ward; voting precincts 1, 2, 3, 4, 5 and 6 of the Second Ward; voting precincts 1 and 2 of the Third Ward of the city of Louisville, and voting precincts A2, A5, A18, A19, A26, A29, A34, A49, A51, A60 and A73 of A District of the county.~~]

(33) Thirty-Third District: That part of Jefferson County containing voting precincts *23, 30 and 31 of the Second Ward of the city of Louisville; voting precincts A10, A11, A15, A16, A36, A53, A57, A70, A75, A76, A84, A87, A90, A92, A93, A95, A97, A101, A104, A112, A115, A120, A130, A132, A134, A137, A141 and A152 of Commissioner's District A.* [~~7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 21, 23, 24, 27, 28, 30, 31, 32 and 33 of the second ward of the city of Louisville; voting precinct A 17 of A District of the county, and voting precincts B1, B2, B3, B29, B30, B31, B33, B34, B59 and B70 of B District of the county.~~]

(34) Thirty-fourth District: That part of Jefferson County containing voting precincts *12, 16, 19A and 19 of the First Ward of Louisville; voting precincts 9, 11, 12, 14, 21, 24, 28, and 33 of the Second Ward of the city of Louisville; voting precincts 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the Third Ward of the city of Louisville; and voting precincts 7 and 11 of the Fifth Ward of the city of Louisville.* [~~11, 12, 16, 17 and 19 of the First Ward, and voting precincts 7, 8, 9, 10, 11, 12, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the third ward, voting precinct 11 of the fifth ward of the city of Louisville, and voting precinct B16 of B District of the county.~~]

(35) Thirty-fifth District: That part of Jefferson County containing voting precincts *16, 17 and 29 of the Third Ward of the city of Louisville; 1, 5A, 5, 7, 8A, 8, 9A, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32 and 33 of the Fourth Ward of the city of Louisville; voting precincts 22, 26, 27, 28, 29 and 30 of the Fifth Ward of the city of Louisville; and voting precincts 10 and 13 of the Eighth Ward of the city of Louisville.* [~~17 and 29 of the Third Ward, and voting precincts 5A, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32, and 33 of the Fourth Ward, voting precincts 10 and 13 of the Eighth Ward of the city of Louisville, and voting precincts B8, B11, B12 and B32 of B District of the county.~~]

(36) Thirty-sixth District: *Garrard County; that part of Jessamine County contained in election precincts of East Nicholasville #1, East Nicholasville #2, West Nicholasville #2, Southeast Nicholasville #1 and #2, Southwest Nicholasville #1, #2 and #3, Sulphur Well, Little Hickman, and Bethel; and that part of Madison County contained in the Lexington-Blue Grass Army Depot and in the election precincts of Blue Lick, East Berea, Gay-Stephens North Berea, South Berea, West Berea, Big Hill, Bobtown-Redlick, Clay, Brassfield-Bearwallow and Poosey.* [~~That part of Jefferson County containing voting precinct 15 of the First Ward; voting precincts 13 and 16 of the Third Ward; voting precincts 21 and 23 of the Fourth Ward; voting precincts 5, 6, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 of the Fifth Ward, voting precincts 9, 11, 12 and 14A of the Eighth Ward of the city of Louisville.~~]

(37) Thirty-seventh District: That part of Jefferson County containing voting *precincts 2, 21, 23 and 34 of the Fourth Ward of the city of Louisville; voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 25, 29 and 33 of the Sixth Ward of the city of Louisville; voting precincts 6, 8, and 9 of the Seventh Ward of the city of Louisville; voting precincts 11, 12, 14A, 14, 16A and 16 of the Eighth Ward of the city of Louisville; voting precincts B5 (not including that part of B5 located within the city limits of Louisville), B29, B75, B79, B82 and B92 of Commissioner's District B; and voting precincts C22 and C70 of Commissioner's District C.* [~~precinct 34 of the Fourth Ward, voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 29 of the Sixth Ward, and voting precincts 6, 8 and 9 of the Seventh Ward, voting precinct 16 of the Eighth Ward of the city of Louisville, and voting precincts C24 and C88 of C District of the county.~~]

(38) Thirty-eighth District: That part of Jefferson County containing voting precincts *12, 13, 15, 16, 24, 26A, 26, 27, 28, 30, 31 and 32 of the Sixth Ward of the city of Louisville; voting precincts 3A, 3, 5, 7, 10, 13, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of the Seventh Ward of the city of Louisville; that part of voting precinct B5 of Commissioner's District B not contained within the Thirty-seventh District; and voting precincts C12, C18, C60, C87, C89 and C96 of Commissioner's District C.* [~~12, 13, 15, 16, 27, 28, 30, 31, and 32 of the Sixth Ward, voting precincts 3A, 5, 7, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the Seventh Ward of the city of Louisville.~~]

(39) Thirty-ninth District: *That part of Harlan County contained in the election precincts of Old Baxter, New Baxter, Pine Mountain Bledsoe, Loyall-Old, Loyall-School and Rio Vista; that part of Perry County not contained in the Ninety-first District; that part of Owsley County not contained in the Ninetieth District.* [~~That part of Jefferson County containing voting precincts 1, 2 and 31 of the First Ward, voting~~

~~precincts 2, 3 and 4 of the Fifth Ward, voting precinct 5 of the Sixth Ward, voting precincts 1, 2, 3, 4, 5, 6, 7, 8 and 15 of the Eighth Ward, and voting precinct 21 of the Ninth Ward, voting precincts 3, 18, 19 and 27 of the Tenth Ward of the city of Louisville.~~]

(40) Fortieth District: That part of Jefferson County containing voting precincts *24 and 25 of the Fifth Ward of the city of Louisville; voting precinct 5 of the Sixth Ward of the city of Louisville; voting precincts 1, 2, 4, 11, 12, 14 and 17 of the Seventh Ward of the city of Louisville; voting precincts 7, 8A, 8, 9, 15A, 15, 17, 18A, 18, 19, 20 and 21, of the Eighth Ward of the city of Louisville; voting precincts 10, 11, 13, 14A, 14, 15, 16, 17 and 18 of the Ninth Ward of the city of Louisville; voting precincts 25A and 25 of the Tenth Ward of the city of Louisville; and voting precincts C9, C25, C27, C35, C51, C63 and C68 of Commissioner's District C.* [~~2 and 4 of the Seventh Ward, voting precincts 17, 18, 19, 20 and 21 of the Eighth Ward, voting precincts 8, 10, 11, 12, 13, 14A, 15A, 16, 17 and 18 of the Ninth Ward, and voting precincts 22, 23, 24, 25 and 26 of the Tenth Ward of the city of Louisville, and voting precincts C9, C25, C27, C35, C51, C63 and C68 of C District of the county.~~]

(41) Forty-first District: That part of Jefferson County containing voting precincts *1, 2, 3, 11, 13, 14, 15, 17, 21, 31, 32 and 34 of the First Ward of the city of Louisville; voting precincts 2, 3, 4, 5, 6, 8, 10, 13, 15, 18, 19 and 31 of the Fifth Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 29 and 30 of the Tenth Ward of the city of Louisville.* [~~1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21 and 28 of the Tenth Ward, voting precincts 1, 5, 9, 18, 19, 20 and 21A of the Eleventh Ward of the city of Louisville.~~]

(42) Forty-second District: That part of Jefferson County containing voting precincts *12, 16, 17, 20, 21, and 23 of the Fifth Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6 and 22 of the Eighth Ward of the city of Louisville; voting precincts 1, 2, 4, 7A, 7, 8, 9, 19, 20 and 21 of the Ninth Ward of the city of Louisville; voting precincts 16A, 16, 17, 19, 21A, 21, 22, 23, 24, 26, 27, 28A and 28 of the Tenth Ward of the city of Louisville; voting precincts 14, 15, 16, 17, 18A, 18, 19, 20, 21A, and 21 of the Eleventh Ward of the city of Louisville; and voting precincts 24 and 25 of the Twelfth Ward of the city of Louisville.* [~~1, 2, 3, 4, 5, 6, 7A, 9, 19 and 20 of the Ninth Ward, voting precincts 8, 10, 11, 12, 13, 14, 15, 16 and 17 of the Eleventh Ward, and voting precincts 21, 22, 23, 24 and 25 of the Twelfth Ward of the city of Louisville.~~]

(43) Forty-third District: That part of Jefferson County containing voting precincts *1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 22 of the Eleventh Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 11, 12, 13, 14, 15, 16A, 16, 17, 18, 19, 20, 21, 22 and 23 of the Twelfth Ward of the city of Louisville.* [~~2, 3, 4, 6 and 7 of the Eleventh Ward, and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 12, 13, 14, 15, 16A, 17, 18, 19 and 20 of the Twelfth Ward of the city of Louisville.~~]

(44) Forty-fourth District: That part of Jefferson County containing voting precincts *3, 5, 6 and 22 of the Ninth Ward of the city of Louisville; and voting precincts C1, C2, C3, C4, C10, C13, C15, C17, C20, C26, C28, C29, C36, C37, C38, C41, C42, C48, C49, C52, C62, C76, C77, C83, C84, C86, C88, C92, C93, C95, C104, C105, C106, C110 and C111 of Commissioner's District C.* [~~C1, C2, C3, C4, C10, C13, C15, C20, C26, C28, C29, C36, C37, C38, C41, C48, C49, C52, C62, C76, C77, C86, C92 and C93 of C District of the county.~~]

(45) Forty-fifth District: That part of Jefferson County containing voting precincts *B1, B2, B3, B6, B7, B9, B17, B23, B27, B28, B30, B39, B45, B55, B56, B59, B63, B66, B73, B74, B76, B81, B83, B90, B91 and B94 of Commissioner's District B; and voting precincts C23 and C102 of Commissioner's District C.* [~~B23, B63, and B66 of the B District of the county; voting precincts C12, C14, C16, C17, C22, C32, C42, C61, C83, C84 and C89 of C District of the county.~~]

(46) Forty-sixth District: That part of Jefferson County containing voting *precinct A88 of Commissioner's District A; and voting precincts B14, B20, B26, B33, B34, B35, B36, B37, B38, B41, B44, B46, B47, B50, B51, B52, B53, B57, B60, B61, B62, B65, B68, B69, B77, B80, B86, B88 and B93 of Commissioner's District B.* [~~precincts B20, B25, B26, B36, B37, B40, B41, B44, B46, B47, B49, B50, B51, B52, B53, B57, B60, B61, B62, B65 and B69 of B District of the county.~~]

(47) Forty-seventh District: That part of Jefferson County containing voting precincts *A8, A12, A13, A14, A20, A21, A23, A25, A28, A33, A37, A38, A41, A42, A43, A44, A45, A50, A58, A65, A69, A72, A74, A77, A106, A107, A108, A109, A110, A124, A126, A129, A133, A136, A147, A149 and A153 of Commissioner's District A.* [~~A4, A6, A8, A12, A13, A15, A16, A20, A21, A23, A24, A25, A27, A28, A31, A32, A33, A37, A38, A41, A42, A45, A46, A50, A53, A58, A64, A68, A69, A71, A72, A74, A77, A136 and A149 of A District of the county.~~]

(48) Forty-eighth District: That part of Jefferson County containing voting precincts *20 and 22 of the First Ward of the city of Louisville; and voting precincts A1, A2, A3, A7, A9, A29, A30, A40, A47, A48, A49, A52, A54, A55, A56, A59, A60, A61, A62, A66, A67, A73, A78, A79, A111, A113, A116, A121, A122, A131, A140, A142, A143, A144, A145, A148 and A150 of Commissioner's District A.* [~~A1, A3, A7, A9, A10, A11, A14, A30, A40, A44, A47, A48, A52, A54, A55, A56, A57, A59, A61, A62, A65, A66, A67, A70, A75, A76, A78 and A79 of A District of the county.~~]

(49) Forty-ninth District: *That part of* Bullitt *County not contained in the Twenty-seventh District* [~~and Spencer Counties~~].

(50) Fiftieth District: Nelson *and Washington Counties* [~~County and that part of Washington County not contained in the Fifty-fourth District~~].

(51) Fifty-first District: Green and Taylor Counties, and that part of Metcalfe County not contained in the Twenty-third District.

(52) Fifty-second District: Adair and Casey Counties and that part of Russell County [~~not~~] contained in the *election precincts of Webbs, Irvins, Esto, Royville, City Hall, Fairgrounds, Eli and Rowes* [~~Fifty-third District~~].

(53) Fifty-third District: Wayne, Clinton and Cumberland Counties; that part of Russell County *not* contained within the *Fifty-second and Eighty-third Districts* [~~county census division of Eli bounded by: State Highway 80; county line, Lake Cumberland, Caney Creek, Caney Fork, Clear Fork, Dunbar Trail, Dunbar Road, West Wilson Road, State Highway 80, that part of Russell County contained within the county census division of Bryan bounded by: State Highway 92, Greasy Creek, Bethel Creek Fork, Blankenship Road, State Highway 55, Helen Road, State Highway 35, county line~~].

(54) Fifty-fourth District: Boyle County; that part of *Lincoln County contained* [~~Washington County~~] contained in *the Census County Divisions of Hustonville and Stanford and in Census Enumeration Districts 564 and 565* [~~voting precincts 5, 6, 7, 8, 9, 10~~].

(55) Fifty-fifth District: [~~Garrard,~~] Mercer, *Spencer* and Anderson Counties.

(56) Fifty-sixth District: [~~Jessamine and~~] Woodford *County; that part of Franklin County contained in election precincts Forks of Elkhorn, Switzer, Peaks Mill, Owenton Road and Swallowfield; that part of Jessamine County not contained in the Thirty-sixth District* [~~Counties~~].

(57) Fifty-seventh District: *That part of* Franklin County *not contained in the Fifty-sixth District.*

(58) Fifty-eighth District: Henry and Shelby Counties.

(59) Fifty-ninth District: [~~Carroll, Gallatin,~~] Oldham[~~,~~] and Trimble Counties.

(60) Sixtieth District: *That part of* Boone County *not contained in the Sixty-sixth District.*

(61) Sixty-first District: *Carroll, Gallatin,* [~~Bracken,~~] Grant and Owen Counties [~~and Pendleton County except for the voting precincts of Bonar and Sandsuck~~].

(62) Sixty-second District: Harrison and Scott Counties.

(63) Sixty-third District: That part of Kenton County containing the following voting precincts: *Crescent Springs 1 and 2; Crestview Hills; Edgewood 1, 2, 3, 4, 5 and 6; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2 and 3; Park Hills 1, 2 and 3; Richardson; and that part of Sandfordtown Precinct west of the L & N Railroad track and west of Madison Pike.* [~~Crestview, Edgewood 1, 2 and 3; Elsmere 4; Erlanger 1, 2, 3, and 7; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2 and 3; Park Hills 1, 2 and 3; and Sandfordtown.~~]

(64) Sixty-fourth District: That part of Kenton County containing the following voting precincts: *Bracht, Cherokee, Covington 26, 27, 29, 30 and 43, Decoursey, Independence 1, 2 and 3, Morningview, Nicholson, Oakridge, Piner, that part of Sandfordtown not contained in the Sixty-third District, Taylor Mill 1 and 2, Visalia, Whites Tower, and Winston Park; and that part of Pendleton County contained in voting precinct Grassy Creek.* [~~Bracht, Cherokee, Covington 26, 27, 29, 30, 40, 41, 42 and 43, Decoursey, Independence 1 and 2, Morningview, Nicholson, Oakridge, Piner, Richardson, Taylor Mill 1 and 2, Visalia, Whites Tower, Winston Park.~~]

(65) Sixty-fifth District: That part of Kenton County containing the following voting precincts: Covington *7, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 31, 33, 34, and 42; and that part of Kenton County contained within the city of Ludlow and the city of Bromley.* [~~12, 14, 15, 17, 18, 19, 20, 20A, 23, 24, 25, 31, 33, 34, 35, 36 and 39.~~]

(66) Sixty-sixth District: That part of *Boone County containing the following voting precincts: Devon 1, 1A and 2; Florence 1; that part of Florence 3 bounded as follows: beginning at the Boone County line and Old Dixie Highway, then east with Old Dixie Highway to State Highway 107, then north on State Highway 107 to Segree Drive, then west on Segree Drive to Jortha Avenue, then north on Jortha Avenue to Lloyd, then east on Lloyd and Drexel Avenue to Oakwood Drive, then northeast on Oakwood Drive and High Ridge Avenue to Florence city limits, then east with city limits of Florence to Boone County line, then to point of beginning; Florence 6; that part of Kenton County containing the following voting precincts: that part of Bromley precinct not contained in Ludlow city and in Bromley city, Elsmere 1, 2, 3 and 4, Erlanger 1, 2, 3, 4, 5, 6, 7, 8 and 9, Villa Hills 1 and 2.* [~~Kenton County containing the following voting precincts: Covington 6, 7, 10, 10A and 13, Bromley, Crescent Springs, Elsmere 1, 2 and 3, Erlanger 4, 5, 6, 8 and 9, Ludlow 1, 2, 3, 4 and 5, Villa Hills 1 and 2.~~]

(67) Sixty-seventh District: That part of Campbell County containing all of the voting precincts in the city of Newport*; that part of Campbell County containing the following voting precincts: Southgate A, B and C, Wilder and Woodlawn; that part of Kenton County containing the following voting precincts: Covington 1, 3, 6, 35, 36, 39, 40, and 41.*[~~, the city of Wilder, the city of Southgate except voting precinct Southgate B; that part of Kenton County containing voting precincts Covington 1, 3.~~]

(68) Sixty-eighth District: That part of Campbell County containing [~~all~~] the *following* voting precincts *Bellevue A, B, C, D, E, F, G, H and I; Dayton A, B, C, D, E, F, and G; Fort Thomas A, B, C, D, E, G, L and P* [~~in the city of Bellevue; all the voting precincts in the city of Dayton; voting precincts A, B, C, D, E, G, L and P in the city of Fort Thomas and the voting precincts of Woodlawn~~], Brent, Crestview, Silver Grove, Hayfield, Carthage, Camp Springs, *California, Mentor and Gubser's Mill* and Melbourne*; Pendleton County precincts Bonar, Sandsuck, and Falmouth 3; and Bracken County precincts Foster, Johnsville, Augusta West and Augusta East.*

(69) Sixty-ninth District: That part of Campbell County not contained in the Sixty-seventh and Sixty-eighth Districts; that part of Pendleton County *not* contained in the *Sixty-eighth District* [~~voting precincts of Bonar and Sandsuck~~].

(70) Seventieth District: Mason, Fleming and Robertson Counties; that part of *Bracken County not contained in the Sixty-eighth District* [~~Rowan County contained in census enumeration district 3 bounded by Bath County line, Triplett Creek, Morehead city limits, Kentucky Highway 32, Fleming County line~~].

(71) Seventy-first District: Morgan and *Rowan* [~~Menifee~~] Counties; that part of *Lawrence County contained in election precincts Martha, Blaine, Brushey and Meades Branch; and that part of Lewis County contained in the election precincts of Concord, Mowers, Tollesboro, and Burtonsville and in that part of the election precinct of Peterville southwest of a line commencing at the intersection of State Highway 377 at the Rowan-Lewis County line; thence following the centerline of Highway 377 to the Handy Fork Road, thence with the centerline of Handy Fork Road to its termination; thence with a straight line from the end of the Handy Fork Road to the Sargeant Branch Road; thence with the centerline of the Sargeant Branch Road to the intersection of State Highway 509; thence with the centerline of State Highway 509 northeast to Petersville and the intersection of Highway 344; thence northwest with the centerline of Highway 344 to the Burtonville Precinct boundary* [~~Rowan County not contained in the Seventieth District; the Northern part of Wolfe County bounded by Kentucky Highway 15, Campton City limits, Kentucky Highway 746, Mountain Parkway Extension, Morgan County line, Menifee County line, Powell County line, including the city of Campton~~].

(72) Seventy-second District: Bourbon County and that part of Fayette County not contained in the Seventy-fifth District, the Seventy-sixth, Seventy-seventh, Seventy-eighth and Seventy-ninth Districts.

(73) Seventy-third District: Clark and *that part of* Powell *County west of a line extending from the Montgomery County line south with the centerline of State Highway 213 to State Highway 11 and 15, then westward with the center of State Highway 11 and 15 to the western city limits of Stanton, then eastward around the southern city limits of Stanton to the Mountain Parkway, then eastward with the Mountain Parkway to State Highway 11 and 15, then southward with State Highway 11 and 15 to Cat Creek-High Rock Road, then south with said road and an unnamed branch of Cat Creek to Knowlton Ridge Road, then southward with Knowlton Ridge Road to State Highway 213, then southward with State Highway 213 to the Estill County line* [~~Counties~~].

(74) Seventy-fourth District: Bath, Nicholas and Montgomery Counties.

(75) Seventy-fifth District: That part of Fayette County contained within the following *election precincts: Davidson Court, Fayette Park, Hampton Court, Preston Inn, West Main, Church, Deerfield, Fair Grounds, Goodrich, Merino, Open Gates, Picadome, Rodes Addition, Rosemont, Towers, Alabama, Ashland Avenue, Aylesford, Bell Place, Bunker, Campsie, Clifton, College View, Hollywood, Lawrence, Mt. Vernon, and Woodland* [~~described boundaries: Beginning at the intersection of South Broadway and Mason Headley Road; then with the center line of South Broadway in a northeastwardly direction to the intersection of South Broadway and Virginia Avenue; then in a northwestwardly direction with the western boundary of the Kentucky Trotting Horse Breeders Association property (Red Mile) to the Versailles Pike across from the intersection of Forbes Road; then in a generally northwardly direction with the center line of Forbes Road to its intersection with the Old Frankfort Pike to its intersection with Leestown Pike (West Main Street); then in a southeastwardly direction with the center line of West Main Street to its intersection with Newtown Pike; then in a northwestwardly direction with the center line of Newtown Pike to its intersection with West Fourth Street; then in a southeastwardly direction with the center line of West Fourth Street to the Louisville and Nashville Railroad Company crossing; then in a northeastwardly direction with the center line of the right-of-way of the Louisville and Nashville Railroad Company to its crossing of the Russell Cave Pike (Ky 353); then in a generally southwardly direction along the center line of the Russell Cave Pike to Louden Avenue; then in a southeastwardly direction with the center line of Louden Avenue to its intersection with Maple Avenue; then in a southeastwardly direction with the center line of Maple Avenue to its intersection with East Seventh Street and in a southeastwardly direction along the center line of East Seventh Street to its intersection with Shropshire; then in a southwestwardly direction with the center line of Shropshire Avenue to East Sixth Street and in a northwestwardly direction with the center line of East Sixth Street to its intersection with Pemberton; then in a southwestwardly direction with the center line of Pemberton to its intersection with East Fifth Street; then in a southeastwardly direction with the center line of East Fifth Street to its intersection with Race Street and in a southwestwardly direction with the center line of Race Street to~~

~~its intersection with East Third Street; then in a southeastwardly direction with the center line of East Third Street to its intersection with Walton Avenue; then in a southwestwardly direction with the center line of Walton Avenue to its intersection with East Main Street; then in a southeastwardly direction with the center line of East Main Street to its intersection with Irvine Road; then in a southwestwardly direction with the center line of Irvine Road to its intersection with Fontaine Road; then in a northwestwardly direction with the center line of Fontaine Road to its intersection with East High Street; then in a generally southwardly direction with the center line of East High Street to the northwest property line of Cassidy school; then following the property line of Cassidy school back to the southwest boundary of East High Street; then with the center line of East High Street to its intersection with Cooper Drive; then westwardly along the center line of Cooper Drive where it meets the eastern property boundary of the University of Kentucky Experimental Farm; then south around the property line of the University of Kentucky Experimental Farm to the western boundary where it meets Iroquois; then northwestwardly to the intersection of Iroquois and South Limestone; then southwardly along the center line of South Limestone to the intersection of Southland Drive; then northwestwardly along the center line of Southland Drive to the intersection of Southland Drive and Southview Drive; then southwestwardly along Southview Drive to the intersection of Southview Drive and Hollyhill Drive; then westwardly along the rear property line of Hollyhill Drive to the intersection of Hollyhill Drive and Clays Mill Road; then northwardly along the center line to the intersection of Clays Mill Road and South Broadway and with the center line of South Broadway to the Mason Headley Road, to the point of beginning~~].

(76) Seventy-sixth District: That part of Fayette County contained within the following *election precincts: Blue Acres, Marlboro, Radcliffe, Aspendale, Bluegrass, Breckenridge, Bryan Station, Castlewood, Crawford, Deep Springs, Dixie, Eastland, Emerson, Helm, Henry Clay, Hermitage, Idle Hour, Kenwick, Liberty Heights, Loudon, Northern, Ohio, Rockwood, Victory, Walnut, Walton, Warfield Place, Augusta, Greenleaf and Delaware* [~~boundaries: Beginning at the intersection of East Third Street and Race Street; then in a southeastwardly direction along the center line of East Third Street to its intersection with Walton Avenue; then in a southeastwardly direction with the center line of Walton Avenue to its intersection with East Main Street; then in a southeastwardly direction with the center line of East Main Street to its intersection with West Fairway Drive; then in a northeastwardly direction with the center line of West Fairway Drive to its intersection with Henry Clay Boulevard; then in a northeastwardly direction with the center line of Henry Clay Boulevard to its intersection with Menifee Avenue and in a southeastwardly direction with the center line of Menifee Avenue to a point in the southeast property line of Holiday Road; then in a southwestwardly direction with the southeast property line of Holiday Road to East Main Street; then in a southeastwardly direction with the center line of East Main Street to its intersection with New Circle Road (Ky 4); then in a generally northwardly direction along the center line of New Circle Road to its intersection with Winchester Pike (US 60); then in a generally eastward direction with the center line of Winchester Pike to its intersection with Interstate 64-75; then in a northwestwardly direction with the right-of-way of Interstate 64-75 to its overpass on the Russell Cave Pike (Ky 353); then in a southwestwardly direction with the center line of Russell Cave Pike to its intersection with the New Circle Road; then in a southeastwardly direction with the center line of New Circle Road to its intersection with the Old Paris Pike (North Limestone); then in a southwestwardly direction with the center line of North Limestone to its intersection with Carlisle Avenue; then in a southeastwardly direction along the center line of Carlisle Avenue to its intersection of Bryan Avenue; then in a southwestwardly direction with the center line of Bryan Avenue to its intersection with Louden Avenue; then in a southeastwardly direction with the center line of Louden Avenue to its intersection with Maple Avenue; then in a southwestwardly direction with the center line of Maple Avenue to East Seventh Street; then in a southeastwardly direction along the center line of East Seventh Street to Shropshire; then in a southwestwardly direction along the center line of Shropshire to East Sixth Street; then in a northwestwardly direction along the center line of East Sixth Street to Pemberton; then in a southwestwardly direction along the center line of Pemberton to East Sixth Street; then in a southeastwardly direction with the center line of East Fifth Street to Race Street; then in a southwestwardly direction along the center line of Race Street to its intersection with East Third Street, the point of beginning~~].

(77) Seventy-seventh District: That part of Fayette County contained within the following *election precincts: Alexandria, Barker, Cardinal Valley, Douglas, Evans, Fairlawn, Garden Springs, Gibson Park, Holiday Hills, Imperial, Julius Marks, Keys, Lane Allen, Larkspur, Meadowthorpe, Oxford, Pine Meadows, St. Martins, Skycrest, Terrace View, Turfland, Versailles Pike, Viley Heights, Washington, Wolf Run, Barkley, Lafayette, Clays Mill, Hill-n-Dale, Indian Hills, Longview, Pershing, Southview and Arlington* [~~boundaries: Beginning at the intersection of the Versailles Road (US 60) and the New Circle Road (Ky 4); then with the New Circle Road in a generally northeastwardly direction to the following intersections: Old Frankfort Pike, Leestown Pike, Georgetown Pike, Newtown Pike, Russell Cave Pike and North Broadway to its intersection with the Old Paris Pike (North Limestone); then in a southwestwardly direction along the center line of North Limestone to Carlisle Avenue; then in a southeastwardly direction with the center line of Carlisle Avenue to Bryan Avenue; then in a southwestwardly direction with the center line of Bryan Avenue~~

~~to its intersection with Louden Avenue and in a northwestwardly direction with the center line of Louden Avenue to its intersection with Russell Cave Pike and in a generally northwardly direction with the center line of the Russell Cave Pike to the Louisville and Nashville Railroad crossing; then in a southwestwardly direction with the right-of-way with the Louisville and Nashville Railroad to West Fourth Street; then in a northwestwardly direction along the center line of West Fourth Street to the Newtown Pike and in a southwestwardly direction along the center line of the Newtown Pike to West Main Street; then in a northwestwardly direction with West Main Street (Leestown Pike) to Forbes Road; then in a southwestwardly direction along the center line of Forbes Road to the Versailles Road and across the Versailles Road and along the western property line of the Kentucky Trotting Horse Breeders Association (Red Mile) to South Broadway and in a southwestwardly direction along the center line of South Broadway to Clays Mill Road and continuing in a southwestwardly direction along the center line of Clays Mill Road to Longview Drive; then in a northwestwardly direction along the center line of Longview Drive to the Harrodsburg Road; then in a southwestwardly direction along the center line of the Harrodsburg Road to the New Circle Road and in a northwestwardly direction along the center line of New Circle Road to a point opposite the center line of Lansill Road and in a northeastwardly direction along the center line of Lansill Road to a point on the Lane Allen Road; then continuing in a northeastwardly direction along the center line of Traveller Road to the northwest property line of Antietam Road; then in a generally northwardly direction along the line between the rear property lines of Traveller Road and Alexandria Drive to the Parkers Mill Road; then continuing in a generally northwardly direction along the center line of the Parkers Mill Road to Versailles Road; then in a westwardly direction along the center line of Versailles Road to the New Circle Road, the point of beginning~~].

(78) Seventy-eighth District: That part of Fayette County contained within the following *election precincts: Beaumont, Meridian, The Colony, Airport, Blueberry Hills, Brigadoon, Brookhaven, Camelot, Glendover, Hinda Heights, Keithshire, Lansdowne, Leawood, McDowell, Malabu, Montavesta, Monticello, Redding Road, Shadeland, Shady Lane, Stone, Stonewall, Wem, Zandale, Robinwood, South Point, Tudor, Bayswater, Kirklevington, Stoneybrook, Surfside, and Plantation* [~~boundaries: Beginning on Versailles Pike (US 60) at the Woodford County line; then eastwardly with the center line of the Versailles Pike to the intersection with the New Circle Road, then continuing along the Versailles Pike to Parkers Mill Road; then in a generally southwardly direction along the center line of Parkers Mill Road and continuing in a southerly direction along the rear property lines of Traveller Road and Alexandria Drive to the northwestwardly property line of Antietam Road and in a southwestwardly direction with said property line of Antietam Road to the center line of Traveller Road and with the center line of Traveller Road to the Lane Allen Road; then in a southwestwardly direction to the center line of Lansill Road, continuing along the center line of Lansill Road and on to New Circle Road and in a southeastwardly direction along the center line of the New Circle Road to the Harrodsburg Road; then in a northeastwardly direction along the center line of Harrodsburg Road to its intersection with Longview Drive; then in a southeastwardly direction along the center line of Longview Drive to Clays Mill Road; then in a southwestwardly direction along Clays Mill Road to the intersection of Hollyhill Drive; then along the rear property line in a southeastwardly direction to Southview Drive; then northeastwardly along the center line of Southview Drive to the intersection of Southland Drive; then southeastwardly along the center line of Southland Drive to the intersection of Southland Drive and South Limestone; then northeastwardly to the intersection of Iroquois and South Limestone; then eastwardly along Iroquois to the western property line of the University of Kentucky Experimental Farm and along the southern boundaries of the University of Kentucky Experimental Farm property to the eastern boundary of the University of Kentucky Experimental Farm property where it meets Cooper Drive; then along the center line in a southeastwardly direction to the intersection of Cooper Drive and East High Street (Tates Creek Pike); then in a generally southerly direction along the center line of Tates Creek Pike to the Fayette County line; then along the Fayette County line in a generally northwestwardly direction to the Versailles Pike (US 60), the point of beginning~~].

(79) Seventy-ninth District: That part of the county of Fayette contained within the following *election precincts: Fairway, Gainesway, Lakeview, Mt. Tabor, Merrick, Richmond Road, Shrine, Southeastern Hills, Tates Creek, Walnut Hill, Delong, River Park, Blairmore, Edgewater, Ascot, Park Hills, Cove Lake, Chevy Chase, Chilesburg, Duke, Ellerslie, Fontaine, Woodspoint, Alsab, and Ridgeway* [~~boundaries: Beginning at the Kentucky River at the landing of Tates Creek Pike; then in a generally northwestwardly direction along the center line of the Tates Creek Pike (East High Street) to its intersection with Fontaine Road; then in a southeastwardly direction with the center line of Fontaine Road to its intersection with Irvine Road; then in a northeastwardly direction with the center line of Irvine Road to its intersection with East Main Street; then with the center line of East Main Street in a southeastwardly direction to its intersection with West Fairway Drive; then in a northeastwardly direction with the center line of East Fairway Drive to its intersection with Henry Clay Boulevard; then continuing in a northeastwardly direction with the center line of Henry Clay Road to its intersection with Menifee Avenue; then in a southeastwardly direction with the center line of Menifee Avenue to the southeast property line of Holiday Road; then in a southwestwardly~~

~~direction with the southeast property line of Holiday Road to its intersection with East Main Street; then in a southeastwardly direction with the center line of East Main Street to its intersection with New Circle Road (Ky 4); then with the center line of New Circle Road to its intersection with the Winchester Pike (US 60); then in a generally eastwardly direction with the center line of the Winchester Pike to its intersection with Interstate 64-75; then in a northwestwardly direction with the right-of-way of Interstate 64-75 to the Bryan Station Pike (Ky 956) and in a northwestwardly direction along the center line of the Bryan Station Pike to the Muir Station Pike; then in a southeastwardly direction along center line of the Muir Station Pike to the Briar Hill Pike; then in a northeastwardly direction along the center line of the Briar Hill Pike to the Bourbon County line; then following the Fayette County line in a generally southerly direction to the Kentucky River and along the Kentucky River to the Tates Creek Pike, the point of beginning~~].

(80) Eightieth District: [~~Lincoln and~~] Rockcastle *County; that part of Lincoln County not contained in the Fifty-fourth District; that part of McCreary County not contained in the Eighty-second district;* [~~Counties~~] and that part of Pulaski County contained within the following voting precincts: Eubank 25, Estesburg 26, Hazeldell *29* [~~27~~], Good Hope 28, *Dallas, Mayfield, Mt. Victory, Sloans Valley, Gamblin, Buncombe,* and Catron 31.

(81) Eighty-first District: That part of Madison County not contained in the *Thirty-sixth* [~~Eighty-fourth~~] District.

(82) Eighty-second District: *That part of* Whitley County *not contained in the Eighty-seventh District*; that part of McCreary County contained within *Census Enumeration districts 182, 183, 185 and 186* [~~the county census division of Pine Knot bounded by: Blue Heron Road extended, Blue Heron Road, State Highway 742, U. S. Highway 27, Laurel Creek, Marsh Creek, Duck Run, county line, state line, South Fork Cumberland River; that part of McCreary County contained within the County Census Division of Cooperative bounded by: South Fork Cumberland River, state line, county line; that part of McCreary County contained within the county census division of Stearns bounded by: Lick Creek, Bridge Fork, Laurel Creek, U. S. Highway 27, State Highway 742, Blue Heron Road, Blue Heron Road extended, South Fork Cumberland River~~].

(83) Eighty-third District: That part of Pulaski County not contained in the Eightieth District*; and that part of Russell County contained in the election precinct of Jabez.*

(84) Eighty-fourth District: Estill, *Lee* and *Menifee* [~~Jackson~~] Counties*;* [~~and~~] that part of *Powell* [~~Madison~~] County *not* contained in the *Seventy-third District; and that part of Jackson County not contained in the Ninetieth District* [~~city of Berea and in voting precincts 19 and 20~~].

(85) Eighty-fifth District: Laurel County [~~and that part of McCreary County not contained in the Eighty-second District~~].

(86) Eighty-sixth District: Knox County; that part of Clay County contained in voting precincts *Harts Creek, Horse Creek, Manchester, Garrard and Whites Branch* [~~1, 8, 12, 13, 14, 15~~].

(87) Eighty-seventh District: Bell County and that part of *Whitley County southeast of a line beginning at the Tennessee State line, following the Pine Mountain Divide northeastward, then westward with the Vanderpool Mountain Divide to the Rose Creek-Seng Branch Divide, then northward with said divide to the Gatliff Lookout Road, then with said road to State Highway 904, then eastward with State Highway 904 to State Highway 1809, then northward with State Highway 1809 to the Knox County line* [~~Harlan County contained in voting precinct Pathfork 41~~].

(88) Eighty-eighth District: That part of Harlan County not contained in the *Thirty-ninth District* [~~Eighty-seventh and Ninetieth Districts~~].

(89) Eighty-ninth District: Breathitt, *Wolfe* and *Magoffin* [~~Lee~~] Counties [~~and that part of Wolfe County not contained in the Seventy-first District, and that part of Perry County contained in census county division of Big Creek, Blue Diamond Buckhorn, Yerkes-Busy and Krypton lying north and east of the following boundary: Leslie County line, Big Creek-Right Fork Divide, Buffalo Fork Big Creek-Buffalo Creek Divide, Brown's Fork-Buffalo Creek Divide, Messer Branch-Davidson Branch Divide, Happy Hollow, Hazard City limits, Walker Branch-North Fork Kentucky River Divide; Laurel Fork-Lost Creek-First Creek Divide, Sixteenmile Creek-Lower Second Creek Divide, Lost Creek, Grapevine Creek Divide, Tenmile Creek-Grapevine Creek Divide, Breathitt County line, Owsley County line, and Clay County line~~].

(90) Ninetieth District: Leslie *County; that part of Jackson County contained in Census Enumeration Districts 81, 82, 83 and 76U; that part of Clay County not contained in the Eighty-fourth District; that part of Owsley County contained in election precincts Island Creek, Sturgeon and Elk Lick* [~~and Owsley Counties, and that part of Harlan County contained in the voting precincts of Pine Mountain-Big Laurel No. 11, Bledsoe No. 12, New Baxter No. 9, Old Baxter No. 8, School House Loyall No. 35, City Hall Loyall No. 34, Rio Vista No. 36, and Putney No. 10, and that part of Clay County contained in voting precincts 2, 3, 4, 5, 6, 7, 9, 10, 11~~].

(91) Ninety-first District: That part of Perry County [~~not~~] contained in the *election precincts of Whitaker, Little Leatherwood, Cornettsville, Fusonia, Vicco, Happy, Jeff, Farmertown and Christopher; that part of Pike County south and west of a line beginning at the Letcher County line, then northeast with the*

Marshall Branch-Booker Branch Divide and the Orchard Branch-Blaze Branch Divide to Gale Road, then with the Gale Road to its intersection with U.S. Highway 23, then in a straight line eastwardly to Herman Siding Station, then south-southeast with northern boundary of Dorton Census County Division to the Tennessee state line [~~Eighty-ninth district,~~] and that part of Letcher County not contained in the Ninety-second District.

(92) Ninety-second District: Knott *County* [~~and Magoffin Counties~~]; that part of Letcher County contained in *the voting precincts of Ison, Colson, Marion, Blackey, Doty and Baker; that part of Floyd County contained in the voting precincts of Rock Fork #37, Wayland #18, Lackey #17, Bosco #15, Beechgrove #41, Jack Allen, Middle Creek #8, Maytown, Rough and Tough #12, Abbott #35, and Garrett #16* [~~census county division of Blackey, Colson, Fleming-Neon, and census enumeration districts 21 and 22, lying northwest of the following boundary: Perry County line, Turkey Creek-Defeated Creek Divide, Whittaker Branch Road, Tolson Branch Road, Kentucky Highway 588, Mills Branch Road, Mills Branch Spur Road, Rockhouse Creek-Smoot Creek Divide, Kentucky Highway 15, Smoot Creek-Dry Fork Divide, Rockhouse Creek-North Fork Kentucky River Divide, Millstone Creek Road, Kentucky Highway 803, State Highway 113, North Fork Kentucky River, U. S. Highway 119, Seco city limits, U.S. Highway 119, Jenkins city limits, McRoberts city limits, Fleming city limits, and from Hemphill-Jackhorn P.O. due north to Pike County line, including the cities of Seco and Fleming~~].

(93) Ninety-third District: That part of Pike County *not contained in the Ninety-first and Ninety-fourth Districts* [~~contained in voting precincts Caney 20, Yeager 21, Old Shelby 22, Long Fork 23, Dorton 24 and Elmwood in district 2; Marrowbone 30, Rockhouse 31, Henry Clay 32, Hellier 33, Ashcamp 34 and Rasnick 35 in district 3; Millard 40, Lick Creek 42, Grapevine 43, and Garden Village 46 in district 4; Raccoon 51 in district 5; Peter 70, Blackberry 71, Knox 72, Freeburn-Cline 73, Wolford 74, Bluesprings 75, Majestic 76 in district 7; Mouthcard 80, Upper Elkhorn 81, Elkhorn City Hall 82, Belcher 83, Feds Creek 84, Looney 85 in district 8~~].

(94) Ninety-fourth District: That part of Pike County [~~not~~] contained in the *Census County Divisions of Pikeville, Mayflower, Raccoon, Sidney and South Williamson and Census Enumeration Districts 505 and 506* [~~Ninety-third District; that part of Floyd County not contained in the Ninety-fifth District~~].

(95) Ninety-fifth District: *That part of* Floyd County *not contained in the Ninety-second District* [~~except for the voting precincts Herold, Toler Creek, Antioch, Branhams Creek, Head of Mud, Tickey~~].

(96) Ninety-sixth District: Carter *County; that part of Lewis County not contained in the Seventy-first District; that part of Greenup County contained in Census Enumeration District 831* [~~and Lewis Counties~~].

(97) Ninety-seventh District: Johnson and Martin Counties[~~, and that part of Lawrence County contained in voting precincts 7, 9, 10, 11, 12, 13 and 14~~].

(98) Ninety-eighth District: That part of Greenup County not contained in the Ninety-ninth *and One hundredth Districts* [~~District~~].

(99) Ninety-ninth District: Elliott County; that part of Lawrence County *not* contained in *the Seventy-first District* [~~voting precincts 1, 2, 3, 4, 5, 6 and 8~~]; that part of Boyd County containing the following voting precincts: Court House [~~1~~], City Building [~~2~~], Argo [~~3~~], Hampton [4], [~~Rockdale 5,~~] England Hill [~~7~~], Durbin [~~8~~], East Fork [~~9~~], Cannonsburg [~~10~~], Princess [~~11~~], Garner [~~12~~], Hoods Creek [~~13~~], Fairview [~~14~~], Buckley *#1, Buckley #2* [~~15~~], Westwood [~~16~~], *Fannin, Ashland Oil and Greenhill* [~~Millseat 17; that part of Greenup County contained in census enumeration district 10, known as Bellefonte City, bounded by county line, Country Club Drive (State Highway 693) to its junction with State Highway 1725, then southeasterly to the county line~~].

(100) One hundredth District: That part of Boyd County not contained in the Ninety-ninth District *and that part of Greenup County contained in the city of Bellefonte.*

Section 2. KRS 6.041 is amended to read as follows:

Any reference in KRS 6.011 and 6.031 to a *census unit,* city, *county, road, highway or stream means that census unit, city, county, road, highway or stream as its boundaries or location existed on January 1, 1980. Any reference to a* ward, *commissioner's* district *or precinct means that ward, commissioner's district or precinct as its boundaries existed on July 15, 1980* [~~, boundary, precinct, road, highway, street, stream or other line means as they existed on January 4, 1972, except that the following references to precincts in KRS 6.031 shall mean such precincts as they existed on January 1, 1978: In Trigg County, precincts Canton, West Cadiz, South Cadiz 1, South Cadiz 2, North Cadiz 1, North Cadiz 2, Wallonia, Cerulean, Bethesda, Maggie and Caledonia-Roaring Spring; in Jefferson County, precincts A35, A38, A50, A74, A80, A81, A123, A136 and A149 of A District of the county~~].

SB 57, AN ACT relating to state senate districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.011 is amended to read as follows:

The Commonwealth of Kentucky is divided into senatorial districts as follows:

(1) First District: *Fulton, Hickman, Carlisle, Graves, Calloway and Trigg Counties* [~~Carlisle, Hickman, Fulton, Graves and Calloway Counties and that part of the County of Marshall contained within voting precincts Brewers, Hardin, South Marshall and West Marshall~~].

(2) Second District: *Ballard, McCracken and Marshall Counties* [~~Ballard and McCracken Counties, and Marshall County except for voting precincts Brewers, Hardin, South Marshall and West Marshall~~].

(3) Third District: *Christian and Todd Counties; that part of Muhlenberg County contained within voting precincts Drakesboro, Beechmont, Cleaton, East Boggess, Ennis, Penrod, Rosewood, and Weir; that part of Butler County contained within voting precincts Sugar Grove, Boston, Davenport, Forgytown, South Hill, Rochester, Judge Office, Sheriffs Office, Courthouse, and Little Bend* [~~Christian, Lyon, Todd and Trigg Counties and that part of Muhlenberg County contained in the County Census Division of Rosewood bounded by: Cave Springs Road, State Highway 1473, Pond Creek, State Highway 1163; State Highway 973, State Highway 1472, Unnamed road; County line; County line, Cave Springs Road. That part of Muhlenberg County contained in the County Census Division of Penrod bounded by: State Highway 70; County line; County line; Unnamed road, State Highway 1472, State Highway 973, Belton-Rosewood Road, Belton-Ennis Road~~].

(4) Fourth District: *Livingston, Crittenden, Union, Lyon, Webster and Henderson Counties* [~~Crittenden, Henderson, Livingston, Union and Webster Counties and that part of Daviess County contained within the County Census Division of West Louisville bounded by: Panther Creek, State Highway 81, County line, County line~~].

(5) Fifth District: *Breckinridge, Meade, Grayson and Hart Counties; that part of Ohio county not contained within the Eighth and Ninth Districts; that part of Hardin County contained within voting precincts Eastview, Meeting Creek, White Mills, and Vertrees; that part of Hardin County bounded by Meade County line, U.S. Highway 31 W. and Vine Grove Road (part of Fort Knox Military Reservation)* [~~Ohio, Breckinridge, Meade, Grayson and Hart Counties and that part of Hardin County contained within the County Census Division of Summit bounded by: State Highway 86, Vertrees Creek, the Old Hardinburg Road, Howe Valley-H. Goodman Road, State Highway 86, Les Horn Road, Knachy Pike-Stephensburg Road, U.S. Highway 62, State Highway 84, Western Kentucky Turnpike, County line, County line~~].

(6) Sixth District: *McLean, Caldwell and Hopkins Counties; that part of Muhlenberg County not contained within the Third District* [~~Caldwell, Hopkins and McLean Counties and that part of Muhlenberg County not contained in the Third District~~].

(7) Seventh District: *That part of Jefferson County contained within the following voting precincts: B District precincts 17, 75, 79, 82, 92; C District precincts 5, 6, 7, 8, 11, 12, 14, 16, 18, 19, 21, 22, 23, 24, 29, 30, 31, 32, 33, 34, 39, 40, 42, 43, 44, 45, 46, 47, 50, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64, 65, 66, 67, 69, 70, 71, 72, 73, 74, 75, 78, 79, 80, 81, 82, 85, 87, 89, 90, 91, 93, 94, 96, 97, 98, 99, 100, 101, 102, 103, 105, 107, 108, 109, 110, 112* [~~That part of the County of Jefferson contained within the following voting precincts: Seventh Ward of Louisville 18, 21, 22, 23; C District 5, 6, 7, 8, 11, 18, 19, 21, 30, 31, 33, 34, 39, 40, 43, 44, 45, 46, 47, 50, 53, 54, 55, 56, 57, 58, 59, 60, 62, 64, 65, 66, 67, 69, 71, 72, 73, 74, 75, 78, 79, 80, 81, 82, 85, 87, 90, 91, 93, 94~~].

(8) Eighth District: *Daviess and Hancock Counties; that part of Ohio County contained within voting precincts Magan, Aetnaville, and Buford* [~~Hancock County and that part of Daviess County not contained in the Fourth District~~].

(9) Ninth District: *Simpson, Allen, Monroe, Barren and Edmonson Counties; that part of Butler County not contained within the Third District; that part of Ohio County contained within voting precincts Horse Branch, Rosine, Cromwell, and Cool Springs* [~~Simpson, Allen, Barren, Metcalfe, Monroe and Edmonson Counties and that part of Butler County contained in the County Census Division of Jetson bounded by: Welch Creek, Blacklick School Road, State Highway 411, County line, County line, Green River, Woodbury city limits, Green River, Welch Creek (this division excludes Woodbury city). That part of Butler County contained in the County Census Division of Welch Creek bounded by: County line, State Highway 411, Blacklick School Road, Welch Creek; Welch Creek, Green River, Morgantown city limits, Green River; Green River, County line (this division excludes Morgantown city)~~].

(10) Tenth District: *Larue County; that part of Bullitt County contained within voting precincts Lebanon Junction #14, Lebanon Junction #15, and Bernheim; that part of Bullitt County contained within the Fort Knox Military Reservation; that part of Hardin County not contained within the Fifth District* [~~That part of Hardin County not contained in the Fifth District, that part of Larue County not contained in the Fourteenth District~~].

(11) Eleventh District: *Campbell County; Bracken County; that part of Pendleton County contained within voting precincts Falmouth #1, Falmouth #3, Falmouth #4, McKenneysburg, Bonar, and Sandsuck* [~~Campbell County except the voting precincts of Grants Lick A, Grants Lick B, Gubser Mill, Mentor, Carthage, California and Dry Ridge~~].

(12) Twelfth District: That part of [~~the County of~~] Fayette *County* not contained in the Thirteenth *and* [~~District or in the~~] Thirtieth *Districts* [~~District~~].

(13) Thirteenth District: *That part of Fayette County contained within the following boundaries: Beginning at the intersection of Versailles Road (US 60) and New Circle Road (Ky 4), then with New Circle Road in a generally northeastward direction through the intersections of Old Frankfort Pike and Leestown Pike to Georgetown Pike (US 25), then in a northwestward direction with the center line of Georgetown Pike to a point where it overpasses Interstate 64 and Interstate 75, then in a southeastward direction with the center line of Interstate 64 and Interstate 75 to the overpass at Russell Cave Pike, then in a southwestward direction with the center line of Russell Cave Pike to New Circle Road, then in a generally southeastward direction with the center line of New Circle Road through the following intersections: North Broadway, Old Paris Pike, Bryan Station Road, Winchester Road and Liberty Road, to the intersection of Richmond Road, then in a northwestward direction with the center line of Richmond Road to the intersection of Chinoe Road, then in a southwestward direction along the center line of Chinoe Road to the intersection of Cooper Drive, then in a northwestward direction with the center line of Cooper Drive to a point where it meets the eastern property boundary of the University of Kentucky campus, then south around the property line of the University of Kentucky campus to the western boundary where it meets Iroquois Court, then northwest along the center line of Iroquois Court to the intersection of South Limestone (Nicholasville Pike), then south along the center line of South Limestone (Nicholasville Pike) to the intersection of Southland Drive, then northwest along the center line of Southland Drive to the intersection of Rosemont Garden, then northwest along the center line of Rosemont Garden to the intersection of Clays Mill Road, then in a generally southward direction along the center line of Clays Mill Road to Longview Drive, then in a northwestward direction along the center line of Longview Drive to Harrodsburg Road, then in a southwestward direction along the center line of Harrodsburg Road to New Circle Road, then in a generally northward direction along the center line of New Circle Road to a point opposite the center line of Alexandria Drive, then in a northeastward direction along the center line of Alexandria Drive to Lane Allen Road, then in a northwestward direction along the center line of Lane Allen Road to the intersection of Traveller Road and along the center line of Traveller Road to the northwest property line of Antietam Road, then along the rear property lines of Traveller Road and Alexandria Drive to Parkers Mill Road, then continuing in a northwestward direction along the center line of Parkers Mill Road to Versailles Road, then in a westward direction along the center line of Versailles Road to the intersection of New Circle Road, the place of beginning* [~~That part of the County of Fayette contained within the following boundaries: Beginning at the intersection of the Versailles Road (US 60) and New Circle Road (KY 4), then with New Circle Road in a generally northeastwardly direction through the following intersections, Old Frankfort Pike, Leestown Pike, Georgetown Pike, Newtown Pike, Russell Cave Pike, North Broadway, Old Paris Pike, Bryan Station Pike, Winchester Pike and Liberty Road, then to the overpass of the Chesapeake and Ohio Railroad, then in a northwestwardly direction along the Chesapeake and Ohio Railroad track to a point opposite the southeast property line of Holiday Road then in a southwestwardly direction along said property line of Holiday Road to a point opposite the center line of Menifee Avenue; then in a northwestwardly direction along the center line of Menifee Avenue to Henry Clay Boulevard; then in a southwestwardly direction along the center line of Henry Clay Boulevard to Fairway Drive, then along Fairway Drive to Richmond Road, then in a northwestwardly direction along the center line of the Richmond Road to Ashland Avenue, then in a southwestwardly direction along the center line of south Ashland Avenue to the intersection of East High Street, then in a generally southerly direction with the center line of East High Street to Cooper Drive, then in a northwestwardly direction along the center line of Cooper Drive, through the intersection of Cooper Drive and Nicholasville Road then continuing with Waller Avenue (Cooper Drive) to the intersection on Harrodsburg Road (US 68), then southwestwardly along the center line of Harrodsburg Road to the intersection of Lane Allen Road, then along the center line of Lane Allen Road in a northwestwardly direction to the intersection of Traveller Road then along the center line of Traveller Road to the northwest property line of Antietam Road then along the rear property lines of Traveller Road and Alexandria Drive to Parkers Mill Road, then continuing in a northwestwardly direction along the center line of Parkers Mill Road to the Versailles Road then along the center line of the Versailles Road in a westwardly direction to the intersection of the New Circle Road, the place of beginning~~].

(14) Fourteenth District: *Washington, Marion, Boyle, Nelson and Anderson Counties* [~~Boyle, Nelson, Washington, Marion and Anderson Counties and that part of Larue County contained in the County Census Division of Buffalo bounded by: State Highway 84, County line; County line; County line, Morvin Allen Road, State Highway 61, Benningfield Road, U.S. Highway 31 E., J. I. Hutcheson Road; State Highway 698, U.S. Highway 31 E., Buffalo city limits, including Buffalo city, State Highway 470, U.S. Highway 31 E~~].

(15) Fifteenth District: *Pulaski, Lincoln, Rockcastle and Garrard Counties; that part of Jackson County contained within the Census County Division of Sand Gap, Census Enumeration District 78T, and Census Enumeration District 78U, which are bounded as follows: Rockcastle County line, Laurel Branch;*

Racoon Creek, Lear Road, Tree Tower Road, Indian Creek-Sand Gap Road, State Highway 89, Northern city limits of McKee, U.S. Highway 421, State Highway 587, Owsley County line, Lee County line, Estill County line, Madison County line, Rockcastle County line [~~Casey, Lincoln, Pulaski and Rockcastle Counties and that part of McCreary County not contained in the Sixteenth District~~].

(16) Sixteenth District: *Russell, Cumberland, Metcalfe, Adair, Green, Taylor and Casey Counties* [~~Green, Taylor, Adair, Cumberland, Russell, Clinton and Wayne Counties; that part of McCreary County contained in the County Census Division of Co-Operative bounded by: South Fork Cumberland River; South Fork Cumberland River; State line; County line; that part of McCreary County contained in the County Census Division of Stearns bounded by: Lick Creek, Bridge Ford; Laurel Creek, Laurel Creek; U.S. Highway 27, State Highway 742, Blue Heron Road, Blue Heron Road extended; South Fork Cumberland River~~].

(17) Seventeenth District: *Bell and Harlan Counties; that part of Letcher County not contained within the Thirty-first District; that part of Perry County contained within voting precincts Whitaker, Little Leatherwood, and Big Leatherwood* [~~Bell and Harlan Counties; that part of Whitley County not contained in the Twenty-first District~~].

(18) Eighteenth District: Greenup, Carter, Lewis and Mason Counties.

(19) Nineteenth District: *That part of Jefferson County contained within the following voting precincts: Second Ward of Louisville precinct 23; A District precincts 22, 36, 50, 63, 85, 86, 87, 88, 89, 90, 91, 92, 93, 95, 97, 98, 99, 100, 101, 102, 104, 105, 114, 115, 117, 118, 119, 125, 127, 129, 134, 135, 137, 138, 139, 141, 146, 151; B District precincts 1, 2, 6, 9, 14, 20, 22, 23, 24, 26, 33, 34, 36, 37, 38, 43, 44, 45, 47, 50, 51, 52, 53, 55, 59, 60, 61, 62, 64, 65, 66, 68, 69, 70, 71, 72, 73, 77, 80, 86, 88, 89, 90, 93, 94* [~~That part of the County of Jefferson contained within the following voting precincts: Second Ward of Louisville 14, 24, 28; Third Ward of Louisville 35, 36, 37; Fourth Ward of Louisville 14, 15, 16, 17, 18, 19, 28, 29, 32; B District 11, 12, 15, 19, 21, 25, 32, 33, 40, 41, 42, 46, 48, 49, 57, 58, 62, 63, 69; C District 12, 14, 16, 17, 22, 23, 24, 32, 42, 61, 70, 83, 84, 88, 89~~].

(20) Twentieth District: *Spencer and Franklin Counties; that part of Bullitt County not contained within the Tenth District; that part of Shelby County contained within voting precincts Shelbyville 1, 2, 3 and 4, Southeast Shelbyville, Southville, Waddy, Clay Village and Bagdad* [~~Franklin, Shelby, Bullitt and Spencer Counties~~].

(21) Twenty-first District: *Laurel, Leslie and Clay Counties; that part of Jackson County not contained within the Fifteenth District; that part of Knox County contained within the Census County Division of Corbin, Census Enumeration District 471, Census Enumeration District 472, and Barbourville City, which are bounded as follows: Whitley County line, State Highway 1530, Cumberland River, Lundy Branch, Lundy Branch Road, Davis Bend Road, Eastern city limits of Barbourville, U.S. Highway 25E, Redworm Road, unnamed stream, Indian Creek Gray Road, Poplar Grove Gray Road, Laurel County line, Whitley County line* [~~Clay, Laurel, Leslie and Knox Counties; that part of the County of Whitley contained within the City of Corbin, except for voting precinct Corbin 15~~].

(22) Twenty-second District: *Madison, Mercer and Jessamine Counties* [~~Madison, Mercer, Garrard and Jessamine Counties~~].

(23) Twenty-third District: *that part of Kenton County contained within the following voting precincts: Covington 1, 3, 6, 7, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 29, 30, 31, 33, 34, 35, 36, 39, 40, 41, 42, 43; Bromley; Crescent Springs 1 and 2; Elsmere 1, 2, 3, and 4; Ludlow 1, 2, 3, 4, and 5; Erlanger 1, 2, 3, 4, 5, 6, 7, 8, and 9; Villa Hills 1 and 2; Winston Park; Decoursey; Visalia; Morning View; Taylor Mill 1 and 2; Oakridge; and Whites Tower; that part of Pendleton County not contained within the Eleventh District* [~~That part of the County of Kenton contained within the following voting precincts: the City of Covington in its entirety; Ludlow 1, 2, 3, 4, 5; Bromley; Villa Hills 1, 2; Crescent Springs; Erlanger 1, 2, 3, 4, 5, 6, 7, 8, 9; Elsmere 1, 2, 3, 4; and Winston Park~~].

(24) Twenty-fourth District: *Boone County; that part of Kenton County not contained within the Twenty-third District* [~~Boone County; that part of the County of Kenton not contained in the Twenty-third District; that part of the County of Campbell contained within voting precincts Grants Lick A, Grants Lick B, Dry Ridge, Mentor, Carthage, California and Gubser Mill~~].

(25) Twenty-fifth District: *Boyd, Johnson, and Lawrence Counties; that part of Floyd County contained within census enumeration districts 576 T, 578, 579, 581, and 582, which are bounded as follows: beginning at the intersection of the Magoffin County line and State Highway 114, then east with the center line of State Highway 114 to State Highway 1427, then east with the center line of State Highway 1427 to the western Prestonsburg city limits, then generally south with the Prestonsburg city limits to Town Branch Road, then with the center line of Town Branch Road to Graham Street, then northeast with the center line of Graham Street to Third Street, then northwest with the center line of Third Street to Westmister Street, then northeast with the center line of Westmister Street to Highland Street, then south and east with the center line of Highland Street to an unnamed street one (1) block east of Clay Street, then south with the center line of said unnamed street to the center line of Highway 1428 to the footbridge, then with the footbridge to the Levisa Fork (Prestonsburg city limits), then generally east with the Levisa*

Fork to an unnamed stream between Circle Drive and Poplar Street, then northeast with said stream to the Prestonsburg city limits, then east with the city limits to State Highway 3, then north with the center line of State Highway 3 to the Johnson County line, then west with the Johnson County line to the Magoffin County line, then south with the Magoffin County line to the point of beginning [~~Boyd, Johnson and Lawrence Counties and that part of the County of Floyd contained within voting precincts of Auxier and Abbott's Creek~~].

(26) Twenty-sixth District: *Oldham, Trimble, Henry, Carroll, Owen, Gallatin and Grant Counties; that part of Shelby County not contained within the Twentieth District* [~~Bracken, Carroll, Gallatin, Grant, Henry, Oldham, Owen, Pendleton and Trimble Counties and that part of the County of Jefferson contained within voting precincts A11, A15 and A53 of A District of the County~~].

(27) Twenty-seventh District: *Owsley, Lee, Breathitt, Wolfe, Magoffin, Morgan, Menifee, Elliott and Rowan Counties* [~~Jackson, Owsley, Breathitt, Wolfe, Magoffin, Morgan, Elliott, Menifee and Rowan Counties~~].

(28) Twenty-eighth District: *Clark, Estill, Powell, Montgomery, Bath and Fleming Counties* [~~Fleming, Bath, Montgomery, Clark, Powell, Estill and Lee Counties~~].

(29) Twenty-ninth District: *Knott County; that part of Perry County not contained within the Seventeenth District; that part of Floyd County not contained within the Twenty-fifth District; that part of Martin County not contained within the Thirty-first District* [~~Knott, Perry and Martin Counties and Floyd County except the voting precincts of Auxier and Abbott's Creek~~].

(30) Thirtieth District: *Bourbon, Scott, Woodford, Harrison, Nicholas and Robertson Counties; that part of Fayette County which is contained within the following boundaries: Beginning where the Briar Hill Road intersects the Fayette County-Bourbon County line, then with the center line of the Briar Hill Road in a westward direction to the intersection of the Muir Station Pike, then in a northwestward direction along the center line of the Muir Station Pike to the intersection of the Bryan Station Road, then in a southwestward direction with the center line of the Bryan Station Road to the Interstate 64 - Interstate 75 overpass, then in a northwestward direction along the center line of Interstate 64 - Interstate 75 to the intersection of North Broadway (US 27, 68), then in a southwestward direction along the center line of North Broadway to New Circle Road, then in a northwestward direction along the center line of New Circle Road to Russell Cave Pike, then in a northeastward direction along the center line of Russell Cave Pike to the point where it overpasses Interstate 64 - Interstate 75, then with the center line of Interstate 64 - Interstate 75 in a northwestward direction to the point where Georgetown Pike overpasses Interstate 64 Interstate 75, then in a generally southward direction along the center line of Georgetown Pike to New Circle Road, then in a generally westward direction along the center line of New Circle Road through the Leestown Pike intersection and Old Frankfort Pike intersection to the Versailles Road, then in a generally westward direction along the center line of Versailles Road to the Fayette County-Woodford County line, then in a generally northeastward direction along the Woodford County-Fayette County, Scott County-Fayette County, Bourbon County-Fayette County lines to the point of beginning* [~~Bourbon, Harrison, Nicholas, Robertson, Scott and Woodford Counties; that part of the County of Fayette which is contained within the following described boundary: beginning where the Briar Hill Road intersects the Fayette County-Bourbon County line; then with the center line of the Briar Hill Road in a westerly direction to the intersection of the Muir Station Pike; then in a northwestwardly direction along the center line of the Muir Station Road to the intersection of the Bryan Station Road; then in a southwestwardly direction with the center line of the Bryan Station Road to the Interstate 64-75 overpass; then in a northwestwardly direction with Interstate 64-75 to the intersection of Northern Parkway (US 27, 68), then in a northeastwardly direction along the center line of Northern Parkway to the intersection of Northern Parkway with Swigert Lane, then along the center line of Swigert Lane to its intersection with the Russell Cave Pike (KY 353), then in a southwestwardly direction along the center line of Russell Cave Pike to its intersection with the New Circle Road (KY 4), then along the center line of the New Circle Road in a westwardly direction to its intersection with the Versailles Pike (US 60), then in a westwardly direction with the center line of Versailles Pike to the Fayette County-Woodford County line; then in a generally northeastwardly direction along the Woodford County-Fayette County, Scott County-Fayette County, Bourbon County-Fayette County lines to the point of beginning~~].

(31) Thirty-first District: *Pike County; that part of Martin County contained within census enumeration districts 25, 26, 27, 28, and 32, which are bounded as follows: Lawrence County line, State Highway 3, State Highway 40, State Highway 2032, State Highway 1439, Lowgap Fork, unnamed road, Pike County line, Kentucky-West Virginia state line, Lawrence County line; that part of Letcher County contained within voting precincts Burdine, Rocky Branch, West Jenkins, East Jenkins, Mayking, Ermine, Thorton, East Whitesburg, West Whitesburg, Sandlick, and Millstone* [~~Pike and Letcher Counties~~].

(32) Thirty-second District: Logan and Warren Counties[~~; that part of Butler County not contained in the Ninth District~~].

(33) Thirty-third District: That part of *Jefferson County contained within the following voting precincts: First Ward of Louisville precinct 15; Fifth Ward of Louisville precincts 2, 4, 6, 8, 31; Ninth Ward*

of Louisville precincts 1, 2, 3, 4, 5, 6, 7, 7A, 8, 9, 10, 11, 16, 17, 18, 19, 20, 22; Tenth Ward of Louisville precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 16A, 17, 19, 20, 21, 21A, 22, 23, 24, 25, 25A, 26, 27, 28, 28A, 29, 30; Eleventh Ward of Louisville precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 18A, 19, 20, 21, 21A, 22; Twelfth Ward of Louisville precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, 20, 21, 22, 23, 24, 25 [~~the County of Jefferson contained within the following voting precincts: Ninth Ward of Louisville 1, 2, 3, 4, 5, 6, 7A, 9, 16, 18, 19, 20; Tenth Ward of Louisville 6, 7, 10, 11, 12, 20, 21, 28; Eleventh Ward of Louisville in its entirety; Twelfth Ward of Louisville in its entirety~~].

(34) Thirty-fourth District: *McCreary, Whitley, Wayne and Clinton Counties; that part of Knox County not contained within the Twenty-first District* [~~That part of the County of Jefferson contained within the following voting precincts: Second Ward of Louisville 16, 17, 19, 21, 23, 26, 30, 31, 33, 34, 35, 36, 38; A District 16, 21, 22, 23, 36, 37, 38, 39, 42, 43, 50, 58, 63, 72, 74; B District 3, 4, 5, 6, 7, 9, 14, 17, 20, 22, 23, 24, 26, 27, 28, 29, 31, 34, 35, 36, 37, 38, 39, 43, 44, 45, 47, 50, 51, 52, 53, 55, 56, 59, 60, 61, 64, 65, 66, 68, 70~~].

(35) Thirty-fifth District: That part of *Jefferson County contained within the following voting precincts: First Ward of Louisville precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 19, 19A, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34; Second Ward of Louisville precincts 1, 2, 3, 4, 5, 6, 7, 7A, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 24, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41; Third Ward of Louisville in its entirety; Fourth Ward of Louisville precincts 1, 8A, 22; Fifth Ward of Louisville precincts 7, 11, 12, 13; A District precincts 5, 17, 34, 39, 82, 83, 84, 94, 96, 103; B District precincts 10, 13, 16, 19, 54, 67, 85* [~~the County of Jefferson contained within the following voting precincts: First Ward of Louisville 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 29, 31, 32; Second Ward of Louisville 1, 3, 4, 5, 6, 7; Third Ward of Louisville 1, 2, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 29; Fourth Ward of Louisville 5A, 7, 8, 9, 10, 11, 12, 13, 22, 30, 33; Fifth Ward of Louisville 2, 4, 6, 8, 11, 12, 13, 16, 20, 21, 22, 26, 27, 28, 29, 30; B District 8, 10, 13, 18, 54, 67~~].

(36) Thirty-sixth District: That part of *Jefferson County contained within the following voting precincts: A District precincts 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 37, 38, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 106, 107, 108, 109, 110, 111, 112, 113, 116, 120, 121, 122, 123, 124, 126, 128, 130, 131, 132, 133, 136, 140, 142, 143, 144, 145, 147, 148, 149, 150, 152, 153* [~~the County of Jefferson contained within the following voting precincts: First Ward of Louisville 20, 21, 23, 24, 25, 27, 28, 30, 33; Second Ward of Louisville 2, 8, 9, 10, 11, 12, 13, 15, 18, 20, 27, 29, 32; Third Ward of Louisville 28, 30, 31, 32, 33, 34; A District 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 17, 18, 19, 20, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 40, 41, 44, 45, 46, 47, 48, 49, 51, 52, 54, 55, 56, 57, 59, 60, 61, 62, 64, 65, 66, 67, 68, 69, 70, 71, 73, 75, 76, 77, 78, 79, 80, 81; B District 1, 2, 16, 30~~].

(37) Thirty-seventh District: That part of *Jefferson County contained within the following voting precincts: Fourth Ward of Louisville precincts 2, 34; Sixth Ward of Louisville precincts 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 26A, 27, 28, 29, 30, 31, 32; Seventh Ward of Louisville precincts 1, 2, 3, 3A, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26; Eighth Ward of Louisville precincts 17, 18, 18A, 19, 20, 21; B District precincts 3, 4, 5, 7, 27, 28, 29, 30, 39, 56, 76, 81, 83, 91; C District precincts 1, 2, 3, 4, 9, 10, 13, 15, 17, 20, 25, 26, 27, 28, 35, 36, 37, 38, 41, 48, 49, 51, 52, 63, 68, 76, 77, 83, 84, 86, 88, 92, 95, 104, 106, 111* [~~the County of Jefferson contained within the following voting precincts: Fourth Ward of Louisville 23, 26, 34; Sixth Ward of Louisville 11, 12, 13, 14, 15, 16, 17, 21, 22, 26, 27, 28, 30, 31, 32; Seventh Ward of Louisville 2, 3A, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 19, 20; Eighth Ward of Louisville 17, 18, 19, 20, 21; C District 1, 2, 3, 4, 9, 10, 13, 15, 20, 25, 26, 27, 28, 29, 35, 36, 37, 38, 41, 48, 49, 51, 52, 63, 68, 76, 77, 86, 92~~].

(38) Thirty-eighth District: That part of *Jefferson County contained within the following voting precincts: Fourth Ward of Louisville precincts 5, 5A, 7, 8, 9, 9A, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 23, 25, 26, 27, 28, 29, 30, 32, 33; Fifth Ward of Louisville precincts 3, 5, 10, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30; Sixth Ward of Louisville precincts 4, 5, 6, 7, 8, 9, 10, 23, 33; Eighth Ward of Louisville precincts 1, 2, 3, 4, 5, 6, 7, 8, 8A, 9, 10, 11, 12, 13, 14, 14A, 15, 15A, 16, 16A, 22; Ninth Ward of Louisville precincts 13, 14, 14A, 15, 21; Tenth Ward of Louisville precinct 18; B District precincts 8, 11, 12, 15, 18, 21, 25, 31, 32, 35, 40, 41, 42, 46, 48, 49, 57, 58, 63, 74, 78, 84, 87* [~~the County of Jefferson contained within the following voting precincts: Fourth Ward of Louisville 21, 25, 27; Fifth Ward of Louisville 3, 5, 9, 10, 14, 15, 17, 18, 19, 23, 24, 25, 31; Sixth Ward of Louisville 4, 5, 6, 7, 8, 9, 10, 18, 19, 20, 23, 24, 25, 29; Eighth Ward of Louisville 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14A, 15, 16; Ninth Ward of Louisville 8, 10, 11, 12, 13, 14A, 15A, 17, 21; Tenth Ward of Louisville 1, 2, 3, 4, 5, 8, 9, 13, 14, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 27~~].

Section 2. KRS 6.041 is amended to read as follows:

Any reference in KRS 6.011 [~~and 6.031~~] to a *census unit,* city, *county, road, highway or stream means that census unit, city, county, road, highway or stream as its boundaries or location existed on January 1, 1980. Any reference to a* ward, *commissioner's* district *or precinct means that ward, commissioner's district or precinct as its boundaries existed on July 15, 1980* [~~, boundary, precinct, road, highway, street, stream, or other line means as they existed on January 4, 1972, except that the following references to precincts in KRS 6.031 shall mean such precincts as they existed on January 1, 1978: In Trigg County, precincts Canton, West Cadiz, South Cadiz 1, South Cadiz 2, North Cadiz 1, North Cadiz 2, Wallonia, Cerulean, Bethesda, Maggie and Caledonia-Roaring Spring; in Jefferson County, precincts A35, A38, A50, A74, A80, A81, A123, A136 and A149 of A District of the county~~].

Calendar

HB 336, HB 44, HB 166, HB 179, HB 215, HB 206, and **HB 106** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 54, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 54** be passed.

On the roll call the vote was yeas: 27-Arnold, Bennett, Boswell, Brinkley, Brown, Bruce, Clapp, Cyrus, Deskins, Dunn, Farrow, Foster, Gray, Guenthner, Hancock, R. Jones, List, McNutt, Patrick, Richards, P. Richardson, Robinson, Stone, Stumbo, Thomason, Tobin, Worthington. Nays: 58-Allen, Barrows, Bendl, Blandford, Blevins, Bronger, Burch, Burnette, Caldwell, Clark, Cowan, Craddock, Crupper, Curd, Donnermeyer, Endicott, Ford, Freibert, Fryman, Haering, Handy, Harper, Heleringer, Holbrook, Holloway, Johnson, T. Jones, Kenton, Layman, Lile, Little, Long, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Riner, Schmidt, Seum, F. Smith, Thomas, Todd, Turner, Van Horn, Yates.

HB 54 was defeated.

HB 88, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved the adoption of the Committee Substitute to **HB 88.** Agreed.

Representative Ratliff moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 88.** Agreed.

Representative Priddy moved that **HB 88,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0

HB 88, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 88,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Rattliff moved that the above roll call for passage of **HB 88** be also considered as a roll call to show co-sponsors of **HB 88.** Agreed.

HB 187, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and be placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Committee Amendment No. 1 to **HB 187.** Agreed.

Representative Farrow moved that **HB 187,** as amended, be passed.

On the roll call the vote was yeas: 86-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Maggard, Mann, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, Van Horn, Worthington, Yates. Nays: 2-Gray, Hines.

HB 187, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 187,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that **HB 214** be recommitted to the Committee on Labor and Industry. Agreed.

HB 288 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 288** be passed.

On the roll call the vote was yeas: 81-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, R. Jones, Kenton, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, B. Richardson, Riner, Robinson, Schmidt, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays: 8-Allen, Bruce, Burnette, Foster, Layman, Morris, Richards, B. Smith.

HB 288 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 288** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

Representative LeMaster moved that Regulation 815 KAR 20:030 be referred to the Committee on Committees. Agreed.

Representative Fryman moved that the motion to allow the roll call on passage of **HB 88** to be also considered as a roll call for co-sponsors be rescinded. Agreed.

Representative Richards moved that the clincher motion on **HB 59** be removed. Agreed.

Representative Richards moved that **HB 59** be reconsidered and that it be placed in Orders of the Day. Agreed.

Representative Deskins moved that **SB 145** be reassigned to the Committee on Counties and Special Districts. Agreed.

Representative Rattliff moved that a call of the roll be taken to show co-sponsors of **HB 88.** Agreed.

The following members requested that their names be added as co-sponsors of **HB 88:** Allen, Arnold, Bennett, Boswell, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Craddock, Crupper, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Harper, Heleringer, Holloway, Johnson, Kidd, Layman, Lile, Little, Long, Maggard, McBee, McNutt, Moberly, Moore, Morris, Noland, Overstreet, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, Riner, Robinson, Schmidt, Seum, B. Smith, Stone, Stumbo, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Clark, **HB 298;** Representative Cline, **HB 95;** Representative Cyrus, **HB 411, HR 6;** Representative Haering, **HB 298;** Representative Head, **HB 245;** Representative Holbrook, **HB 215;** Representative O'Brien, **HB 298;** Representative B. Smith, **HB 88.**

Representative Foster requested that his name be withdrawn as co-sponsor of **HB 15.**

Representative Bendl moved that **HB 125** be reassigned to the Committee on Judiciary-Criminal. Agreed.

Representative Crupper moved that the vote by which **HB 54** was defeated be reconsidered and that it be placed in Orders of the Day.

On the roll call the vote was yeas: 45-Arnold, Bendl, Bennett, Boswell, Bronger, Brown, Bruce, Caldwell, Clapp, Clark, Clarke, Craddock, Crupper, Curd, Cyrus, Dawahare, Endicott, Farrow, Foster, Gray, Hancock, Handy, Hines, R. Jones, Little, Long, Maggard, McNutt, Morris, Perkins, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Robinson, B. Smith, Stone, Stumbo, Tobin, Turner, Van Horn, Williams, Worthington, Yates. Nays: 26-Allen, Barrows, Blevins, Burnette, Cowan, Deskins, Donnermeyer, Ellington, Ford, Freibert, Guenthner, Harper, Head, Heleringer, Johnson, T. Jones, Layman, Lile, Mann, McBee, Meyer, Moberly, Noland, Overstreet, Petty, Todd.

The motion that the vote by which **HB 54** was defeated be reconsidered and that it be placed in Orders of the Day was adopted.

Senate Message

Announcing passage of **SB 28** and **SB 94.**

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 407. by Representative R. Jones: AN ACT relating to the office for public advocacy.

HB 408, by Representatives Freibert, Turner, Blevins, Holloway, and B. Smith: AN ACT authorizing designation of portion of income tax for libraries.

HB 409, by Representative Freibert: AN ACT proposing an amendment to Sections 99 and 144 of the Kentucky Constitution and proposing to create a new section thereof relating to urban county governments.

HB 410, by Representatives Freibert and Turner: AN ACT relating to insurance.

HB 411, by Representatives Worthington, Morris, Endicott, Arnold, Blevins, Burnette, Thomas, F. Smith, Haering, Curd, Perkins, Lundergan, and White: AN ACT relating to contributions to pension systems.

HB 412, by Representatives Little and Deskins: AN ACT relating to roads.

HB 413, by Representatives Bruce, Crupper, Morris, and Brinkley: AN ACT relating to the state fair board.

HB 414, by Representative Deskins: AN ACT relating to marital property agreements.

HB 415, by Representatives Hancock, Long, Crupper, Farrow, T. Jones, P. Richardson, Bruce, Foster, Noe, Rapier, Brinkley, Boswell, Caldwell, Schmidt, Arnold, Barrows and Patrick: AN ACT relating to state personnel.

HB 416, by Representative Barrows: AN ACT relating to crimes and punishments.

HB 417, by Representatives Stumbo, Brinkley, Robinson, and Bruce: AN ACT relating to administrative regulations.

HB 418, by Representative Stumbo: AN ACT relating to security services for the court of justice.

HB 419, by Representatives Clark, Yates, Priddy, B. Smith, Burch, Gray, Bronger, Blandford, and Bennett: AN ACT relating to the model procurement code.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 6, HB 360, HB 385.**

Counties and Special Districts: **HB 264, HB 298, HB 378, SB 5.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

State Government: **HB 285.**

Announcements

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 179,** by Representative Heleringer:

Amend printed copy of **HB 179,** page 4, line 15, after the word "*months.*" by inserting the following language:

"Section 3. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every full-time police officer, sheriff, or deputy sheriff, who works not less than forty (40) hours per week, elected to office or employed by any county or city or by the state; "fire fighter" means every *fire fighter employed for compensation or on a volunteer basis by the state, or any county, city, fire district or by any other organized fire department recognized, pursuant to KRS 17.250, by the commissioner of insurance as a fire department operated and maintained*

on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth [~~full-time fire fighter who works not less than forty (40) hours per week, employed by any county or city or by the state~~].

(2) The spouse of any police officer, sheriff, deputy sheriff or fire fighter whose death occurs as a direct result of an act in the line of duty shall receive a lump sum payment of twenty-five thousand dollars ($25,000), which sum shall be paid by the state treasurer from the general expenditure fund of the state treasury. If there is no surviving spouse, the payment shall be made to the surviving children.

(3) The benefits payable under this section are in addition to any benefits now or hereafter prescribed under any police, sheriff or fire fighter's retirement or benefit fund established by the state, county, or any municipality."

Floor Amendment No. 1 to **HB 245**, by Representative B. Smith:

Amend printed copy of **HB 245**, on page 1, line 17, by deleting after the word "lien" the following: "and the amount thereof";

and on line 18, by deleting the word "identification" and by inserting in lieu thereof the word "*description*";

On page 2, line 10, by inserting a "," after the word "*lien*;

and on line 12 by deleting the word "*identification*" and by inserting in lieu thereof the word "*description*";

and on line 18, by deleting the words "*duly licensed*" and by inserting after the word "*stockyard*" the following: "*licensed by the Commonwealth of Kentucky*";

and on line 24, after the word "*lien*" insert a comma ","

and on line 26, by deleting the word "*identification*" and inserting in lieu thereof the word "*description*".

Floor Amendment No. 1 to **SB 13**, by Representative Bronger:

Amend printed copy of **SB 13**, page 4, line 25, as follows:

Insert between the words "*class*" and "*All*" the following:

"*The new form of government shall tax property within its jurisdiction only in such amount as is commensurate with services or facilities actually made available to the residents or property of the affected area. If services available from the new form of government have been provided by a city other than the first class, the new form of government shall not tax the residents of such city for such services unless they are actually provided by the new form of government as a replacement for existing services.*"

The following meetings were announced:

Committee on Rules: On adjournment, Room 316.

Appropriations and Revenue: Thursday, 11:00 a.m., Room 109.

Education Subcommittee: Thursday, 9:00 a.m., Room 103.

Labor and Industry: Thursday, 8:30 a.m., Room 104.

State Government: Regular meeting, Thursday.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, February 4, 1982.

On the roll call the vote was, yeas: 58-Allen, Arnold, Barrows, Bennett, Blandford, Blevins, Boswell, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Dawahare, Donnermeyer, Haering, Hancock, Harper, Head, Hines, Holloway, Johnson, R. Jones, T. Jones, Layman, Little, Long, McBee, Meyer, Moberly, Morris, Noe, Noland, O'Brien, Patrick, Petty, Priddy, Rapier, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, Williams. Nays 13-Deskins, Endicott, Ford, Foster, Guenthner, Handy, Holbrook, Lile, Maggard, Overstreet, Perkins, Robinson, Schmidt.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 4, 1982

TWENTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Beryl Spross, Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Lefevers.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 3, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 420, by Representatives Rattliff and Mann: AN ACT relating to coal severance and processing tax and the distribution thereof.

HB 421, by Representatives Craddock, Bruce, Morris, and White: AN ACT relating to motor vehicle sales.

HB 422, by Representatives LeMaster and Bennett: AN ACT relating to wages.

HB 423, by Representatives Bennett and Van Horn: AN ACT relating to collective bargaining.

HB 424, by Representatives Lundergan and LeMaster: AN ACT relating to professional sports events.

HR 30, by Representative LeMaster: A RESOLUTION amending the permanent Rules of the House of Representatives of 1982.

Representative Priddy moved that the rules be suspended to recommit **HB 299** to the Committee on Labor and Industry.

The Chair ruled Representative Priddy could not be recognized for the motion at this time.

Representative Priddy was recognized for a point of personal privilege.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 400, HB 413.**

Appropriations and Revenue: **HB 402, HB 408, HB 411.**

Banking and Insurance: **HB 405, HB 410, SB 97, SB 28, SB 136.**

Cities: **HB 404.**

Education: **SB 31, SB 116, SB 94.**

Energy: **HB 403.**

Health and Welfare: **HB 401.**

Judiciary-Civil: **HB 407, HB 414, HB 418.**

Judiciary-Criminal: **HB 416.**

Labor and Industry: **SB 54.**

State Government: **HB 409, HB 415, HB 417, HB 419, SB 70.**

Transportation: **HB 399, HB 412.**

Report of Committees

The Committee on Rules reported **HB 44, HB 106, HB 243,** and **HB 245** have been posted for passage in Orders of the the Day, February 5, 1982.

The Committee on Agriculture and Small Business reported **HB 111, HB 120,** and **SB 53** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 111, AN ACT relating to sales and use taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.490 is amended to read as follows:

If a purchaser certifies in writing to a seller that the property purchased will be used in a manner or for a purpose entitling the seller to exclude from the computation of the sales tax the gross receipts from the sale and uses the property in some other manner or for some other purpose, the purchaser shall be liable for payment of sales tax as if he were a retailer making a retail sale of the property at the time of such use, and the cost of the property to him shall be deemed the gross receipts from such retail sale. *The certificate of exemption relieves the seller from the sales and use tax only if he takes the certificate in good faith from the purchaser. Good faith shall be demonstrated by the seller if he accepts a signed certificate and maintains a file of such certificate in accordance with KRS 139.720. If the department later finds that the purchaser used the property in a manner that would not have qualified for tax exempt status, the department shall hold the purchaser liable for the remittance of the tax and may apply any penalties as provided in KRS 139.990.*

Section 2. KRS 139.990 is amended to read as follows:

(1) Any person who gives a resale certificate for property, knowing at the time of purchase that such property is not to be resold by him in the regular course of business, for the purpose of evading the tax imposed under this chapter shall, upon conviction, be subject to a fine of not less than ten (10) nor more than one hundred dollars ($100) or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment.

(2) *Any person who executes a certificate in accordance with KRS 139.490, knowing at the time of the purchase that he is not engaged in an occupation that would entitle him to exemption status or any person who does not intend to use the property in the prescribed manner shall, upon conviction, be subject to a fine of not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000) or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment.*

(3) A person who engages in business as a seller in this state without a permit or permits as required by this chapter or after a permit has been suspended, and each officer of any corporation which is so engaged in business, is guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten (10) nor more than one hundred dollars ($100), or imprisoned for not more than thirty (30) days, or both such fine and imprisonment.

(4)[~~(3)~~] Any person who violates any of the provisions of KRS 139.220, 139.370, 139.380, 139.700, or 139.750 shall, upon conviction, be subject to a fine of not less than ten (10) nor more than one hundred dollars ($100), or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment.

(5)[~~(4)~~] Any person who violates any of the regulations promulgated by the department under KRS 139.230 shall, upon conviction, be subject to a fine of not less than ten (10) nor more than one hundred dollars ($100) or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment.

HB 120, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

(2) When promulgating regulations and reviewing existing ones, administrative bodies shall, whenever possible, tier their regulations to reduce disproportionate impacts on certain classes of regulated entities and to avoid regulating entities that do not contribute significantly to the problem the regulation was designed to address. The tiers, however, must be based upon reasonable criteria and uniformly applied to an entire class. Administrative bodies may use any number of tiers they feel will solve most effectively the problem the regulation addresses. If the administrative body does not tier its regulations, a written statement must be submitted to the legislative research commission explaining why tiering was not used.

(3) Administrative bodies may use, but shall not be limited to, the following methods of tiering regulations:

(a) Reduce or modify substantive regulatory requirements;
(b) Eliminate some requirements entirely;
(c) Simplify and reduce reporting and recordkeeping requirements;
(d) Provide exemptions from reporting and recordkeeping requirements;
(e) Reduce the frequency of inspections;
(f) Provide exemptions from inspections and other compliance activities;
(g) Delay compliance timetables; and
(h) Reduce or modify fine schedules for non-compliance.

(4) When tiering regulatory requirements, administrative bodies may use, but shall not be limited to, size and non-size variables. Size variables include number of citizens, number of employes, level of operating revenues, level of assets and market shares. Non-size variables include degree of risk posed to humans, technological and economic ability to comply, geographic location and level of federal funding.

(5) When modifying tiers, administrative bodies shall monitor, but shall not be limited to, the following variables:

(a) Changing demographic characteristics;
(b) Changes in the composition of the workforce;
(c) Changes in the inflation rate requiring revisions of dollar-denominated tiers;
(d) Changes in market concentration and segmentation;
(e) Advances in technology; and
(f) Changes in legislation.

(6) When tiering regulations for small business concerns, administrative bodies shall use the small business size standards as defined in section 632 of the federal small business act and part 121 of title thirteen of the code of federal regulations.

SB 53, AN ACT relating to tobacco.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 248.350 is amended to read as follows:

(1) No warehouse or warehouseman or person acting on behalf of any warehouse or warehouseman shall discriminate against any grower of tobacco in any way, including but not limited to, the sale, transportation, or handling of tobacco. All tobacco growers shall be entitled to the exact same considerations as all other tobacco growers serviced by the same warehouse, *except that a warehouseman may distinguish among different types of packaging in setting the fee or commission.*

(2) *Nothing in this section shall permit a warehouseman to discriminate in any way among growers marketing tobacco in the same kind of package.*

(3) No tobacco warehouseman selling leaf tobacco in this state shall discriminate between purchasers as to charges, samples, warranty or otherwise, whether the purchasers are members of the tobacco exchange or not.

Section 2. KRS 248.990 is amended to read as follows:

(1) Any tobacco warehouseman, agent, manager, solicitor, corporation or organization that violates any of the provisions of KRS 248.320 to 248.340 or subsection *(3)* [~~(2)~~] of KRS 248.350 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100), and, if a corporation, it shall forfeit all corporate rights and privileges.

(2) Any person who violates any of the provisions of KRS 248.400 shall be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500).

(3) Any person who violates any of the provisions of KRS 248.370, 248.390, 248.440 or wilfully violates a regulation of the department, or who refuses to pay the fee provided for by KRS 248.290 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than three (3) months, or both.

(4) Any person who violates any of the provisions of KRS 248.410 or 248.420 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

(5) Any person who fails or refuses to post notices in accordance with subsection (1) of KRS 248.430 shall be fined not less than fifty dollars ($50.00) nor more than one hundred dollars ($100) for each day of failure or refusal.

(6) Any person who violates subsection (2) of KRS 248.430 shall be fined five hundred dollars ($500) for each offense.

(7) Any person who violates any of the provisions of subsection (1) of KRS 248.450 shall be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) for each offense.

(8) Any person who violates any of the provisions of subsection (2) of KRS 248.450 shall be fined not less than fifty dollars ($50.00) nor more than one hundred dollars ($100) for each day of violation.

(9) Any person who violates KRS 248.610 shall be fined not less than $100 nor more than $1,000, or imprisoned in the county jail for not more than one year, or both.

(10) Any person who violates any of the provisions of subsection (1) *or subsection (2)* of KRS 248.350 shall for each offense be fined not less than fifteen hundred dollars ($1,500) nor more than three thousand dollars ($3,000), or be imprisoned for not less than three (3) months nor more than twelve (12) months, or both.

The Committee on Labor and Industry reported **HB 244,** with Committee Substitute attached thereto, **HB 299,** and **SB 41,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 244, AN ACT relating to leave of absence for adoption.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

Every employer shall apply its rules and policy on maternity leave to a request for a leave of absence when the reception of an adoptive child by an employe is the reason for the request.

Committee Substitute to **HB 244** is as follows:

HB 244, AN ACT relating to leave of absence for adoption.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

Upon receiving written request by an employe, every employer shall grant reasonable personal leave when the reception of an adoptive child under the age of seven (7) is the reason for such request.

HB 299, AN ACT relating to prevailing wages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of labor;

(b) "Department" means department of labor;

(c) "Wages" include any compensation due to an employe by reason of his employment, such compensation to include salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses and any other similar advantages agreed upon by the employer and the employe or provided to employes as an established policy; such wages to be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency or firm who employs an employe and includes any person, either individual, corporation, partnership, agency or firm acting directly or indirectly in the interest of an employer in relation to an employe; and

(e) "Employe" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345 and 337.385 to 337.405 unless the context requires otherwise:

(a) "Employe" is any person employed by or suffered or permitted to work for an employer, but shall not include:

(i) Any individual employed in agriculture;

(ii) Any individual employed in a bona fide executive, administrative, supervisory or professional capacity, or in the capacity of outside salesman, or as an outside collector as such terms are defined by administrative regulations of the commissioner;

(iii) Any individual employed by the United States;

(iv) Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one domestic servant regularly employed;

(v) Any individual classified and given a certificate by the commissioner of labor showing a status of learner, apprentice, handicapped worker, sheltered workshop employe, and student under administrative procedures and administrative regulations as prescribed and promulgated by the commissioner of labor. This certificate shall authorize employment at such wages, less than the established fixed minimum fair wage rates, and for such period of time as shall be fixed by the commissioner and stated in the certificate issued to such person;

(vi) Employes of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employe is the parent, spouse, child, or other member of his employer's immediate family;

(vii) Any individual employed as a babysitter in employer's home, or live-in companion to a sick, convalescing or elderly person whose principal duties do not include housekeeping;

(viii) Any individual engaged in the delivery of newspapers to the consumer;

(ix) Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18 provided that the commissioner of personnel shall have the authority to prescribe by administrative regulation those emergency employes, or others who shall receive overtime pay rates as necessary for the efficient operation of government and the protection of affected employes;

(b) "Agriculture" means farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, furbearing animals or poultry, and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with such farming operations, including the preparation and delivery of produce to storage, or to market or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employe from a guest, patron or customer for services rendered;

(d) "Tipped employe" means any employe engaged in an occupation in which he customarily and regularly receives more than twenty dollars ($20.00) per month in tips;

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550 unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration or repair of any public works by contract fairly estimated to cost more than *two hundred fifty thousand dollars ($250,000) in 1982 and adjusted annually on July 1 thereafter according to the change in the consumer price index released by the U.S. department of labor, bureau of labor statistics* [~~$500~~];

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employes of such contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" *means the county where the physical work upon public works is performed, except if there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work* [~~shall be determined by the commissioner of labor. He may designate more than one county as a single locality but, if more than one county is designated, such multi-county locality shall not extend beyond the boundaries of the federal congressional district in which that county is located. In no event shall he designate less than an entire county as a locality~~].

2. "Locality" with respect to contracts advertised or awarded by the department of transportation of this state shall be determined by the secretary of transportation. He may designate any number of counties as constituting a single locality. He may also designate all counties of the Commonwealth as a single locality, but, in no event, shall he designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public building facilities[~~, including but not limited to the types of entities funded through revenue bonds~~]; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks and all other structures or work *except for buildings constructed as institutions of learning* constructed under contract with any public authority. *However, the provisions of this section shall not apply to construction conducted by a city, county, urban-county government or school district unless such construction is financed with fifty percent (50%) or more of state funds.*

(4) In any case where the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of such public works and where KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Section 2. KRS 337.505 is amended to read as follows:

For the purpose of KRS 337.505 to 337.550, the term "prevailing wage" for each classification of laborers, workmen, and mechanics engaged in the construction of public works within the commonwealth of Kentucky, means the sum of:

(1) The basic hourly rate paid or being paid subsequent to the labor commissioner's most recent wage determination to the majority of laborers, workmen, and mechanics employed in each classification of construction upon reasonably comparable construction in the locality where the work is to be performed; such rate shall be determined by the commissioner in accordance with paragraphs (a), (b), and (c) of subsection (3) of KRS 337.520; in the event that there is not a majority paid at the same rate, then the basic hourly rate of pay shall be the [~~basic hourly rate of pay paid to the greater number: Provided, such greater number constitutes 30 per cent of those employed; or in the event that less than 30 per cent of those employed receive the same rate, then the basic hourly rate of pay shall be the~~] average basic hourly rate which shall be determined by adding the basic hourly rates paid to all workers in the classification and dividing by the total number of such workers, and

(2) An additional amount per hour equal to the hourly rate of contribution irrevocably made or to be made by an employer on behalf of employes within each classification of construction to a trustee or to a third person pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the employes affected, for the following fringe benefits: Medical or hospital care, pensions on retirement, death compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, defraying costs of apprenticeship or other similar programs, or other bona fide fringe benefits, but only where the employer is not required by other federal, state or local law to provide any of such benefits: Provided, said additional amount may, at the discretion of the employer, be paid either in cash to the employe or by contributions for fringe benefits, or partly in cash and partly by such contributions, it being the intention of this subsection to recognize fringe benefits as a part of the prevailing wage rate where made in accordance with this subsection.

SB 41, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) "Club" means buying club.

(2) "Contract" means any oral or written agreement by which one becomes a member of a club.

(3) "Buying club" means any person, corporation, unincorporated association, or other organization which for a consideration provides or purports to provide its members or the members of any other buying club with the ability to purchase goods or services at discount prices; except that such organization shall not include any buying club in which persons receive discount buying services incidentally as part of a package of services provided to, or available to, such individuals on account of membership in such organization which is not organized for the profit of any person or corporation or which does not have as one of its primary purposes or businesses the provision of discount buying services.

(4) "Member" or "membership" means a status by which any natural person is entitled to any of the benefits of a club.

(5) "Prepayment" means any payment for service or merchandise made before the service is rendered or the merchandise is received. It is not a prepayment if a payment for service is made on the same day the service is rendered. Money received by a club from a financial institution upon assignment of a contract shall be considered prepayment when and to the extent the member is required to make prepayments to the financial institution pursuant to the contract.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any person who has elected to become a member of a club may cancel such membership by:

(a) Giving written notice any time before midnight of the fifth business day following the date on which membership was attained. Such cancellation shall be without liability on the part of the member and shall entitle the member to a refund of the entire consideration paid for the contract; or

(b) Giving written notice any time after the fifth business day following the date on which membership was attained. Such cancellation shall be on a pro rata daily basis, the member being responsible only for that portion of the contract consideration representing the time elapsed on the contract and being entitled to a refund of that portion of the fee representing the days remaining on the contract at date of cancellation. If the contract duration is for the life of the member, the daily value shall be determined by standard actuarial tables.

(2) Notice of cancellation must be in writing and delivered personally or by mail. If given by mail, the notice is effective upon deposit in a mailbox, properly addressed and postage paid. Notice of cancellation need not take a particular form and is sufficient if it indicates, by any form of written expression, the intention of the member not to be bound by the contract. If delivered personally, the notice is to be accepted by any agent or employe of the club, and a receipt for the notice must be given by that agent or employe to the person cancelling.

(3) The entitled refund shall be delivered to the member within ten (10) days after notice of cancellation is given.

(4) Rights of cancellation may not be waived or otherwise surrendered.

(5) Cancellation shall not relieve the member from paying for any merchandise purchased or ordered prior to the date of cancellation.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A copy of every contract shall be delivered to the member at the time the contract is signed. Every contract must be in writing, must be signed by the member, must designate the date on which the member signed the contract and must state, clearly and conspicuously in bold-face type of a minimum size of fourteen (14) points, the following:

"MEMBERS' RIGHT TO CANCEL"

"If you wish to cancel this contract, you may cancel by delivering or mailing a written notice to the company. Certified mail would provide greater protection than first-class mail, but is not necessary. If you deliver the notice personally, you are entitled to a receipt. Your notice must make known that you do not wish to be bound by the contract. If the notice is delivered or mailed before midnight of the fifth business day after you sign this contract, you are entitled to a refund of the entire consideration paid for the contract. Other cancellation entitles you to a pro rata refund for those days remaining on the contract. The notice must be delivered or mailed to (insert name and mailing address of company). If you cancel, the club is required to return, within ten (10) days of the date on which you give notice of cancellation, any payments you have made."

(2) Until the buying club has complied with this section, the member may cancel the contract by notifying the buying club in any manner and by any means of his intention to cancel and is then entitled to a refund of the entire consideration paid for the contract.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Every contract shall provide that if any goods ordered by the member from the buying club are not delivered to the member or available for pickup by the member at a location within his county of residence within six (6) weeks from the date the member placed an order for such goods, then any moneys paid by the member for such goods in advance of delivery shall, upon the member's request, be fully refunded, unless a predetermined delivery date has been furnished to the member in writing at the time he or she ordered such goods and the goods are delivered to the member or are available for pickup by that date.

(2) Every contract shall provide that all savings claims made by the buying club are based on price comparisons with retailers doing business in the trade area in which the claims are made and with prices at which the merchandise is actually sold.

(3) Any contract which does not comply with subsections (1) and (2) of this section shall be void and unenforceable.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Every buying club that has a membership fee in excess of thirty-five dollars ($35.00) shall maintain a bond of fifty thousand dollars ($50,000) issued by a surety company admitted to do business in this state.

(2) The bond required by this section shall be in favor of the attorney general of the Commonwealth of Kentucky for the benefit of any member who suffers loss of prepayment made pursuant to a contract entered into after the effective date of this Act due to insolvency of the club or the cessation of business by the club, or failure by the club to perform under any contract. A copy of the bond shall be filed with the attorney general prior to the making of any membership contract by a club. Any person claiming against the bond may maintain an action at law against the club and the surety. Failure to so maintain a bond as required by this section shall make the principals of any club personally liable for the claims of members.

(3) The aggregate liability of the surety to all persons for all breaches of the conditions of the bonds provided herein shall in no event exceed the amount of the bond.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) All of the remedies, powers, and duties provided for the attorney general by KRS 367.190 to 367.300 appertaining to acts declared unlawful by KRS 367.170 shall apply with equal force and effect to acts declared unlawful by this Act.

(2) Nothing in this Act shall be construed to limit or restrict the exercise of powers or the performance of the duties of the attorney general which he is authorized to exercise or perform under any other provision of law.

Section 7. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is wilfully using or has wilfully used a method, act or practice declared unlawful by KRS 367.170, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys or falsifies documentary material is subject to a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000).

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The circuit court of any county in which any plan described in KRS 367.350 is proposed, operated or promoted may grant an injunction without bond, upon complaint filed by the attorney general to enjoin the further operation thereof, and the attorney general may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be fined not less than fifty dollars ($50.00) and not more than five hundred dollars ($500) for each offense. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense.

(8) In addition to the penalties contained in this section, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(b) The attorney general may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have wilfully committed an act declared unlawful by KRS 367.655 a penalty of not more than two thousand dollars ($2,000) per violation.

(10) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the attorney general.

(11) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the attorney general.

(12) Any person who violates KRS 367.805, 367.809(2), 367.811 or 367.813(1) shall be guilty of a Class C felony.

(13) Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(14) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(15) Any violation of KRS 367.310 shall be subject to a fine of not more than two hundred dollars ($200) for each offense.

(16) Any person, partnership or corporation upon conviction of violation of the provisions of KRS 367.850 shall be fined not less than twenty-five dollars ($25.00) or more than five hundred dollars ($500) or confined in the county jail for not more than six (6) months, or both such fine and imprisonment.

(17) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300).

(18) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of Section 5 of this Act shall be guilty of a Class D felony.

Committee Amendment No. 1 to **SB 41** is as follows:

Amend printed copy of **SB 41,** on page 11, after line 18, by inserting the following new Section 8:

SECTION 8. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any organization which is not organized for the profit of any person or corporation may file an application with the Office of Attorney to seek exemption from the provisions of this Act. The Attorney General shall grant an exemption to any applicant organization which:

(a) is chartered or operated on a cooperative not-for-profit basis primarily for the benefit of its members who are the ultimate consumers of such goods, services, or facilities produced or furnished by the organization;

(b) makes such goods, services or facilities available to its members on a not-for-profit bases;

(c) allocates or distributes its net savings to all its members or patrons or retains net savings for the expansion of its services or for the reduction of charges to its patrons; and,

(d) restricts its voting control to members on a one vote per person basis.

The Committee on State Government reported **HB 177, HB 200, HJR 19,** and **HR 14** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 177, AN ACT relating to official museums.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.395 is amended to read as follows:

(1) The Thomas Edison Butchertown House in Louisville shall be designated as the official Edison Museum in the Commonwealth of Kentucky.

(2) The Kentucky railway museum shall be designated as the official railway museum in the state of Kentucky.

(3) The *official museums* [~~museum~~] shall be so designated by an official marker erected by the Kentucky *historical society* [~~heritage commission~~].

HB 200, AN ACT relating to offices and officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.070 is amended to read as follows:

A person may serve as a member of the general assembly or may be a candidate for election to the general assembly and at the same time be a member of a state administrative board or commission. Such membership shall not constitute a conflict of interest [~~Any member of a state administrative board or commission may hold any appointive office or become a candidate for any elective office immediately upon his retirement from the board or commission, but may not become a candidate for any public office while serving on any such board or commission~~].

HJR 19, A JOINT RESOLUTION designating the Square Dance as the official Folk Dance of the Commonwealth of Kentucky.

WHEREAS, love of the Commonwealth is enhanced by traditions that are intrinsic to our way of life and the customs of the people of Kentucky; and

WHEREAS, we have many distinctive and meaningful symbols of our traditions, ideals and cultural endeavors; and

WHEREAS, previous sessions of the General Assembly have officially designated state symbols for our flag, seal, tree, flower, bird and fish, but have never designated an official state Folk Dance; and

WHEREAS, the Square Dance, which was first associated with the American people and recorded in history since 1651, has traditionally been the one dance recognized as a dignified and enjoyable expression of American and Kentucky folk dancing; and

WHEREAS, Kentucky's official recognition of the Square Dance will enhance the Commonwealth's national and international cultural stature;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the dance known as the Square Dance is forever designated as the official Folk Dance of the Commonwealth of Kentucky.

Section 2. Whereas, the 32nd Annual National Square Dance Convention is going to be held in Louisville, Kentucky, on June 23, 24 and 25 with an estimated attendance of 40,000 people and estimated revenues of $10 million, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

HR 14, A RESOLUTION relating to the Kentucky Frog Jumping Championship.

WHEREAS, frog jumping is a time-honored sport, recreation and pastime, having thrived and amused since the days of Mark Twain; and

WHEREAS, this noble pursuit, possibly second only to tobacco spitting, has enriched the lives of countless Kentuckians and others down through the years; and

WHEREAS, true sportsmanship is never better exemplified than at the starting grid of a frog jumping event, with its atmosphere so electrified by the anticipation of recordmaking jumps or the thrill of victory; and

WHEREAS, in no other locale throughout the Commonwealth is such event better planned, prepared and carried out than at the Bullitt County Fair, such site having become renowned even beyond the borders of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Bullitt County Fair Frog Jumping Championship be recognized and designated as the Official Kentucky Frog Jumping Championship, and that the winner of each such event be declared the champion jumper of all frogs in Kentucky.

Section 2. That the Clerk be directed to dispatch a copy of this resolution to the Board of Directors of the Bullitt County Fair.

The Committee on Appropriations and Revenue reported **HB 43** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Appropriations and Revenue reported **HB 305** with expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 305, AN ACT relating to use of official information.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.190 is amended to read as follows:

(1) No present or former commissioner or employe of the department of revenue, member of a county board of assessment apppeals, property valuation administrator or employe thereof, or any other person, shall divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the commissioner or any employe of the department of revenue from testifying in any court, or from introducing as evidence returns or reports filed with the department, in an action for violation of state or federal tax laws.

(2) The commissioner shall make available any information for official use only and on a confidential basis to the proper officer, board or commission of this state, *any Kentucky county,* any Kentucky city, any other state, or the federal government, under reciprocal arrangements whereby the department shall receive similar or useful information in return.

(3) Statistics of tax-paid gasoline gallonage reported monthly to the department of revenue by any licensee under the gasoline excise tax law may be made public by the department.

(4) Notwithstanding the above, information received from the internal revenue service shall not be made available to any other agency of state government, any city, or any other state.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HB 91.**

Agriculture and Small Business: **HB 280, HB 260, HB 357.**

Calendar

HB 273, HB 276, HB 284, HB 334, HB 171, HB 262, HB 239, HR 27, SB 63, HB 132, HR 6, HR 17, SB 46, HB 294, and **SB 57** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative LeMaster moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

HB 46 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blandford moved that **HB 46** be passed.

On the roll call the vote was yeas 85-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Curd, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, T. Jones, Kenton, Layman, LeMaster, Lile, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, White, Worthington, Yates. Nays 3-Clarke, Nett, Van Horn.

HB 46 was passed and the title agreed to.

Representative Blandford moved that the vote by which **HB 46** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 194, with Committee Substitute, Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the Committee Substitute to **HB 194.** Agreed.

Representative Bruce moved the adoption of the Committee Amendment No. 1 to Committee Substitute to **HB 194.** Agreed.

Representative Meyer moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 194.**

On the roll call the vote was yeas 28-Barrows, Burnette, Dawahare, Deskins, Endicott, Farrow, Foster, Freibert, Haering, T. Jones, Layman, LeMaster, List, Long, Mann, McBee, Meyer, Moberly, Moore, Morris, Noe, O'Brien, Pearman, Perkins, Riner, Seum, Tobin, Van Horn. Nays 39-Allen, Bennett, Blevins, Brinkley, Bronger, Bruce, Burch, Clapp, Clark, Clarke, Cowan, Craddock, Curd, Dunn, Ford, Fryman, Guenthner, Heleringer, Hines, Holbrook, Holloway, Kenton, Kidd, Lile, Little, Maggard, McNutt, Noland, Patrick, Petty, Richards, Schmidt, B. Smith, Stone, Stumbo, Thomason, Todd, Turner, Williams.

Floor Amendment No. 1 to the Committee Substitute to **HB 194** was rejected.

Representative Bruce moved that **HB 194,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 44-Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, Clark, Cowan, Donnermeyer, Dunn, Ellington, Guenthner, Haering, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Lile, Little, Lundergan, Mann, McNutt, Meyer, Morris, Nett, Petty, Richards, Schmidt, B. Smith, Stone, Stumbo, Thomason, White, Williams, Yates. Nays 50-Allen, Arnold, Barrows, Brown, Burnette, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Hancock, Head, R. Jones, T. Jones, Layman, LeMaster, List, Long, Maggard, McBee, Moberly, Moore, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Rapier, Rattliff, B. Richardson, Riner, Robinson, Seum, Thomas, Tobin, Todd, Turner, Van Horn, Worthington.

HB 194, by way of Committee Substitute as amended, was defeated.

Representative Brinkley moved that the vote by which **HB 194** by way of Committee Substitute as amended, was defeated be reconsidered.

Representative Rattliff moved that the motion that the vote by which **HB 194,** by way of Committee Substitute as amended, was defeated be reconsidered as placed on the table.

On the roll call the vote was yeas 47-Allen, Arnold, Barrows, Blevins, Brown, Burch, Burnette, Cline, Crupper, Curd, Cyrus, Dawahare, Deskins, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Hancock, Head, R. Jones, T. Jones, Layman, LeMaster, List, Long, Maggard, McBee, Moberly, Moore, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Rapier, Rattliff, Riner, Seum, Stone, Tobin, Todd, Turner, Van Horn, Worthington. Nays 39-Boswell, Brinkley, Bronger, Bruce, Caldwell, Clapp, Clark, Cowan, Donnermeyer, Dunn, Gray, Guenthner, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Lile, Little, Lundergan, Mann, McNutt, Meyer, Morris, Nett, Petty, Richards, B. Richardson, Schmidt, B. Smith, Stumbo, Thomas, Thomason, White, Williams.

The motion that the motion that the vote by which **HB 194,** by way of Committee Substitute as amended, was defeated be reconsidered and said motion be placed on the table was adopted.

Representative LeMaster moved that **HB 54** be recommitted to the Committee on Judiciary-Civil. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Senate Message

Announcing passage of **SB 14, SB 44, SB 55,** and **SB 56.**

Motions, Petitions and Communications

The following meetings were announced:

Committee Chairmen: Friday, 9:00 a.m., Room 105.

Committee on Rules: On adjournment, Room 316.

Subcommittee on Education: Today on adjournment, Room 103.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 425, by Representative Curd: AN ACT relating to educational employes.

HB 426, by Representatives LeMaster and List: AN ACT relating to the acts and journals of the general assembly.

HB 427, by Representative LeMaster: AN ACT relating to financial institutions.

HB 428, by Representative LeMaster: AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable.

HB 429, by Representatives Long and McNutt: AN ACT relating to cities.

HB 430, by Representatives LeMaster and List: AN ACT relating to the establishment of day care services for children of state employes.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 342,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 342, AN ACT relating to revenue and taxation, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Commissioner" means the commissioner of revenue;

(2) "Department" means the department of revenue;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, *1981* [~~1979~~], *including the provisions of the Economic Recovery Tax Act of 1981 effective on the dates specified in that law,* exclusive of any amendments made subsequent to that date;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in section 61 of the Internal Revenue Code and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky constitution and the constitution and statutory laws of the United States;

(b) Exclude income from supplemental annuities provided by the railroad retirement act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by section 62 of the Internal Revenue Code and adjusted as follows, except that deductions shall be limited to amount allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year;

(b) Deduct federal income tax;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue

Code and by Section 214 of the Internal Revenue Code as it existed on December 31, 1975 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(h);

(c) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

(12) "Gross income," in the case of corporations, means "gross income" as defined in section 61 of the Internal Revenue Code and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky constitution and the constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors under the provisions of section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of section 281 of the Internal Revenue Code in computing gross income;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus all the deductions from gross income allowed corporations by chapter 1 of the Internal Revenue Code, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) *The total of the deductions allowed under Section 168 of the Internal Revenue Code shall be reduced by a factor of forty percent (40%). The resultant effect of the reduction shall be treated as an alternative tax, and in no event shall there be a reduction in the depreciation allowed for individual properties, nor shall there be a reduction in the taxpayer's basis in any individual property;*

(c) The deductions contained in sections 243, 244, 245, and 247 of the Internal Revenue Code;

(d)[~~(c)~~] The provisions of section 281 of the Internal Revenue Code shall be ignored in computing net income;

(e)[~~(d)~~] Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120; and

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;

(15) "Person" means "person" as defined in section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than 183 days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in section 3401(d) of the Internal Revenue Code;

(20) "Employe" means "employe" as defined in section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), and (q) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in section 7701(a)(3) of the Internal Revenue Code;

(25) "Electing small business corporations" means "electing small business corporations" as defined in Section 1371(b) of the Internal Revenue Code. Stockholders of a corporation qualifying after December 31, 1979 as "electing small business corporations" under Chapter 141 may elect to treat such qualification as an initial qualification under Internal Revenue Code Sections 1371-1378.

Section 2. Whereas, the provisions of this Act will affect both individual and corporate tax returns filed for tax year 1981, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Committee Substitute to **HB 342** is as follows:

HB 342, AN ACT relating to revenue and taxation, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Commissioner" means the commissioner of revenue;

(2) "Department" means the department of revenue;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, *1981* [~~1979~~], *including the provisions of the Economic Recovery Tax Act of 1981 effective on the dates specified in that law,* exclusive of any amendments made subsequent to that date;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in section 61 of the Internal Revenue Code and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky constitution and the constitution and statutory laws of the United States;

(b) Exclude income from supplemental annuities provided by the railroad retirement act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by section 62 of the Internal Revenue Code and adjusted as follows, except that deductions shall be limited to amount allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year;

(b) Deduct federal income tax;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section minus the standard deduction allowed by KRS 141.081, or, at

the option of the taxpayer, minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code and by Section 214 of the Internal Revenue Code as it existed on December 31, 1975 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(h);

(c) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

(12) "Gross income," in the case of corporations, means "gross income" as defined in section 61 of the Internal Revenue Code and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky constitution and the constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors under the provisions of section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of section 281 of the Internal Revenue Code in computing gross income;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus all the deductions from gross income allowed corporations by chapter 1 of the Internal Revenue Code, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) *The total of the deductions allowed under Section 168 of the Internal Revenue Code shall be determined by dividing the total by a factor of one and four-tenths (1.4). The depreciation allowed for individual properties and the taxpayer's basis in any individual property shall be the same as the depreciation and basis for federal tax purposes.*

(c) The deductions contained in sections 243, 244, 245, and 247 of the Internal Revenue Code;

(d)[~~(c)~~] The provisions of section 281 of the Internal Revenue Code shall be ignored in computing net income;

(e)[~~(d)~~] Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120; and

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;

(15) "Person" means "person" as defined in section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than 183 days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in section 3401(d) of the Internal Revenue Code;

(20) "Employe" means "employe" as defined in section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), and (q) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in section 7701(a)(3) of the Internal Revenue Code;

(25) "Electing small business corporations" means "electing small business corporations" as defined in Section 1371(b) of the Internal Revenue Code. Stockholders of a corporation qualifying after December 31, 1979 as "electing small business corporations" under Chapter 141 may elect to treat such qualification as an initial qualification under Internal Revenue Code Sections 1371-1378.

Section 2. Whereas, the provisions of this Act will affect both individual and corporate tax returns filed for tax year 1981, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Rules reported **HB 294** has been posted for passage in Orders of the Day, February 5, 1982.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been withdrawn from Committee consideration:

Labor and Industry: **HB 207, HB 240, HB 249, HB 330, HB 331, HB 344, HB 353.**

Representative Williams moved that **HB 379** be reassigned to the Committee on Counties and Special Districts. Agreed.

Representative Bendl moved that **HB 106** be taken from Orders of the Day and recommitted to the Committee on State Government. Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Brinkley, **HB 419;** Representative Boswell, **HB 112;** Representative Petty, **HB 419;** Representative Burch, **HB 419;** Representative Cyrus, **HB 419;** Representative Fryman, **HB 419;** Representative Haering, **HB 419;** Representative Hines, **HB 419, HB 232;** Representative Noe, **HB 419;** Representative Pearman, **HB 419;** Representative Riner, **HB 419;** Representative Stone, **HB 419;** Representative Turner, **HB 419;** Representative Van Horn, **HB 419.**

Representative Priddy moved that **HB 299** be recommitted to the Committee on Labor and Industry.

The Speaker announced that the time allotted for Motions, Petitions and Communications had elapsed.

Representative Priddy moved that the rules be suspended to extend the time allotted for Motions, Petitions and Communications.

On the roll call the vote was yeas 44-Barrows, Bendl, Bennett, Blevins, Boswell, Brown, Bruce, Burch, Clark, Cline, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Gray, Haering, Handy, Heleringer, Hines, Johnson, Kidd, LeMaster, Little, Maggard, Mann, Meyer, Moberly, Morris, Nett, Noe, Noland, Perkins, Petty, Priddy, B. Richardson, Seum, F. Smith, Stone, Stumbo, Van Horn, White, Williams, Yates. Nays 11-Craddock, R. Jones, T. Jones, List, Long, McNutt, Patrick, Pearman, Rapier, Schmidt, Tobin.

The motion that the rules be suspended to extend the time allotted for Motions, Petitions and Communications was rejected.

Announcements

The Speaker announced henceforth a motion to suspend the rules is not debatable and no explanation of vote will be allowed.

The following Floor Amendments were filed:

Floor Amendment No. 3 to **HB 59,** by Representative List:

Amend printed copy of **HB 59,** by inserting on page 4, after line 23, the following:

Section 3. WHEREAS, This is the second year following the decennial census of the United States, and, by the terms of this Act, the county judge/executive is required to initiate reapportionment proceedings in February of this year, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Floor Amendment No. 1 to **HB 69,** by Representative Hines:

Amend printed copy of **HB 69,** page 1, line 6, by adding the following after the word "education": "*, the provisions of KRS 337.020 notwithstanding*"

Floor Amendment No. 1 to Committee Substitute to **HB 294,** by Representative Overstreet:

Amend printed copy of Committee Substitute to **HB 294,** on page 19, line 16, insert "," after Adair; and

on page 19, line 16, insert brackets around and strike through "and"; and

on page 19, line 17, insert brackets around and strike through "that part of"; and

on page 19, line 17, delete the closure bracket after "[not]"; and

on page 19, line 17, strike through "contained in"; and

on page 19, line 18, strike through "the" and delete the remainder of the line in its entirety; and

on page 19, line 19, delete "City Hall, Fairgrounds, Eli and Rowes" and delete the bracket before "fifty-third"; and

on page 19, line 22, delete the ";" after counties; and

on page 19, line 22, insert a bracket before and strike through "that part of Russell County", delete "not", strike through "con-"; and

on page 19, line 23, strike through "tained within the" and delete the remainder of the sentence in its entirety; and

on page 19, line 24, delete the bracket before "county"; and

on page 38, line 19, delete the line in its entirety after "; and"; and

on page 38, line 20, delete the line in its entirety; and

on page 38, line 21, delete the line in its entirety.

Floor Amendment No. 2 to Committee Substitute to **HB 294,** by Representative LeMaster:

Amend printed copy of Committee Substitute to **HB 294**, page 5, line 20, by changing "*#2*" to "*#3*"; and

on page 6, line 5, by deleting "*Woodlawn*" and '*Ekron*"; and

on page 6, line 6, by inserting the following after "*Creek*" and before the period: "*and in that part of Ekron election precinct lying west of a line formed by State Highway 144 and Rock Haven Road, and in that part of Woodland election precinct southeast of a line following Osborne Road northeastward to Hobbs-Reesor Road to State Highway 1238 and northeast on State Highway 1238 to the Woodland election precinct line*"; and

on page 8, line 15, by deleting "*Twenty-forth*" and inserting in lieu thereof "*Twenty-fourth*"; and

on page 8, line 19, by inserting "*13*" after "*Cupio*" and before the comma; and

on page 12, line 5, by inserting, after "*Louisville*" and before the period the words "*; voting precincts A96 and A103 of Commissioner's District A; and voting precinct B16 of Commissioner's District B*"; and

on page 12, line 19, by inserting, after "*Louisville*" and before the period the words "*; and voting precincts B4, B8, B11, B12, B15 and B32 of Commissioner's District B*"; and

on page 13, line 7, by placing a comma before "*North*"; and

on page 14, line 23, by inserting a comma ",", between "*Pine Mountain*" and "*Bledsoe*"; and

on page 20, line 7, by deleting the word "*contained*"; and

on page 22, line 17, by changing "*Segree*" to "*Sebree*"; and

on page 22, line 18, by changing "*Segree*" to "*Sebree*"; and

on page 24, line 5, by inserting after "*the*" the words "*Sixty-fourth District and in the*"; and

on page 29, line 15, by changing "*Rockwood*" to "*Rookwood*" and by inserting after "*Walnut*" the word "*Street*"; and

on page 39, line 6, by changing "*Creek*" to "*Branch*"; and

on page 40, line 15, by changing "*Eighty-fourth*" to "*Eighty-sixth*"; and

on page 41, line 9, by changing "*Tennessee*" to "*Virginia*".

Floor Amendment No. 3 to Committee Substitute to **HB 294**, by Representative Williams:

Amend printed copy of Committee Substitute to **HB 294**, on page 15, line 11, by deleting "*1,*"; and

on page 15, line 12, by deleting "*, 4, 11, 12, 14, and 17*" and by inserting in lieu thereof "*and 4*"; and

on page 15, line 13, by inserting "*3, 4, 5, 6,*" after "*precincts*"; and

on page 15, line 14, by deleting "*and 21*" and by inserting in lieu thereof "*, 21 and 22*"; and

on page 16, line 14, by deleting "*, 2, 3, 4, 5, 6 and 22*" and by inserting in lieu thereof "*and 2*"; and

on page 16, line 15, by inserting "*3,*" after "*2,*" and by inserting "*5, 6,*" after "*4,*"; and

on page 16, line 16, by deleting "*and 21*" and by inserting in lieu thereof "*, 21 and 22*"; and

on page 17, lines 12 and 13, by deleting "*3, 5, 6 and 22 of the Ninth Ward of the city of Louisville*" and by inserting in lieu thereof "*1, 11, 12, 14, and 17 of the Seventh Ward of the city of Louisville*".

Floor Amendment No. 4 to Committee Substitute to **HB 294**, by Representative Heleringer:

Amend printed copy of Committee Substitute to **HB 294,** page 10, line 25, by deleting " *32, 40 and 41*"; and

on page 11, line 14, by deleting "*A75*"; and

on page 11, line 15, by adding "*A96,*" after "*A95*" and by adding "*A103,*" after "*A101*"; and

on page 11, line 26, by adding "*32,*" after "*28*"; and by deleting "*and*" and substituting in lieu thereof "*, 40 and 41.*"; and

on page 19, line 1, by adding "*A75*" after "*A73*".

Floor Amendment No. 5 to Committee Substitute to **HB 294,** by Representative Heleringer:

Amend printed copy of Floor Amendment #2 to the Committee Substitute to **HB 294,** page 1, line 13, by changing the word "*precincts*" to "*precinct*", and by deleting the words "and A103" on said line;

and on page 2, after line 5, by adding the following: "on page 11, line 15, by adding after *A101* the following *A103*".

Floor Amendment No. 6 to Committee Substitute to **HB 294,** by Representative Caldwell:

Amend printed copy of Committee Substitute to **HB 294,** on page 20, line 26, by inserting "*Sixty-fourth and*" after "*the*" and by deleting "*District*" and inserting in lieu thereof "*Districts*"; and

on page 21, lines 7 and 8, by deleting "*Crescent Springs 1 and 2*" and inserting in lieu thereof "*Elsmere 1, 2, 3 and 4*"; and

on page 21, line 11, by inserting "*and*" after "*3;*" and by deleting "*, and that part of*"; and

on page 21, by deleting line 12 in its entirety, and on line 13, by deleting "*and West of Madison Pike*"; and

on page 21, line 21, by deleting "*Morningview,*"; and

on page 21, line 22, by deleting "*that part of*" and by deleting "*not contained*" and on line 23 by deleting "*in the Sixty-third District,*"; and

on page 21, line 24, by deleting "*Visalia, Whites Tower*"; and

on page 21, line 25, by deleting "*Pendleton*" and inserting in lieu thereof "*Boone*"; and

on page 21, lines 25 and 26, by deleting "*precinct Grassy Creek*" and inserting in lieu thereof "*precincts Walton 1 and 2*"; and

on page 22, line 8, by inserting "*35, 36, 39, 40, 41*" after "*34,*" and on lines 8, 9, and 10, by deleting "*; and that part of Kenton County contained within the city of Ludlow and the city of Bromley*"; and

on page 22, line 13, by deleting "*Devon*" and by inserting in lieu thereof "*Airport, Greenview and Union*"; and

on page 22, by deleting lines 14 through 22, inclusive, in their entirety; and

on page 22, line 23, by deleting "*then to point of beginning; Florence 6*"; and

on page 22, by deleting line 25 in its entirety; and

on page 22, line 26, by deleting "*city and Bromley city, Elsmere 1, 2, 3 and 4.*" and by inserting in lieu thereof "*Bromley, Crescent Springs 1 and 2, Ludlow 1, 2, 3, 4 and 5*"; and

on page 23, line 9, by inserting "*Claryville, John's Mill, Poole's Creek,*" after "*precincts:*"; and on page 23, line 11, by deleting "*, 6, 35, 36,*" and inserting in lieu thereof " *and 6, Morningview, Visalia and Whites Tower*"; and

on page 23, line 12, by deleting "*39, 40, and 41*"; and

on page 23, line 25, by inserting "*and*" after "*Bonar,*"; and

on page 23, line 26, by deleting "*, and Falmouth 3*".

Floor Amendment No. 7 to Committee Substitute to **HB 294,** by Representative Heleringer:

Amend printed copy of Floor Amendment #2 to the Committee Substitute to **HB 294,** page 1, line 13, by deleting "*; voting precincts A-96 and A-103 of Commissioner's District A;*"; and

on page 2, after line 5, by adding the following:

and on page 2, after line 5, by adding the following:

on page 10, line 25, by deleting "*32, 40, and 41*" and

on page 11, line 14, by deleting "*A75*"; and

on page 11, line 15, by adding "*A96,*" after "*A95*" and by adding "*A103,*" after "*A101*"; and

on page 11, line 26, by adding "*32,*" after "*28*"; and by deleting "*and*" and substituting in lieu thereof "*, 40 and 41.*"; and

on page 19, line 1, by adding "*A75*" after "*A73*".

Floor Amendment No. 8 to the Committee Substitute to **HB 294,** by Representative Heleringer:

Amend printed copy of Committee Substitute to **HB 294,** page 11, line 15, add after A101 the following: "A103"

and on page 12, line 5, by deleting the following: "*precincts A-96 and A-103 of Commissioner's District A,*" and inserting in lieu thereof "precinct A-96 of Commissioner's District A.;"

Adjournment

Representative LeMaster moved that the House adjourn until 10:00 a.m., Friday, February 5, 1982.

On the roll call the vote was yeas 54-Allen, Arnold, Barrows, Bennett, Blevins, Boswell, Brown, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Donnermeyer, Endicott, Farrow, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Harper, Head, Johnson, R. Jones, T. Jones, Kidd, LeMaster, Long, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Pearman, Petty, Rapier, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Todd, Turner, Van Horn, Williams, Worthington. Nays 12-Deskins, Ford, Handy, Heleringer, Holbrook, Holloway, Mann, Moore, Overstreet, Perkins, Schmidt, Seum.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 5, 1982

TWENTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Billy Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Bronger, Lefevers and Richards.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 4, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 431, by Representatives Moore, White and Dawahare: AN ACT relating to teachers' retirement.

HB 432, by Representatives Van Horn and Bennett: AN ACT relating to utility rate increase for school tax.

HB 433, by Representative Long: AN ACT relating to alcohol and drug treatment and rehabilitation.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 428, HB 420.**

Banking and Insurance: **HB 427.**

Business Organizations and Professions: **HB 421, HB 424.**

Cities: **HB 429, SB 14.**

Education: **HB 425.**

Labor and Industry: **HB 422, HB 423.**

Natural Resources and Environment: **SB 44, SB 56.**

State Government: **HB 406, HB 430, HB 426, HR 30, SB 55.**

Report of Committees

The Committee on Rules reported **HB 239, HB 262, HB 273, HR 17, HR 27,** and **SB 63** have been posted for passage in Orders of the Day, February 8, 1982.

The Committee on Rules reported **HB 206** and **HR 6** have been recommitted to the Committee on Appropriations and Revenue.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **HB 335, HB 328, HB 329, HB 191.**

Transportation: **HB 315.**

The Clerk announced the following Bills have been withdrawn from Committee consideration:

Agriculture and Small Business: **HB 110, HB 122.**

Transportation: **HB 180.**

Calendar

HB 111, HB 120, SB 53, HB 244, HB 299, SB 41, HB 177, HB 200, HJR 19, HB 305, HR 14, and **HB 342** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 294, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved the adoption of the Committee Substitute to **HB 294.** Agreed.

Representative LeMaster moved the adoption of the Floor Amendment No. 2 to the Committee Substitute to **HB 294.** Agreed.

Representative Heleringer moved the adoption of the Floor Amendment No. 8 to the Committee Substitute to **HB 294.**

On the roll call the vote was yeas 18-Allen, Barrows, Caldwell, Endicott, Ford, Freibert, Harper, Heleringer, Lile, Overstreet, Patrick, Pearman, Petty, Rattliff, Schmidt, Todd, Turner, Van Horn. Nays 50-Arnold, Bennett, Blandford, Blevins, Boswell, Brinkley, Burnette, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Donnermeyer, Dunn, Farrow, Foster, Gray, Hancock, Handy, Johnson, R. Jones, T. Jones, Kenton, LeMaster, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Noe, O'Brien, Perkins, Rapier, B. Richardson, P. Richardson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, White, Yates.

Floor Amendment No. 8 to the Committee Substitute to **HB 294** was rejected.

Representative Overstreet moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 294.**

On the roll call the vote was yeas 26-Allen, Barrows, Burnette, Caldwell, Crupper, Dawahare, Endicott, Ford, Freibert, Fryman, Harper, Heleringer, Holbrook, Holloway, Layman, Lile, Maggard, Overstreet, Patrick, Pearman, Petty, Rattliff, Schmidt, Todd, Turner, Van Horn. Nays 46-Bendl, Bennett, Blevins, Boswell, Brinkley, Burch, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Donnermeyer, Dunn, Farrow, Foster, Gray, Hancock, Handy, Johnson, T. Jones, Kenton, LeMaster, List, Little, Mann, McBee, McNutt, Meyer, Moberly, Nett, Noe, O'Brien, Perkins, Rapier, B. Richardson, Seum, B. Smith, F. Smith, Stone, Thomason, Tobin, White, Yates.

Floor Amendment No. 1 to **HB 294** was rejected.

Representative Caldwell moved the adoption of the Floor Amendment No. 6 to the Committee Substitute to **HB 294.**

On the roll call the vote was yeas 21-Allen, Barrows, Burch, Caldwell, Crupper, Endicott, Ford, Freibert, Fryman, Harper, Heleringer, Holbrook, Layman, Lile, Overstreet, Patrick, Pearman, Rattliff, Schmidt, Todd, Turner. Nays 50-Arnold, Bendl, Bennett, Blandford, Boswell, Brinkley, Burnette, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Donnermeyer, Dunn, Farrow, Foster, Gray, Hancock, Handy, T. Jones, Kenton, LeMaster, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Noe, O'Brien, Perkins, Petty, Rapier, B. Richardson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Van Horn, White, Yates.

Floor Amendment No. 6 to the Committee Substitute to **HB 294** was rejected.

Representative O'Brien moved that **HB 294,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 86-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, B. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 9-Barrows, Caldwell, Crupper, Head, Heleringer, Hines, Kidd, Pearman, Williams.

HB 294, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Schmidt moved that the vote by which **HB 294,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 44 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Foster moved that **HB 44** be passed.

On the roll call the vote was yeas 78-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley,Brown, Bruce, Burch, Burnette, Caldwell, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Gray, Guenthner, Haering, Hancock, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 9-Allen, Ford, Fryman, Heleringer, Moore, Noe, Robinson, Tobin, Turner.

HB 44 was passed and the title agreed to.

Representative Foster moved that the vote by which **HB 44** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

The following meetings were announced:

Committee on Rules: On adjournment today, Room 316.

Human Resources Budget Review: Monday, 2:30 p.m., Room 106.

Representative Ellington moved that he be recorded as voting "yea" on **HB 294.** Agreed.

Judiciary Budget Review: 12:30 p.m., Room 106.

Education Budget Review: Today, Room 109.

Personal Service Contract Review: 1:00 p.m., Monday.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 434, by Representative Curd: AN ACT relating to hunting and fishing.

HB 435, by Representatives Gray and Head: AN ACT relating to revenue and taxation.

HB 436, by Representative Hancock: AN ACT relating to public retirement systems.

HB 437, by Representative Riner: AN ACT relating to public utilities.

HB 438, by Representatives Craddock, Bruce, and Morris: AN ACT relating to motor vehicle sales.

HB 439, by Representatives Moberly, Rapier, Noe, Brown, and Johnson: AN ACT relating to the establishment of child learning centers.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: **HB 387, HB 178, HB 208, HB 383, HB 371, HB 281, HB 278.**

Appropriations and Revenue: **HB 428, HB 402.**

Cities: **HB 175, HB 212, HB 350, HB 365.**

Business Organizations and Professions: **HB 219, HB 326.**

Health and Welfare: **HB 339, HB 370, HR 25.**

The Clerk announced the following Bills have been withdrawn from Committee consideration:

Appropriations and Revenue: **HB 333.**

Health and Welfare: **HJR 16.**

Business Organizations and Professions: **HB 338.**

Announcements

Representative LeMaster moved that the rules be suspended to allow members to file requests to co-sponsor Bills and Resolutions. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills: Representative Layman, **HB 298;** Representative Petty, **HB 427.**

Adjournment

Representative LeMaster moved that the House adjourn until 4:00 p.m., Monday, February 8, 1982.

On the roll call the vote was yeas 51-Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Boswell, Brinkley,Brown, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Ellington, Farrow, Foster, Fryman, Gray, Handy, Harper, Head, Hines, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Long, McBee, McNutt, Meyer, Nett, Noland, Pearman, Petty, Priddy, Rapier, P. Richardson, B. Smith, Stone, Thomason, Tobin, Turner, Van Horn, Williams. Nays 12-Deskins, Endicott, Ford, Holbrook, Lile, Lundergan, Maggard, Moore, Perkins, Robinson, Schmidt, Seum.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 8, 1982

TWENTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Beryl Spross, Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Lefevers.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 5, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 440, by Representatives Arnold, Farrow, Bronger, Burnette, Cline, Craddock, Crupper, Foster, T. Jones, Lile, Lundergan, Morris, Noland, Petty,Rapier, Stone, Stumbo, and Todd: AN ACT relating to jails and jailers and making an appropriation therefor and declaring an emergency.

HB 441, by Representatives Arnold, Farrow, Bronger, Burnette, Cline, Craddock, Crupper, Foster, T. Jones, Lile, Lundergan, Morris, Noland, Petty, Rapier, Stone, Stumbo, and Todd: AN ACT relating to jails.

HB 442, by Representative Arnold: AN ACT relating to jails.

Senate Message

Announcing passage of **SB 138** and **SB 166.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 435, HB 432.**

Business Organizations and Professions: **HB 438, HB 433.**

Education: **HB 431, HB 439.**

Energy: **HB 437.**

Natural Resources and Environment: **HB 434.**

State Government: **HB 436.**

Report of Committees

The Committee on Rules reported **HB 43, HB 111, HB 171, HB 177, HB 305, HB 336, HR 14,** and **HJR 19** have been posted for passage in Orders of the Day, February 9, 1982.

The Committee on Rules reported **HB 342** has been recommitted to the Committee on Appropriations and Revenue.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 422.**

Transportation: **HB 388.**

Business Organizations and Professions: **HB 424.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Cities: **HB 5.**

Orders of the Day

HB 59, as amended, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that Floor Amendment No. 1 to **HB 59** be reconsidered. Agreed.

Representative Stone moved that **HB 59,** as amended by Committee Amendment No. 1 and Floor Amendment No. 2, be passed.

On the roll call the vote was yeas 84-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Brown, Bruce, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, T. Jones, Kidd, Layman, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Yates. Nays 2-Barrows, Schmidt.

HB 59, as amended, was passed and the title agreed to.

Representative Stone moved that the vote by which **HB 59,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 243, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of the Floor Amendment No. 1 to **HB 243.** Agreed.

Representative Morris moved that **HB 243,** as amended, be passed.

On the roll call the vote was yeas 70-Arnold, Bendl, Blandford, Blevins, Brinkley,Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Harper, Head, Hines, Holbrook, Holloway, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McNutt, Moberly, Morris, Nett, Noe, Noland, Patrick, Perkins, Petty, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Turner, White, Williams, Yates. Nays 17-Allen, Barrows, Bennett, Boswell, Clarke, Cline, Fryman, Haering, Hancock, Handy, Heleringer, Meyer, O'Brien, Rapier, Tobin, Van Horn, Worthington.

HB 243, as amended, was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 243,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 245, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of the Committee Amendment No. 1 to **HB 245.** Agreed.

Representative B. Smith moved the adoption of the Floor Amendment No. 1 to **HB 245.** Agreed.

Representative B. Smith moved that **HB 245,** as amended, be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, LeMaster, Lile, List, Long, Maggard, McBee, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4-Caldwell, Cowan, Guenthner, Stumbo.

HB 245, as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 245,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 239 taken from the Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Richardson moved that **HB 239** be passed.

On the roll call the vote was yeas 60-Arnold, Bendl, Bennett, Blevins, Brinkley, Bronger, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Farrow, Ford, Gray, Guenthner, Hancock, Head, Hines, Holbrook, R. Jones, T. Jones, Kenton, Kidd, LeMaster, List, Little, Long, Maggard, McBee, McNutt, Meyer, Moberly, Noland, Overstreet, Pearman, Perkins, Priddy, Rapier, Richards, B. Richardson, P.Richardson, Robinson, Seum, B. Smith, Stone, Tobin, Todd, Turner, Van Horn, Williams, Yates. Nays 21-Allen, Blandford, Boswell, Ellington, Endicott,Freibert, Fryman, Haering, Heleringer, Holloway, Layman, Lile, Moore, Noe, O'Brien, Patrick, Rattliff, Schmidt, F. Smith, Thomason, White.

HB 239 was passed and the title agreed to.

Representative P. Richardson moved that the vote by which **HB 239** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 262 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 262** be passed.

Representative Overstreet moved that **HB 262** be laid on the Clerk's desk. Rejected.

On the roll call the vote was yeas 65-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Farrow, Foster, Gray, Guenthner, Hancock, Handy, Head, Heleringer, Hines, T. Jones, Kenton, Kidd, LeMaster, Lile, Little, Long, Maggard, Mann, McBee, Meyer, Morris, Nett, Noe, Noland, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Seum, B. Smith, F. Smith, Stone, Stumbo, Van Horn, White, Williams, Worthington, Yates. Nays 23-Allen, Bruce, Burnette, Clarke, Dawahare, Ellington, Endicott, Freibert, Fryman, Haering, Holbrook, Holloway, Johnson, List, Moore, O'Brien, Overstreet, Patrick, Riner, Schmidt, Thomason, Tobin, Turner.

HB 262 was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 262** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 273 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McNutt moved that **HB 273** be passed.

On the roll call the vote was yeas 60-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, Clarke, Cline, Cowan, Craddock, Deskins, Dunn, Ellington, Endicott, Ford, Foster, Freibert, Gray, Haering, Hancock, Handy, Harper, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, List, Long, McBee, McNutt, Moberly, Morris, Nett, Noe, Noland, Perkins, Priddy, Rapier, Richards, Riner, Schmidt, Seum, B. Smith, Stone, Tobin, Todd, White, Williams, Yates. Nays 19-Caldwell, Crupper, Curd, Dawahare, Farrow, Fryman, Heleringer, T. Jones, Lile, Little, Maggard, Mann, Meyer, O'Brien, Pearman, Petty, F. Smith, Turner, Van Horn.

HB 273 was passed and the title agreed to.

Representative McNutt moved that the vote by which **HB 273** was passed be reconsidered and said motion be placed on the table. Agreed.

HR 17 taken from Orders of the Day and ordered read as length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maggard moved that **HR 17** be adopted.

HR 17 was adopted by voice vote.

Representative LeMaster moved tht the vote by which **HR 17** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 27 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HR 27** be adopted.

HR 27 was adopted by voice vote.

Representative LeMaster moved that the vote by which **HR 27** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 63, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Committee Amendment No. 1 to **SB 63.** Agreed.

Representative Farrow moved that **SB 63,** as amended, be passed.

On the roll call the vote was yeas 83-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, LeMaster, List, Little, Long, Maggard, Mann, McBee, McNutt, Moberly, Morris, Nett, Noland, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Van Horn, White, Williams, Yates. Nays 9-Allen, Barrows, Lile, Meyer, Moore, Noe, Pearman, Todd, Turner.

SB 63, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **SB 63,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Cyrus, **HB 269;** Representative Deskins, **HB 298;** Representative Donnermeyer, **HB 298;** Representative Kenton, **HB 411;** Representative Lile, **HB 419;** Representative McNutt, **HB 421;** Representative Petty, **HB 411;** Representative B. Richardson, **HB 430.**

The following announcements were made:

Committee on Rules: On adjournment, Room 316.

Transportation: On adjournment, Tuesday.

Energy Budget Hearing: Tuesday, 10:00 a.m.

Business Organizations and Professions: 8:30 a.m., Wednesday.

Cities: Tuesday, 8:15 a.m., Room 104.

Human Resources Budget Hearing: Tuesday, 9:00 a.m., Room 103.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 443, by Representatives Nett, Bendl, Bennett, Bronger, Burch, Clark, Cowan, Dunn, Haering, Handy, Heleringer, Hines, Kidd, Lile, Priddy, Seum, and Yates: AN ACT relating to dairy product marketing.

HB 444, by Representative LeMaster: AN ACT relating to alcoholic beverages.

HB 445, by Representative LeMaster: AN ACT relating to insurance.

HB 446, by Representative Nett: AN ACT relating to registration plates for motor vehicle dealers and manufacturers.

HB 447, by Representative Morris: AN ACT relating to civil actions.

HB 448, by Representatives Guenthner, Farrow, Van Horn, Williams, Mann, Deskins, and Overstreet: AN ACT relating to child custody.

Posting of Bills and Resolutions for Consideration

The Clerk reported the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 240.**

State Government: **HB 98, HB 257, HB 308, SB 32, HB 50, HB 426, HR 22.**

Announcements

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 299,** by Representative Bennett:

Amend printed copy of **HB 299,** on page 4, on line 22, by inserting "*project*" after "works"

On page 4, beginning on line 23, and on page 5, ending on line 1, by deleting "*two hundred fifty thousand dollars ($250,000) in 1982 and adjusted annually on July 1 thereafter according to the change in the consumer price index released by the U.S. department of labor, bureau of labor statistics*"

and inserting in lieu thereof *twenty-five thousand dollars ($25,000)*

On page 5, beginning on line 11, by deleting "*means the county where the physical work upon public works is performed, except if there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work*"

On page 5, beginning on line 20, and ending on line 26, by deleting the brackets and strike through

On page 6, beginning on line 18 and ending on line 19 by deleting the brackets and strike through

On page 6, lines 22 and 23 by deleting "*except for buildings constructed as institutions of learning*"

On page 6, lines 24, 25 and 26, and on page 7, lines 1 and 2 by deleting "*However, the provisions of this section shall not apply to construction conducted by a city, county, urban-county government or school district unless such construction is financed with fifty percent (50%) or more of state funds.*"

On page 7, beginning on line 12, by deleting Section 2 in its entirety and by inserting the following new Section 2:

Section 2. KRS 337.550 is amended to read as follows:

(1) Any laborer, workman, or mechanic employed on public works may file a complaint of any violation of any provision of KRS 337.505 to 337.550 with the department. The department shall assist him in the collection of claims of wages due him and shall also assist to the fullest extent in the administration and enforcement of KRS 337.505 to 337.550. The commissioner shall investigate and enforce the provisions of KRS 337.550 to KRS 337.505 to 337.550 to the fullest and shall bring all actions to collect wages due any laborer, workman, or mechanic and shall take action against any contractor or subcontractor to restrain violations of KRS 337.505 to 337.550. *If the commissioner determines after an initial investigation that any contractor or subcontractor has violated any of the provisions of KRS 337.505 to 337.550, that contractor or subcontractor shall be notified, in writing, of said determination. Within thirty (30) days of the date of the violation notification, the contractor or subcontractor may request that an evidentiary hearing be held by the commissioner or his authorized representative. The hearing shall be held in accordance with the administrative regulations and rules promulgated hereunder.* If any contractor or subcontractor is found to be in violation of any provisions of KRS 337.505 to 337.550, then the commissioner shall inform the *public authority after notification pursuant to KRS 337.510* [~~secretary for finance of the Commonwealth of Kentucky,~~] and the *public authority* [~~secretary for finance~~] shall hold such contractor or subcontractor ineligible to bid on public works until such time as that contractor or subcontractor is in substantial compliance as determined by the commissioner.

(2) A laborer, workman, or mechanic may by civil action recover any sum due him as the result of the failure of his employer to comply with the terms of KRS 337.505 to 337.550. The commissioner may also bring any legal action necessary to collect claims on behalf of any or all laborers, workmen, or mechanics. No employer shall take any punitive measure or action against an employe because such employe has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under KRS 337.505 to 337.550. The commissioner shall not be required to pay the filing fee, or other costs, in connection with such action.

Floor Amendment No. 1 to **HB 305,** by Representative Meyer:

Amend printed copy of **HB 305,** page 2, line 18, by adding after the comma following the word "government", the following: *any county,*

Floor Amendment No. 1 to **HR 19,** by Representative Dunn:

Amend printed copy of **HJR 19,** page 2, lines 3 through 9, by deleting all of lines 3 through 9.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, February 9, 1982.

On the roll call the vote was yeas 58-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Burch, Caldwell, Clapp, Clark, Clarke, Craddock, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Farrow, Foster, Freibert, Gray, Harper, Head, Hines, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, LeMaster, List, Long, Moberly, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, Williams, Yates. Nays 13-Cowan, Deskins, Endicott, Ford, Handy, Holbrook, Lile, Maggard, Mann, Overstreet, Perkins, Schmidt, Thomas.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 9, 1982

TWENTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Don Stayton, Bible Baptist Church, Mt. Vernon, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Lefevers and Tobin.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 8, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 449, by Representative Farrow: AN ACT relating to superintendent of schools.

HB 450, by Representative Farrow: AN ACT relating to crimes and punishments.

HB 451, by Representatives Crupper, Rapier, Bruce, and Farrow: AN ACT relating to the state fair board.

HB 452, by Representative Farrow: AN ACT relating to municipal waterworks.

HB 453, by Representatives Noland, Moore, Layman, Craddock, Seum, Ford, Todd, and Head: AN ACT relating to teachers' retirement.

HB 454, by Representative Heleringer: AN ACT relating to fair trade on alcoholic beverages.

HB 455, by Representative Clarke: AN ACT relating to compensation of members of the General Assembly.

HB 456, by Representative Mann: AN ACT relating to compensation of county officials.

HB 457, by Representative Mann: AN ACT relating to the real estate transfer tax.

Senate Message

Announcing passage of **SJR 15, SB 104, SB 107, SB 133, SB 141, HCR 8, HB 60, HB 61, HB 72, HB 76, HB 78,** and **HB 79.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 443.**

Banking and Insurance: **HB 445.**

Business Organizations and Professions: **HB 444.**

Counties and Special Districts: **HB 440, HB 441, HB 442.**

Judiciary-Civil: **HB 448.**

State Government: **HB 447, SB 138, SB 166.**

Transportation: **HB 446.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **SB 54, HB 207.**

Report of Committees

The Committee on Rules reported **HB 120, HB 132, HB 166, HB 179, HB 200, HB 215, HB 244, HB 276, HB 299, SB 53,** and **SB 57** have been posted for passage in Orders of the Day, February 10, 1982.

The Committee on Cities reported **HB 119** with Committee Substitute attached thereto, **HB 175, HB 212,** and **HB 296** with Committee Amendment attached thereto, and **HB 350** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 119, AN ACT relating to local government retirement systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The governing board of any local government retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 70.580 to 70.598, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.885 or 96.180 shall submit the retirement system to an actuarial evaluation at least once every three (3) years. The evaluation shall be prepared by an actuary who is a fellow of the society of actuaries, a member of the American academy of actuaries, or an enrolled actuary under the Employes' Retirement Income Security Act of 1975. The board shall send a copy of the most recent evaluation to the librarian of the legislative research commission by September 1, 1982, and thereafter the board shall send a copy of each new evaluation within ten(10) days of receipt.

(2) Actuaries performing evaluations pursuant to this section shall use the entry age normal cost funding method. Their reports shall include a definition of each actuarial term and an explanation of each actuarial assumption used. Assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(3) The local governing body responsible for the retirement system shall, on an actuarilly funded basis, make current contributions to the retirement fund at least equal to the sum of:

(a) An annual amount, determined within six (6) months of the actuarial evaluation required by subsection (1) of this section, resulting from the application of a rate percent of salaries of active members determined by the entry age normal cost funding method; and

(b) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service. The local governing body may require pension fund contributions by employes consistent with the requirements of the statutes listed in subsection (1) of this section.

(4) In addition to other remedies provided by law, any member or annuitant of a retirement system governed by this section may obtain in circuit court of the county in which the retirement system is located an injunction or mandamus requiring the government to comply with the funding requirements of this section.

Section 2. KRS 67A.320 is amended to read as follows:

(1) Any urban-county government in which there existed a municipality which had in effect an employes' pension fund prior to its merger into the urban-county form of government shall provide by comprehensive plan or ordinance for the maintenance of the said pension fund for those employes covered by the

said pension fund by a levy of a tax of not exceeding five cents ($.05) on each one hundred dollars' value of taxable property in the urban area of the urban-county government, as established in the comprehensive plan or by ordinance, the proceeds of that tax to be paid to the pension fund in cash, and shall in each case provide, by such tax or otherwise, for the payment to the pension fund in each month of the sum necessary to maintain such fund in accordance with the actuarial principles established by the actuarial studies described hereafter, and may assess monthly such amount or percent of the salary of the employes as may be equitably determined on a fair actuarial basis, and in any case not in excess of eight percent (8%) of the monthly salary of each employe unless a higher rate was charged prior to the merger of governments, in which case the higher rate may be charged, the assessment to be deducted from the employes' salaries and paid in cash into the pension fund. Within six (6) months after the effective date of the urban-county form of government, or within six (6) months after June 21, 1974, whichever shall be later, the trustees of the board shall, at the expense of the urban-county government, provide for the performance of an actuarial study, which study shall be completed within six (6) months thereafter, and which study shall describe the amounts necessary to be contributed by the urban-county government or other sources to fund on an actuarially sound basis the benefits promised or described in the said fund, including any payments required to bring said fund to an actuarially sound position in the event that it was not so at the time of the performance of the study, in which latter event the legislative body shall also determine a reasonable period over which such additional funding shall be made, which period shall not exceed thirty (30) years. A similar study shall be arranged by the board at the cost of the urban-county government at least once in every *three* [~~five~~]-year period thereafter. In the event that fund created by this section is extended to cover employes not described in the first sentence hereof, the actuarial study shall determine the required payments so as to keep the expanded fund on an actuarially sound basis, and the urban-county government shall maintain such fund as set out herein, and shall assess against the additional covered employes the same monthly contribution as is required for other government employes.

(2) There is hereby created a board for the existing employes pension fund and trustees of that board. Trustees from the pension fund board shall consist of the mayor, four (4) members of the legislative body of the urban-county government selected by the legislative body, the secretary of the department of finance, the director of the division of personnel, and three (3) civil service employes to be elected to the board by those employes covered by the employes' pension fund. In the event that there is no position in the urban-county government denominated secretary of the department of finance and/or director of the division of personnel, the appointed office of the urban-county government exercising the functions most closely resembling such office shall serve as trustee.

(3) Temporary employes appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(4) In no year shall the contribution by the urban-county government to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employes.

(5) The trustees of the pension fund shall, at least once every three (3) months, report in writing to the mayor the receipts, expenditures and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where urban-county employes frequent and report.

Section 3. KRS 67A.520 is amended to read as follows:

The government shall make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(1) An annual amount resulting from the application of a rate percent of salaries of active members determined by the entry age normal cost funding method. Such rate percent shall be fixed by the board every *three (3)* [~~five (5)~~] years, within six (6) months after the actuarial study required by subsection (6) of KRS 67A.560 (actuarial survey of the fund), and shall be in effect for a period of at least *three (3)* [~~five (5)~~] years. The government's rate of contribution shall be at least fifteen percent (15%) of the salaries of the active members participating in the fund.

(2) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) In addition to other remedies provided by law, any member of the fund or any annuitant may obtain in the circuit court of any county in which the government is located an injunction or mandamus requiring the government to comply herewith.

Section 4. KRS 67A.560 is amended to read as follows:

(1) The officers of the board shall consist of a president, vice-president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice-president shall serve as president in the absence of the president.

(2) The board shall designate a secretary who may be a member of the board and shall fix his compensation. The secretary shall keep a full account of all proceedings of the board and shall give notice of

all meetings and give effect to all resolutions, orders, and directives of the board. He shall be in charge of the detailed affairs of administration of the fund; shall keep the record of proceedings of all meetings; shall keep all books, files, records, and accounts of the fund; shall receive all applications for annuities, benefits and refunds; shall prepare periodic reports relative to the financial operations of the fund for the information of the board and its membership; shall compile all statistics pertinent to the operations of the fund; and shall answer all correspondence received by the board.

(3) The director of finance shall be ex officio treasurer of the board and custodian of the fund. He shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed by the board. These accounts and records shall be subject to inspection of the board or any member thereof.

(4) The director of finance shall, within ten (10) days after his selection, execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of his office, and that he will safely keep and will truthfully account for all money and properties that come into his hands as treasurer of the fund, and that upon the expiration of his term of office, he will deliver to his successor all securities, unexpended moneys, and other properties that come into his hands as treasurer of the fund. The bond will be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any person injured by its breach. The premium on said bond may be paid out of the fund.

(5) The director of law of the government shall serve as legal advisor to the board on all matters pertaining to the fund involving suits or actions at law, and on any questions of the interpretation of the provisions hereof, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the government.

(6) The board may employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, to determine rates of city contribution and to make periodic analyses of the operation of the fund. Within six (6) months after the establishment of an urban county form of government, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service and other essential factors. At least once every *three (3)* [~~five (5)~~] years thereafter an actuarial survey and investigation shall be made of the operating experience of the fund, including a study of the rates, mortality, disability, retirement, separations from service, and other essential factors. The actuary shall recommend all mortality and interest tables to be adopted by the board, and shall recommend, if appropriate, cost of living increases as provided in KRS 67A.430. In the event such survey is not undertaken as provided herein, any member of the fund or any annuitant may obtain an injunction or mandamus requiring such survey and investigation, or may obtain the appointment of a person or persons to make such study and investigation, from the circuit court of any county in which the government is located.

(7) The board shall establish rules and regulations to implement the provisions of KRS 67A.360 to 67A.690 which shall not be inconsistent therewith.

Section 5. KRS 90.400 is amended to read as follows:

(1) Any city of the second class adopting a civil service plan under KRS 90.310 shall provide by ordinance for the creation and maintenance of a pension fund for employes under civil service by the levy of a tax [~~of not exceeding five cents or such rate as necessary to permit the city to match the employes' current contributions to the fund,~~] on each one hundred dollars value of taxable property in the city, the proceeds of that tax to be paid to the pension fund in cash, and may assess monthly such amount or percent of the salary of the employes as may be equitably determined on a fair actuarial basis, the assessment to be deducted from the employes' salaries and paid in cash into the pension fund.

(2) The city may make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(a) An annual amount resulting from the application of a rate percent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to surviving spouses and children, and the one-year term premium for the city's liability for death benefits, after applying the contribution by the active members. Such rate percent shall be fixed by the board of city commissioners every *three (3)* [~~five (5)~~] years after an actuarial survey of the fund, and shall be in effect for a period of at least *three (3)* [~~five (5)~~] years.

(b) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of the trustees, determine the eligibility of employes or their dependents to a pension or other benefit, and may provide a monthly allowance for employes eligible for a pension.

(4) Temporary employes appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(5) In no year shall the contribution by the city to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employes.

(6) The trustees of the pension fund shall, at least once every three months, report in writing to the mayor the receipts, expenditures and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three places where city employes frequent and report.

(7) When any city of the second class adopts an ordinance under this section for the creation of a pension fund and accepts from its employes a portion of their wages and levies a tax therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.410 and the adopting ordinance. A repeal of that ordinance by the city shall in no wise affect such employes unless by the mutual consent of the city and an employe or employes.

Section 6. KRS 90.410 is amended to read as follows:

(1) Any city of the third class adopting a civil service plan under KRS 90.310 may provide by ordinance for the creation and maintenance of a pension fund for the benefit of employes under civil service by the levy of a tax [~~of not exceeding five cents (5¢)~~] on each one hundred dollars ($100) value of taxable property in the city, and may assess monthly such amount or per cent of the salary of employes as may be equitably determined on a fair actuarial basis, not to exceed five per cent (5%) of the monthly salary of any employe.

(2) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of trustees, determine the eligibility of employes or their dependents to a pension or other benefit, and may provide a monthly allowance for employes eligible for a pension, not to exceed one-half (½) of the monthly salary of any employe at the time of his retirement.

(3) When any city of the third class adopts an ordinance under this section for the creation of a pension fund and accepts from its employes a portion of their wages and levies a tax therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.410 and the adopting ordinance. A repeal of that ordinance by the city shall in no wise affect such employes unless by the mutual consent of the city and an employe or employes.

Section 7. KRS 95.580 is amended to read as follows:

(1) The policemen's and fire fighter's pension fund in cities of the third class shall consist of:

(a) The proceeds of an annual tax, which may be levied by the city legislative body[~~, of not less than one cent (1¢) nor more than four cents (4¢)~~] on each one hundred dollars ($100) in value of taxable property.

(b) All rewards, fees, gifts and emoluments paid or given on account of extraordinary service of any member of the police or fire department.

(c) Assessments, which the board of trustees of the pension fund may make, upon each member of the police and fire departments, of not less than one per cent (1%) nor more than four per cent (4%) of his salary, to be withheld from the monthly salary and paid by the city treasurer into the pension fund.

(2) Both the principal and interest of the pension fund shall be applicable to the payment of pensions in cities of the third class.

Section 8. KRS 95.868 is amended to read as follows:

The city shall make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(1) An annual amount resulting from the application of a rate per cent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to widows and children, and the one (1) year term premium for the city's liability for death benefits, after applying the contributions by the active members. Such rate per cent shall be fixed by the board every *three (3)* [~~five (5) years~~] after an actuarial survey of the fund, and shall be in effect for a period of at least *three (3)* [~~five (5)~~] years. For the first *three (3)* [~~five (5)~~] fiscal years of operation of the fund, the city's rate of contribution shall be at least twelve per cent (12%) of the salaries of the active members participating in the fund.

(2) An amount resulting from the application of a rate per cent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

Section 9. KRS 95.872 is amended to read as follows:

(1) The officers of the board shall consist of a president, vice-president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice-president shall serve as president in the absence of the president.

(2) The board shall designate a secretary who may be a member of the board and shall fix his compensation. The secretary shall keep a full account of all proceedings of the board, shall give notice of all meetings and give effect to all resolutions, orders, and directives of the board. He shall be in charge of the detailed affairs of administration of the fund; shall keep the record of proceedings of all meetings; shall keep all books, files, records, and accounts of the fund; shall receive all applications for annuities, benefits and

refunds; shall prepare periodic reports relative to the financial operations of the fund for the information of the board and its membership; shall compile all statistics pertinent to the operations of the fund; and shall answer all correspondence received by the board.

(3) The city treasurer shall be ex officio treasurer of the board, and custodian of the fund. He shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed by the board. These accounts and records shall be subject to inspection of the board or any member thereof.

(4) The city treasurer shall, within ten (10) days after his selection, execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of his office, and that he will safely keep and will truthfully account for all money and properties that come into his hands as treasurer of the fund, and that upon the expiration of his term of office, he will deliver to his successor all securities, unexpended moneys, and other properties that come into his hands as treasurer of the fund. The bond will be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any person injured by its breach. The premium on said bond may be paid out of the fund, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the board.

(5) The director of law of the city shall serve as legal adviser to the board on all matters pertaining to the fund involving suits or actions at law, and on any questions of the interpretation of the provisions hereof, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the board.

(6) The board may employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, to determine rates of city contribution and to make periodic analyses of the operation of the fund. Within six (6) months after the establishment, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service and other essential factors. At least once every *three (3)* [~~five (5) years~~] thereafter, an actuarial survey and investigation shall be made of the operating experience of the fund, including a study of the rates, mortality, disability, retirement, separations from service and other essential factors. The actuary shall recommend all mortality and interest tables to be adopted by the board, and shall recommend, if appropriate, cost of living increases as provided in KRS 95.859. In the event such survey is not undertaken as provided herein, any member of the fund or any annuitant may obtain an injunction or mandamus requiring such survey and investigation, or may obtain the appointment of a person or persons to make such study and investigation, from the circuit court of any county in which the city is located.

(7) The board shall establish rules and regulations to implement the provisions of KRS 95.851 to 95.991 which shall not be inconsistent therewith.

Section 10. KRS 95.768 is amended to read as follows:

(1) The police and fire fighter's pension fund in cities of the fourth class shall consist of (a) the proceeds of an annual tax, which may be levied by the city legislative body[~~, of not more than three cents (3¢)~~] on each hundred dollars ($100) in value of taxable property; (b) all rewards, fees, gifts or emoluments paid or given on account of extraordinary service of any member of the police or fire department; (c) assessments, which the board of trustees of the pension fund shall make, upon each member of the police and fire departments, of not more than three and one-half per cent (3 ½%) of his salary, to be held from the monthly salary and paid by the city treasurer into the pension fund.

(2) Said fund shall be for the pensioning of any policeman or fire fighter who has served in the police or fire departments for at least a period of twenty (20) years or more, providing that applicant has reached his fifty-first birthday, and all members of the police and fire departments shall be entitled to be credited with the services rendered continuously prior to the adoption ordinance under the provisions of KRS 95.761, by said city, to the eligibility of the twenty (20) year or more, period for pension, not less than three (3), nor to exceed fifteen (15) years of previous service, and for the further purpose of pensioning any member of the police or fire department who may become permanently crippled while in the service and on duty, and for the further purpose of pensioning the widow or dependent children under fourteen (14) years of age, or either of them, of any member of said departments who may lose his life while in the service and on active duty. The payments made under the provisions of this section shall constitute and be kept as a fund to be called the "Policemen's and Fire Fighter's Pension Fund," and the board of trustees of the policemen's pension fund, are declared to be the trustees of said fund, and they shall have power, and it shall be their duty, from time to time, to invest the same, in whole or in part, as they shall deem most advantageous for the objects of said fund; and they are empowered to make all the necessary contracts and to pursue all the necessary remedies in the premises.

Section 11. KRS 95.016, Actuarial evaluation of pension systems, is repealed.

Committee Substitute to **HB 119** is as follows:

HB 119, AN ACT relating to local government retirement systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The governing board of any local government retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 70.580 to 70.598, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.885 or 96.180 shall submit the retirement system to an actuarial evaluation at least once every three (3) years. The evaluation shall be prepared by an actuary who is a fellow of the society of actuaries, a member of the American academy of actuaries, or an enrolled actuary under the Employes' Retirement Income Security Act of 1975. The board shall send a copy of the most recent evaluation to the librarian of the legislative research commission by September 1, 1982, and thereafter the board shall send a copy of each new evaluation within ten (10) days of receipt.

(2) Actuaries performing evaluations pursuant to this section shall use the entry age normal cost funding method. Their reports shall include a definition of each actuarial term and an explanation of each actuarial assumption used. Assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

Section 2. KRS 67A.320 is amended to read as follows:

(1) Any urban-county government in which there existed a municipality which had in effect an employes' pension fund prior to its merger into the urban-county form of government shall provide by comprehensive plan or ordinance for the maintenance of the said pension fund for those employes covered by the said pension fund by a levy of a tax of not exceeding five cents ($.05) on each one hundred dollars' value of taxable property in the urban area of the urban-county government, as established in the comprehensive plan or by ordinance, the proceeds of that tax to be paid to the pension fund in cash, and shall in each case provide, by such tax or otherwise, for the payment to the pension fund in each month of the sum necessary to maintain such fund in accordance with the actuarial principles established by the actuarial studies described hereafter, and may assess monthly such amount or percent of the salary of the employes as may be equitably determined on a fair actuarial basis, and in any case not in excess of eight percent (8%) of the monthly salary of each employe unless a higher rate was charged prior to the merger of governments, in which case the higher rate may be charged, the assessment to be deducted from the employes' salaries and paid in cash into the pension fund. Within six (6) months after the effective date of the urban-county form of government, or within six (6) months after June 21, 1974, whichever shall be later, the trustees of the board shall, at the expense of the urban-county government, provide for the performance of an actuarial study, which study shall be completed within six (6) months thereafter, and which study shall describe the amounts necessary to be contributed by the urban-county government or other sources to fund on an actuarially sound basis the benefits promised or described in the said fund, including any payments required to bring said fund to an actuarially sound position in the event that it was not so at the time of the performance of the study, in which latter event the legislative body shall also determine a reasonable period over which such additional funding shall be made, which period shall not exceed thirty (30) years. A similar study shall be arranged by the board at the cost of the urban-county government at least once in every *three* [~~five~~]-year period thereafter. In the event that fund created by this section is extended to cover employes not described in the first sentence hereof, the actuarial study shall determine the required payments so as to keep the expanded fund on an actuarially sound basis, and the urban-county government shall maintain such fund as set out herein, and shall assess against the additional covered employes the same monthly contribution as is required for other government employes.

(2) There is hereby created a board for the existing employes pension fund and trustees of that board. Trustees from the pension fund board shall consist of the mayor, four (4) members of the legislative body of the urban-county government selected by the legislative body, the secretary of the department of finance, the director of the division of personnel, and three (3) civil service employes to be elected to the board by those employes covered by the employes' pension fund. In the event that there is no position in the urban-county government denominated secretary of the department of finance and/or director of the division of personnel, the appointed office of the urban-county government exercising the functions most closely resembling such office shall serve as trustee.

(3) Temporary employes appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(4) In no year shall the contribution by the urban-county government to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employes.

(5) The trustees of the pension fund shall, at least once every three (3) months, report in writing to the mayor the receipts, expenditures and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where urban-county employes frequent and report.

Section 3. KRS 67A.520 is amended to read as follows:

The government shall make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(1) An annual amount resulting from the application of a rate percent of salaries of active members determined by the entry age normal cost funding method. Such rate percent shall be fixed by the board every *three (3)* [~~five (5)~~] years, within six (6) months after the actuarial study required by subsection (6) of KRS 67A.560 (actuarial survey of the fund), and shall be in effect for a period of at least *three (3)* [~~five (5)~~] years. The government's rate of contribution shall be at least fifteen percent (15%) of the salaries of the active members participating in the fund.

(2) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) In addition to other remedies provided by law, any member of the fund or any annuitant may obtain in the circuit court of any county in which the government is located an injunction or mandamus requiring the government to comply herewith.

Section 4. KRS 67A.560 is amended to read as follows:

(1) The officers of the board shall consist of a president, vice-president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice-president shall serve as president in the absence of the president.

(2) The board shall designate a secretary who may be a member of the board and shall fix his compensation. The secretary shall keep a full account of all proceedings of the board and shall give notice of all meetings and give effect to all resolutions, orders, and directives of the board. He shall be in charge of the detailed affairs of administration of the fund; shall keep the record of proceedings of all meetings; shall keep all books, files, records, and accounts of the fund; shall receive all applications for annuities, benefits and refunds; shall prepare periodic reports relative to the financial operations of the fund for the information of the board and its membership; shall compile all statistics pertinent to the operations of the fund; and shall answer all correspondence received by the board.

(3) The director of finance shall be ex officio treasurer of the board and custodian of the fund. He shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed by the board. These accounts and records shall be subject to inspection of the board or any member thereof.

(4) The director of finance shall, within ten (10) days after his selection, execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of his office, and that he will safely keep and will truthfully account for all money and properties that come into his hands as treasurer of the fund, and that upon the expiration of his term of office, he will deliver to his successor all securities, unexpended moneys, and other properties that come into his hands as treasurer of the fund. The bond will be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any person injured by its breach. The premium on said bond may be paid out of the fund.

(5) The director of law of the government shall serve as legal advisor to the board on all matters pertaining to the fund involving suits or actions at law, and on any questions of the interpretation of the provisions hereof, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the government.

(6) The board may employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, to determine rates of city contribution and to make periodic analyses of the operation of the fund. Within six (6) months after the establishment of an urban county form of government, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service and other essential factors. At least once every *three (3)* [~~five (5)~~] years thereafter an actuarial survey and investigation shall be made of the operating experience of the fund, including a study of the rates, mortality, disability, retirement, separations from service, and other essential factors. The actuary shall recommend all mortality and interest tables to be adopted by the board, and shall recommend, if appropriate, cost of living increases as provided in KRS 67A.430. In the event such survey is not undertaken as provided herein, any member of the fund or any annuitant may obtain an injunction or mandamus requiring such survey and investigation, or may obtain the appointment of a person or persons to make such study and investigation, from the circuit court of any county in which the government is located.

(7) The board shall establish rules and regulations to implement the provisions of KRS 67A.360 to 67A.690 which shall not be inconsistent therewith.

Section 5. KRS 90.400 is amended to read as follows:

(1) Any city of the second class adopting a civil service plan under KRS 90.310 shall provide by ordinance for the creation and maintenance of a pension fund for employes under civil service by the levy of a tax [~~of not exceeding five cents or such rate as necessary to permit the city to match the employes' current contributions to the fund,~~] on each one hundred dollars value of taxable property in the city, the proceeds of that tax to be paid to the pension fund in cash, and may assess monthly such amount or percent of the salary of the employes as may be equitably determined on a fair actuarial basis, the assessment to be deducted from the employes' salaries and paid in cash into the pension fund.

(2) The city may make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(a) An annual amount resulting from the application of a rate percent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to surviving spouses and children, and the one-year term premium for the city's liability for death benefits, after applying the contribution by the active members. Such rate percent shall be fixed by the board of city commissioners every *three (3)* [~~five (5)~~] years after an actuarial survey of the fund, and shall be in effect for a period of at least *three (3)* [~~five (5)~~] years.

(b) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of the trustees, determine the eligibility of employes or their dependents to a pension or other benefit, and may provide a monthly allowance for employes eligible for a pension.

(4) Temporary employes appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(5) In no year shall the contribution by the city to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employes.

(6) The trustees of the pension fund shall, at least once every three months, report in writing to the mayor the receipts, expenditures and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three places where city employes frequent and report.

(7) When any city of the second class adopts an ordinance under this section for the creation of a pension fund and accepts from its employes a portion of their wages and levies a tax therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.410 and the adopting ordinance. A repeal of that ordinance by the city shall in no wise affect such employes unless by the mutual consent of the city and an employe or employes.

Section 6. KRS 90.410 is amended to read as follows:

(1) Any city of the third class adopting a civil service plan under KRS 90.310 may provide by ordinance for the creation and maintenance of a pension fund for the benefit of employes under civil service by the levy of a tax [~~of not exceeding five cents (5¢)~~] on each one hundred dollars ($100) value of taxable property in the city, and may assess monthly such amount or per cent of the salary of employes as may be equitably determined on a fair actuarial basis, not to exceed five per cent (5%) of the monthly salary of any employe.

(2) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of trustees, determine the eligibility of employes or their dependents to a pension or other benefit, and may provide a monthly allowance for employes eligible for a pension, not to exceed one-half (½) of the monthly salary of any employe at the time of his retirement.

(3) When any city of the third class adopts an ordinance under this section for the creation of a pension fund and accepts from its employes a portion of their wages and levies a tax therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.410 and the adopting ordinance. A repeal of that ordinance by the city shall in no wise affect such employes unless by the mutual consent of the city and an employe or employes.

Section 7. KRS 95.580 is amended to read as follows:

(1) The policemen's and fire fighter's pension fund in cities of the third class shall consist of:

(a) The proceeds of an annual tax, which may be levied by the city legislative body[~~, of not less than one cent (1¢) nor more than four cents (4¢)~~] on each one hundred dollars ($100) in value of taxable property.

(b) All rewards, fees, gifts and emoluments paid or given on account of extraordinary service of any member of the police or fire department.

(c) Assessments, which the board of trustees of the pension fund may make, upon each member of the police and fire departments, of not less than one per cent (1%) nor more than four per cent (4%) of his salary, to be withheld from the monthly salary and paid by the city treasurer into the pension fund.

(2) Both the principal and interest of the pension fund shall be applicable to the payment of pensions in cities of the third class.

Section 8. KRS 95.868 is amended to read as follows:

The city shall make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(1) An annual amount resulting from the application of a rate per cent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to widows and children, and the one (1) year term premium for the city's liability for death benefits, after applying the contributions by the active members. Such rate per cent shall be fixed by the board every *three (3)* [~~five (5) years~~] after an actuarial survey of the fund, and shall be in effect for a period of at least *three (3)* [~~five (5)~~] years. For the first *three (3)* [~~five (5)~~] fiscal years of operation of the fund, the city's rate of contribution shall be at least twelve per cent (12%) of the salaries of the active members participating in the fund.

(2) An amount resulting from the application of a rate per cent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

Section 9. KRS 95.872 is amended to read as follows:

(1) The officers of the board shall consist of a president, vice-president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice-president shall serve as president in the absence of the president.

(2) The board shall designate a secretary who may be a member of the board and shall fix his compensation. The secretary shall keep a full account of all proceedings of the board, shall give notice of all meetings and give effect to all resolutions, orders, and directives of the board. He shall be in charge of the detailed affairs of administration of the fund; shall keep the record of proceedings of all meetings; shall keep all books, files, records, and accounts of the fund; shall receive all applications for annuities, benefits and refunds; shall prepare periodic reports relative to the financial operations of the fund for the information of the board and its membership; shall compile all statistics pertinent to the operations of the fund; and shall answer all correspondence received by the board.

(3) The city treasurer shall be ex officio treasurer of the board, and custodian of the fund. He shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed by the board. These accounts and records shall be subject to inspection of the board or any member thereof.

(4) The city treasurer shall, within ten (10) days after his selection, execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of his office, and that he will safely keep and will truthfully account for all money and properties that come into his hands as treasurer of the fund, and that upon the expiration of his term of office, he will deliver to his successor all securities, unexpended moneys, and other properties that come into his hands as treasurer of the fund. The bond will be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any person injured by its breach. The premium on said bond may be paid out of the fund, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the board.

(5) The director of law of the city shall serve as legal adviser to the board on all matters pertaining to the fund involving suits or actions at law, and on any questions of the interpretation of the provisions hereof, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the board.

(6) The board may employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, to determine rates of city contribution and to make periodic analyses of the operation of the fund. Within six (6) months after the establishment, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service and other essential factors. At least once every *three (3)* [~~five (5) years~~] thereafter, an actuarial survey and investigation shall be made of the operating experience of the fund, including a study of the rates, mortality, disability, retirement, separations from service and other essential factors. The actuary shall recommend all mortality and interest tables to be adopted by the board, and shall recommend, if appropriate, cost of living increases as provided in KRS 95.859. In the event such survey is not undertaken as provided herein, any member of the fund or any annuitant may obtain an injunction or mandamus requiring such survey and investigation, or may obtain the appointment of a person or persons to make such study and investigation, from the circuit court of any county in which the city is located.

(7) The board shall establish rules and regulations to implement the provisions of KRS 95.851 to 95.991 which shall not be inconsistent therewith.

Section 10. KRS 95.768 is amended to read as follows:

(1) The police and fire fighter's pension fund in cities of the fourth class shall consist of (a) the proceeds of an annual tax, which may be levied by the city legislative body[~~, of not more than three cents (3¢)~~] on each hundred dollars ($100) in value of taxable property; (b) all rewards, fees, gifts or emoluments paid or given on account of extraordinary service of any member of the police or fire department; (c) assessments, which the board of trustees of the pension fund shall make, upon each member of the police and fire departments, of not more than three and one-half per cent (3 ½%) of his salary, to be held from the monthly salary and paid by the city treasurer into the pension fund.

(2) Said fund shall be for the pensioning of any policeman or fire fighter who has served in the police or fire departments for at least a period of twenty (20) years or more, providing that applicant has reached his fifty-first birthday, and all members of the police and fire departments shall be entitled to be credited with the services rendered continuously prior to the adoption ordinance under the provisions of KRS 95.761, by said city, to the eligibility of the twenty (20) year or more, period for pension, not less than three (3), nor to exceed fifteen (15) years of previous service, and for the further purpose of pensioning any member of the police or fire department who may become permanently crippled while in the service and on duty, and for the further purpose of pensioning the widow or dependent children under fourteen (14) years of age, or either of them, of any member of said departments who may lose his life while in the service and on active duty. The payments made under the provisions of this section shall constitute and be kept as a fund to be called the "Policemen's and Fire Fighter's Pension Fund," and the board of trustees of the policemen's pension fund, are declared to be the trustees of said fund, and they shall have power, and it shall be their duty, from time to time, to invest the same, in whole or in part, as they shall deem most advantageous for the objects of said fund; and they are empowered to make all the necessary contracts and to pursue all the necessary remedies in the premises.

Section 11. KRS 95.016, Actuarial evaluation of pension systems, is repealed.

HB 175, AN ACT changing the classification of the City of Fredonia in Caldwell County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Fredonia, in Caldwell County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The City of Fredonia, in Caldwell County, is transferred from the sixth to the fifth class of cities.

HB 212, AN ACT changing the classification of the City of Meadowvale, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Meadowvale in Jefferson County, is such as to justify its being classified as a city of the fifth class,

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The City of Meadowvale, in Jefferson County, is transferred from the sixth to the fifth class of cities.

HB 296, AN ACT relating to city civil service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 90.300 is amended to read as follows:

(1) In KRS 90.310 to 90.410, unless the context requires otherwise:

(a) "Administrative or directorial position" means the head of a department of municipal government. [~~Provided That, in any city of the second class which has heretofore elected to operate under KRS 90.310 to 90.410, and in which any administrative or directorial position has not been included in the class of employes subject to civil service, any person holding such an administrative or directorial position, who is past the age of forty-five (45) years and who has filled such position for a period of not less than one~~

~~(1) year next prior to December 31, 1945, may, if he elects, continue in said position without taking the competitive examination required by KRS 90.320.~~]

(b) "Appointing authority" means the officer, commission, board or body having the power of appointment or removal in any office, department, commission, board or institution.

(c) "Civil service" means the offices and positions of trust or employment in the service of the city not specifically excluded by KRS 90.310 to 90.410 or by ordinance of the city as provided in KRS 90.310.

(d) "Commission" means the board of civil service commissioners as established under KRS 90.310.

(e) "Dismissal" means the discharge of an employe.

(f) "Employe" means any person employed in the conduct of municipal affairs [~~including an administrative or directorial position established for cities of the second or third class~~], but the term shall not include the mayor or city manager, *an administrative or directorial position established for cities of the second or third class,* and in cities of the second class it shall not include the offices of the board of health, members of the planning and zoning commission, the board of trustees of the public library, members of the housing authority, municipal hospital commission or the trustees, members or corresponding officers of similar boards or commissions of cities of the second class, persons employed on temporary and special projects or to persons whose regular employments with the city are seasonal and are less than nine (9) months in any one (1) year, and the city clerk or city assessor of a city of the second class operating under the commission form of government.

(g) "Pension fund" means the moneys derived from the employes and the levy of a special tax, either or both, or any other sum derived from any other source, to be used for the retirement of employes after the prescribed years of service and for the benefit of disabled employes, and surviving spouses and dependent children in the case of death of an employe within the scope of his employment according to the terms of KRS 90.310 to 90.410 and the ordinance of the city.

(2) The provisions of KRS 90.310 to 90.410 are independent of and do not affect the laws governing the police and fire departments, nor their pension funds, in cities of the second and third classes.

Committee Amendment No. 1 to **HB 296** is as follows:

Amend printed copy of **HB 296** on page 2, line 13, after the word "*class*," insert the following: "*except that the legislative body, no later than December 31, 1982, may elect by ordinance to designate persons in administrative or directorial positions as 'employees',*"

HB 350, AN ACT changing the classification of the city of Lewisburg, in Logan County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the city of Lewisburg in Logan County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The city of Lewisburg, in Logan County, is transferred from the sixth to the fifth class of cities.

The Committee on Counties and Special Districts reported **HB 107** and **HB 298,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 107, AN ACT relating to county treasurers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.010 is amended to read as follows:

(1) The fiscal court of each county, at its regular *June* [~~April~~] term every four (4) years, beginning with *June, 1985* [~~1913~~], shall appoint a county treasurer for a term of four (4) years. If for any reason the county treasurer is not appointed at the *June* [~~April~~] term, the county judge/executive shall call the fiscal court to meet immediately after the adjournment of the term on a day fixed by order entered on the order book of the court, and the meeting shall be held within two (2) weeks after the adjournment of the *June* [~~April~~] term.

(2) The county treasurer shall take office on the July 1st immediately following his appointment.

(3)[~~(2)~~] No person is eligible to be county treasurer unless at the time of his appointment he is a citizen of Kentucky, at least twenty-five (25) years old, and has been for the two (2) years next preceding his appointment a resident of the county for which he is appointed. The county treasurer shall take the constitutional oath of office before the fiscal court, and shall execute bond with at least two (2) good sureties, to be approved by the fiscal court. The fiscal court may pay the premium on the bond from county funds.

(4)[~~(3)~~] The fiscal court may remove the county treasurer at any time for neglect of duty, incompetency or dishonesty.

(5)[~~(4)~~] In the case of a vacancy from any cause in the office of county treasurer, the county judge/executive shall call a special term of the fiscal court to fill the vacancy.

Section 2. KRS 68.010, Acts 1980, Chapter 90, Section 1, effective April 1, 1982, is amended to read as follows:

(1) The fiscal court of each county, at its regular June term every *four (4)* [~~two (2)~~] years, beginning with *June, 1985* [~~1913~~], shall appoint a county treasurer for a term of *four (4)* [~~two (2)~~] years. If for any reason the county treasurer is not appointed at the June term, the county judge/executive shall call the fiscal court to meet immediately after the adjournment of the term on a day fixed by order entered on the order book of the court, and the meeting shall be held within two (2) weeks after the adjournment of the June term.

(2) The county treasurer shall take office on the July 1st immediately following his appointment.

(3) No person is eligible to be county treasurer unless at the time of his appointment he is a citizen of Kentucky, at least twenty-five (25) years old, and has been for the two (2) years next preceding his appointment a resident of the county for which he is appointed. The county treasurer shall take the constitutional oath of office before the fiscal court, and shall execute bond with at least two (2) good sureties, to be approved by the fiscal court. The fiscal court may pay the premium on the bond from county funds.

(4) The fiscal court may remove the county treasurer at any time for neglect of duty, incompetency or dishonesty.

(5) In the case of a vacancy from any cause in the office of county treasurer, the county judge/executive shall call a special term of the fiscal court to fill the vacancy.

Section 3. Whereas, the county treasurer's term does not expire until April 1985, and a delay in the effective date of this Act would be disruptive to the appointment process of the county treasurer, an emergency is declared and this Act shall become effective upon its passage and approval by the Governor.

HB 298, AN ACT relating to sheriffs' special deputies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 70.045 is amended to read as follows:

(1) The sheriff in each county may appoint and have sworn in as many special deputies as needed to assist him in the execution of his duties and office *in preparation for or* during an emergency situation, such as fire, flood, tornado, storm, or other such emergency situations. *For purposes of this section only, an emergency situation is a condition which, in the judgment of the sheriff, requires a response immediately necessary for the preservation of public peace, health or safety, utilizing special deputies previously appointed in preparation for the contingency.*

(2) The special deputy shall:

(a) Be appointed and dismissed on the authority of the sheriff;

(b) Not receive any monetary compensation for his time or services;

(c) Serve at the request of the sheriff, unless personal conditions rule otherwise;

(d) [~~Serve for the duration of the emergency situation or any part thereof, as directed by the sheriff; (e)~~] Be answerable to and under the supervision of the sheriff, who shall be responsible for the actions of the special deputy; and

(e)[~~(f)~~] Be appointed regardless of race, color, creed or position.

(3) The [~~temporary~~] position of special deputy as created and defined in subsections (1) and (2) is subject to the provisions of this section only.

Committee Amendment No. 1 to **HB 298** is as follows:

Amend printed copy of **HB 298** on page 1, line 4, by inserting the following words after "in" "*, and entered on the county clerk order book,*".

The Committee on Health and Welfare reported **HB 269, HB 339** with Committee Amendments attached thereto, and **SB 27** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 269, AN ACT relating to the reporting of fire losses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each fire department operating within the Commonwealth, whether paid or volunteer, shall complete a report each time it responds to a fire call. The report shall be made on a form, similar to the National Fire Protection Association's standard fire reporting form, to be distributed by the commissioner and shall include, but not be limited to, the following information:

(a) Date of the fire call;

(b) Time of day of the fire response;

(c) Number of pieces of fire equipment responding to each call;

(d) Number of fire fighters responding to each call; and

(e) Description of the estimated fire damages.

(2) Each fire department operating within the Commonwealth, whether paid or volunteer, shall file a monthly summary of the reports required to be completed in subsection (1) of this section with the commission and with the fire marshal's office. Monthly summaries shall be made on a form, similar to the National Fire Protection Association's fire reporting action summary form, to be distributed by the commissioner.

SECTION 2. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall ascertain as soon as practicable the annual fire loss in each municipality in the Commonwealth; obtain, make and maintain a record thereof and collect such data with respect thereto as will enable the commissioner to classify the fire losses in each municipality in the Commonwealth, the causes thereof, and the amount of premiums collected therefor for each class of risks and the amount paid thereon, in such manner as will aid in determining equitable insurance rates, methods of reducing such fire losses and reducing the insurance rates for risks in each municipality in the Commonwealth as provided in this section.

(2) The commissioner shall compile for each municipality in Kentucky a list of the insured fire losses in excess of five hundred dollars ($500) per loss paid in that municipality for the preceding statistical year.

(3) The list shall include:

(a) The names of persons recovering insured losses;

(b) The addresses or locations where the losses occurred; and

(c) The amount paid by the insurance company on each loss.

(4) The commissioner shall obtain the information to make the lists from insurance company reports of individual losses during the statistical year, either directly from such insurance companies or from such lawful rating organization or agency of which such insurance companies may be a member of subscriber.

(5) Each municipality shall examine its list to determine the losses actually occurring in its limits and shall make a report to the commissioner, which report shall include:

(a) A list of the losses that occurred within the limits of the municipality;

(b) A list of the losses not occurring within the municipality; and

(c) Other evidence essential to establishing the losses in the municipality.

(6) The commissioner shall make such changes or corrections as he shall determine to be necessary in order to correct the list of insured fire losses paid in a particular municipality.

HB 339, AN ACT relating to abortion.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.710 is amended to read as follows:

The general assembly of the Commonwealth of Kentucky hereby finds and declares:

(1) That it is in the interest of the people of the Commonwealth of Kentucky that every precaution be taken to insure the protection of every viable unborn child being aborted, and every precaution be taken to provide life-supportive procedures to insure the unborn child its continued life after its abortion; and

(2) That currently, in the commonwealth, there is inadequate legislation to protect the life, health and welfare of pregnant women and unborn human life; and

(3) That it is in the interest of the people of the Commonwealth of Kentucky to maintain accurate statistical data to aid in providing proper maternal health regulations.

(4) It is the intention of the general assembly of the Commonwealth of Kentucky to assure the integrity and autonomy of a woman's decision whether to submit to an abortion or to carry her child to term, to protect the rights and interests of a minor incompetent woman and her parents in the context of abortion, to further the Commonwealth's compelling interest in protecting the formal integrity of the marital relation and the procreative rights and interests of the husband, and to provide for the development of statistical data. The general assembly finds as fact that the rights and interests furthered by this Act are not secure in the context in which abortion is presently performed.

(5) It is the present intention of the general assembly to protect the valid and compelling interests of the Commonwealth and its inhabitants without unduly burdening a woman's constitutional privacy rights as delineated by the courts. If, however, the United States constitution is amended or relevant judicial decisions are reversed or modified, the declared policy of this Commonwealth to recognize and to protect the lives of all human beings regardless of their degree of biological development shall be fully restored.

Section 2. KRS 311.720 is amended to read as follows:

As used in KRS *311.710* [~~311.730~~] to 311.810, and laws of the Commonwealth unless the context otherwise requires:

(1) "Abortion" shall mean *the use of any means whatsoever to terminate the pregnancy of a woman known to be pregnant with intent to cause fetal death* [~~an act, procedure, device or prescription administered or prescribed for a pregnant woman by any person, including the pregnant woman herself producing the premature expulsion of the fetus, except that in cases in which the unborn child's viability is threatened by continuation of the pregnancy, early delivery after viability by commonly accepted obstretrical practices shall not be construed as an abortion for the purposes of KRS 311.730 to 311.810~~].

(2) "Hospital" shall mean those institutions licensed in the Commonwealth of Kentucky pursuant to the provisions of chapter 216 of the Kentucky Revised Statutes.

(3) "Consent" as used in KRS *311.710* [~~311.730~~] to 311.810 with reference to those who must give their consent shall mean an informed consent expressed by a written agreement to submit to an abortion on a written form of consent to be promulgated by the secretary for human resources.

(4) *"Department" shall mean the department for human resources of the Commonwealth of Kentucky.*

(5) "Fetus" shall mean a human being from fertilization until birth.

(6) "Human being" shall mean any member of the species homo sapiens from fertilization until death.

(7) "Physician" [~~"Physicians"~~] shall mean any person licensed to practice medicine in the Commonwealth *or osteopathy pursuant to* [~~in accordance with~~] the provisions of chapter 311 of the Kentucky Revised Statutes.

(8)[~~(5)~~] "Viability" shall mean that stage of human development when the life of the unborn child may be continued by natural or life-supportive systems outside the womb of the mother.

(9)[~~(6)~~] "Accepted medical procedures" shall mean procedures of the type performed in the manner and in a facility with equipment sufficient to meet the standards of medical care which physicians engaged in the same or similar lines of work, would ordinarily exercise and devote to the benefit of their patients.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) No abortion shall be performed except by a physician after either:

(a) He determines that, in his best clinical judgment, the abortion is necessary; or

(b) He receives what he reasonably believes to be a written statement signed by another physician, hereinafter called the "referring physician", certifying that in the referring physician's best clinical judgment the abortion is necessary, and, in addition, he receives a copy of the report form required by Section 10 of this Act.

(2) No abortion shall be performed except in compliance with regulations which the department shall issue to assure that:

(a) Before the abortion is performed, the pregnant woman shall have a private medical consultation either with the physician who is to perform the abortion or with the referring physician in a place, at a time and of a duration reasonably sufficient to enable the physician to determine whether, based upon his best clinical judgment, the abortion is necessary;

(b) The physician who is to perform the abortion or the referring physician will describe the basis for his best clinical judgment that the abortion is necessary on a form prescribed by the department as required by Section 8 of this Act; and

(c) Subsection (2)(a) shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency. In such a case, the physician shall describe the basis of his medical judgment that an emergency exists on a form prescribed by the department as required by Section 8 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

No abortion shall be performed except with the voluntary and informed consent of the pregnant woman. Consent to an abortion is voluntary and informed only if:

(1) The woman is provided, at some time before the abortion, a copy of her pregnancy test result, if such test has been employed, by the physician who is to perform the abortion or his agent;

(2) The physician who is to perform the abortion or his agent shall provide the woman at least two (2) hours before the abortion:

(a) The name of the physician who will perform the abortion;

(b) The particular medical risks associated with the particular abortion procedure to be employed in the medical judgment of the physician based on the particular facts of the case before him;

(c) The probable gestational age of the fetus at the time the abortion is to be performed;

(d) The printed information required by Section 5(1) of this Act; and

(e) The fact that the information prescribed by Section 5(2) of this Act is available to her if she wishes to view it;

(3) Before submitting to the abortion, but after receiving the information required by Section 4(1) of this Act the woman shall certify in writing that she has received the information required by this section from the physician or his agent at least two (2) hours before the abortion is to be performed, that she understands it, that she consents to the abortion, and that her consent is voluntary and not the result of coercion;

(4) The requirement of this section that at least two (2) hours elapse between the provision of the information required and the performance of the abortion shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency which warrants nullification of the two (2) hour waiting period. In such a case, the physician shall describe the basis of his medical judgment that such an emergency exists on a form prescribed by the department as required by Section 8 of this Act;

(5) The requirements of this section that certain information be provided the pregnant woman and that she certify her consent in writing shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency which warrants nullification of the requirements that the woman be provided with the information and that the woman certify her consent. In such a case, the physician shall describe the basis of his medical judgment that such an emergency exists on a form prescribed by the department as required by Section 8 of this Act and, if the woman survives the abortion, the physician shall subsequently inform her of the medical indications for his judgment that a medical emergency existed and of the particular medical risks associated with the particular abortion procedure employed, the symptoms of which might become manifest in the future;

(6) Failure to provide the woman with information required by this section is prima facie evidence of failure to obtain informed consent in appropriate civil actions. The law of this Commonwealth shall not be construed to preclude award of punitive damages or damages for emotional distress even if unaccompanied by physical complications in any civil action brought pursuant to violations of this section. Nothing in this section shall be construed to limit the common law rights of the woman to secure informed consent to any form of medical treatment, including abortion.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The department shall, within sixty (60) days of the effective date of this Act, publish printed materials that may be easily comprehended in all languages used by significant portions of the population of this Commonwealth which are designed to inform concerned persons of public and private agencies and services available to assist a woman through pregnancy, upon childbirth and while the child is dependent, including reputable adoption agencies. The materials shall include a comprehensive list of the agencies available, the services they offer, and a description of the manner in which they might be contacted.

(2) The materials shall include the following paragraph:

"There are many public and private agencies willing and able to help you to carry your child to term, and assist you and your child after your child is born, whether you choose to keep your child or to place her or him for adoption. The Commonwealth of Kentucky strongly urges you to contact them before making a final decision about abortion."

(3) The materials shall describe the probable anatomical and physiological characteristics of the fetus at the various gestational ages at which abortion might be performed, including any relevant information on the possibility of fetal survival. The materials shall be scientifically objective and shall not be prejudicial.

(4) Nothing in this section shall be construed to limit the right of the physician or of personnel associated with him to express to the woman their own views concerning the validity or importance of the materials prescribed by this section.

(5) The materials required under this section shall be available at no cost from the department upon request and in appropriate number to any person, facility or hospital. Distribution of the printed materials shall not be required until they are made available.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) If a pregnant woman is less than eighteen (18) years of age and not emancipated, or if she has been adjudged an incompetent under KRS Chapter 203, a physician shall not perform an abortion upon her unless he first obtains the consent of both the pregnant woman and that of her parents, if she is less than eighteen (18), or of her guardian, if she is an incompetent, except as hereinafter provided. In deciding whether to grant consent, a pregnant woman's parents or guardian shall consider only the child's or ward's best interests.

(2) If one of the pregnant woman's parents has died or is unavailable to the physician within a reasonable time and in a reasonable manner, consent of the remaining parent shall be sufficient. If both parents have died or are otherwise unavailable to the physician within a reasonable time and in a reasonable manner, consent of the pregnant woman's guardian or guardians shall be sufficient. If the pregnant woman's parents are divorced, consent of the parent having custody shall be sufficient. If neither a parent nor a legal guardian is available to the physician within a reasonable time and in a reasonable manner, consent of any adult person standing in loco parentis shall be sufficient.

(3) If one or both of the parents or guardians of the pregnant woman refuse to consent to the performance of an abortion, or if she elects not to seek the consent of one or both of her parents or guardians, the appropriate state court in the county in which the applicant resides or in which the abortion is sought shall upon petition or motion, after an appropriate hearing, authorize a physician to perform the abortion if the court determines that the pregnant woman is sufficiently mature or competent to give informed consent to the proposed abortion.

(4) If the court determines that the pregnant woman is not sufficiently mature or competent to give informed consent or if the pregnant woman does not claim to be sufficiently mature or competent to give informed consent to the proposed abortion, the court shall determine whether the performance of an abortion would be in her best interests. The court shall not decide until after parental consultation in which the court may participate, if consultation is possible within a reasonable time and in a reasonable manner, unless the court concludes the pregnant woman's best interests would not be served by its participation in the consultation. Whether or not there has been parental consultation, the court shall deny the abortion if it decides that the pregnant woman's best interests would be served by denial, or shall authorize a physician to perform the abortion if it concludes that the pregnant woman's best interests would be served by authorization.

(5) The pregnant woman may participate in court proceedings on her own behalf, and the court may appoint a guardian ad litem for her. The court shall advise her that she has a right to court-appointed counsel, and shall, upon her request, appoint counsel.

(6) Court proceedings under this section shall be confidential and shall be given precedence over other pending matters to ensure a prompt decision to serve the best interests of the pregnant woman. The court shall make specific factual findings and legal conclusions supporting its decision and shall order a record of the evidence to be maintained which shall include its findings and conclusions.

(7) The requirements of Section 6(1) of this Act shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency. In such a case, the physician who is to perform the abortion shall describe the basis of his medical judgment that such an emergency exists on a form prescribed by the department as required by Section 8 of this Act, and the physician or his agent shall provide each parent or guardian with the following information within seven (7) days of the time the abortion is performed, either in person or by sending it by certified mail to the last known address of each parent or guardian:

(a) That an abortion has been performed upon his daughter or ward, and the medical indications for the physician's judgment that a medical emergency exists or existed;

(b) The name of the physician who performed the abortion or is to perform the abortion; and

(c) The particular medical risks associated with the particular abortion procedure employed, the symptoms of which might become manifest in the future.

(8) If the woman elects not to have her parents informed by the physician or his agent as provided in Section 6(7), she shall inform the physician and the physician and his agents shall postpone giving notification until thirty (30) days after the first day in which the woman is, in the medical judgment of the attending physician, medically capable of filing a petition or motion for an order authorizing a physician and his agents to refrain from making the notification required by this section. The appropriate state court in the county in which the woman resides or in which the abortion was performed shall, upon petition or motion, after an appropriate hearing, authorize a physician and his agents to refrain from making the notification required by Section 6(7) if the court determines that the woman is mature and capable of giving informed consent or if it determines the woman's best interests would not be served by the notification. If

the court makes neither determination, it shall issue an order specifying the date by which the physician or his agent shall provide the information prescribed by Section 6(7). If the court does not reach a determination before the time by which the physician and his agents otherwise would be required to make notification, the court shall order that notification be withheld until it rules.

(9) No filing fees shall be required of any woman availing herself of the procedures provided by this section. An expedited confidential appeal shall be granted any woman to whom the court denies an order authorizing an abortion or an order authorizing a physician and his agents to refrain from making notification required by this section.

(10) The Supreme Court of Kentucky is respectfully requested, in the exercise of its powers under the Constitution of the Commonwealth, to issue promptly rules necessary to assure that proceedings under this section, and any appeals or other proceedings which may be related to this section, are confidential and prompt. The Supreme Court is further respectfully requested to issue promptly any rules or orders consistent with this Act necessary to eliminate any undue burdens on a minor's or incompetent's opportunity for an abortion with sufficient expedition.

(11) Failure to comply with the requirements of Section 6, other than Section 6(10), is prima facie evidence of failure to obtain informed consent and of interference with family relations in appropriate civil actions. The law of this Commonwealth shall not be construed to preclude the award of punitive damages or damages for emotional distress, even if unaccompanied by physical complications in any civil action brought pursuant to violations of this section. Nothing in this section shall be construed to limit the common law rights of parents.

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Prior to performing an abortion the physician who is to perform the abortion or his agent shall notify, if reasonably possible, the spouse of the woman upon whom the abortion is to be performed. If it is not reasonably possible to notify the spouse prior to the abortion, the physician or his agent shall do so, if reasonably possible, within thirty (30) days of the abortion.

(2) (a) The requirements of this section shall not apply if, before the abortion is performed, either party to a marriage has filed a petition for dissolution of marriage which has been served on the respondent;

(b) The requirements of this section shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency. In such a case, the physician shall describe the basis of his medical judgment that such an emergency exists on a form prescribed by the department as required by Section 8 of this Act, and the physician or his agent shall notify, if reasonably possible, the spouse of the woman upon whom the abortion was performed, within thirty (30) days of the abortion.

(3) Failure to notify a spouse as required by this section is prima facie evidence of interference with family relations in appropriate civil actions. The law of this commonwealth shall not be construed to preclude the award of punitive damages or damages for emotional distress, even if unaccompanied by physical complications in any civil action brought pursuant to violations of this section. Nothing in this section shall be construed to limit the common law rights of a husband.

Section 8. KRS 213.055 is amended to read as follows:

(1) The department for human resources shall establish an abortion reporting form which shall be used for the reporting of every abortion performed or prescribed in this state. *The report forms shall not identify a patient by name, but by an individual number to be noted in the woman's permanent record in the possession of the physician, and* [~~after the first trimester. Such form~~] shall include the following items in addition to such other information as may be required by the department for human resources:

(a) The *date of birth* [~~age~~] of the pregnant woman;

(b) The marital status of the pregnant woman;

(c) The *name and* location of the facility where the abortion was performed or prescribed;

(d) The type of procedure performed or prescribed *and the date of abortion*;

(e) Complications, if any, *and the time period over which the determination of the existence of complications, if any, was made*;

(f) The name of the attending physician *who performed the abortion*;

(g) The name of the referring physician, agency or service if any;

(h) The *date of the woman's last menstrual period, and the probable gestational age of the fetus* [~~given menstrual age of the unborn child aborted~~];

(i) The results of any pathological examinations of unborn children aborted;

(j) The legal residence of the woman and the legal residence of the father of the aborted fetus or child, if known; [~~and~~]

(k) The length and weight of the aborted child when measurable*;*

(l) The race of the pregnant woman;

(m) The number of prior pregnancies;

(n) Basis for any medical judgment that a medical emergency existed as required by any part of this Act;

(o) The basis for the clinical judgment that an abortion is necessary as required by Section 3 of this Act;

(p) The date of the medical consultation required by Section 3 of this Act, the time it began, and the time it ended; and

(q) The date on which any determination of pregnancy was made.

(2) The completed form shall be certified by the attending physician and be sent to the department for human resources within fifteen (15) days after each reporting month.

(3) Every hospital or facility in which an abortion is performed within the Commonwealth of Kentucky during any quarter year shall file with the department a report showing the total number of abortions performed and the total abortions performed in each trimester of pregnancy at the hospital or other facility during that quarter year.

(4) (a) After thirty (30) days public notice, the department shall require that all reports of maternal deaths arising from pregnancy, childbirth, or intentional abortion in every case state the cause of death, the duration of the woman's pregnancy when her death occurred, and whether or not the woman was under the care of a physician prior to her death. The department shall issue regulations to assure that such data are reported and shall conduct its own investigation if necessary to ascertain the data;

(b) A woman shall be deemed to have been under the care of a physician prior to her death if a physician examined or treated her, other than in connection with emergency care for complications of her pregnancy or complications of her abortion, at any time within sixty (60) days of her death and at least twenty-one (21) days after she became pregnant.

(c) Known incidents of maternal mortality of non-resident women arising from induced abortion performed in this Commonwealth shall be included as incidents of maternal mortality arising from induced abortions. Incidents of maternal mortality arising from continued pregnancy or childbirth and occurring after induced abortion has been attempted but not completed, including deaths occurring after induced abortion has been attempted but not completed as the result of ectopic pregnancy, shall be included as incidents of maternal mortality arising from induced abortion. To the extent that the data required by this paragraph is presently available to the department for the three (3) most recently reported years, the department shall revise its maternal mortality reports for these years to include such data.

(5) Upon thirty (30) days public notice, the department may require reporting of any additional information which, in its sound discretion, is necessary to develop statistical data relating to the protection of maternal or fetal life or health, or is necessary to enforce the provisions of this Act, or is necessary to develop useful criteria for medical decisions, provided that the department shall not require the identity of the woman or that her residence be disclosed. The department shall annually report to the legislature all statistical data gathered under the Act and its recommendations to further the purpose of this Act.

(6) Any physician who diagnoses a woman to have complications resulting from an abortion shall report, within a reasonable period of time, the diagnosis and a summary of her physical symptoms to the department in accordance with procedures and upon forms to be required by the department. The department shall define the complications required to be reported, which shall include those complications that, according to the contemporary medical standards, are manifested by symptoms with severity equal to or greater than:

(a) Uncontrolled hemorrhaging not responsive to initial therapy;

(b) Adverse psychological reactions or expressions of regret regarding the procedure;

(c) Subsequent inability to become pregnant or to maintain a pregnancy once it has been diagnosed, including miscarriage, incompetent cervix, ectopic pregnancy, or all three; and

(d) Subsequent complications of pregnancy such as abruptio placenta, placenta previa, prematurity, neurologic deficit or mental retardation.

If the physician making the diagnosis of a complication knows the name or location of the facility where the abortion was performed, he shall report such information to the department.

(7) All information obtained by a physician, hospital, or ambulatory health facility from a patient for the purpose of preparing reports to the department under this Act shall be confidential and shall be used only for statistical purposes except to the extent necessary to secure the rights or interests of a person or the Commonwealth pursuant to a court order in civil or criminal actions or proceedings to grant, suspend, or revoke licenses.

Section 9. KRS 311.760 is amended to read as follows:

An abortion may be performed in this state only under the following circumstances:

(1) During the first trimester of pregnancy by a woman upon herself upon the advice of a licensed physician or by a licensed physician.

(2) After the first trimester of pregnancy, except in cases of emergency to protect the life or health of the pregnant woman, where an abortion is permitted under other provisions of KRS *311.710* [~~311.730~~]

to 311.810, by a duly licensed physician in a hospital duly licensed by the Kentucky health facilities and health services certificate of need and licensure board.

Section 10. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be fined fifty dollars ($50) for the first offense and one hundred dollars ($100) for each subsequent offense.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be fined not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months, or both so fined and imprisoned. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 shall be punishable by a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or by imprisonment for not less than one (1) month nor more than twelve (12) months, or both. Each subsequent violation of KRS 311.560 shall constitute a felony and be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years, or both.

(5) Each violation of KRS 311.590 shall constitute a felony and shall be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years. Conviction, under this subsection, of a holder of a license or permit, shall result automatically in permanent revocation of such license or permit.

(6) Conviction of wilfully resisting, preventing, impeding, obstructing, threatening or interfering with the board or any of its members, or of any officer, agent, inspector or investigator of the board or the department for human resources, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be punishable by a fine of not less than fifty dollars ($50) nor more than three hundred dollars ($300) or by imprisonment for not more than thirty (30) days or both, and, for each subsequent offense, by a fine of not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be punishable by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both, and, for each subsequent offense, by a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) or by imprisonment for not more than ninety (90) days or both.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) *(a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of Section 3(1) of this Act shall be guilty of a Class D felony;*

(b) Any person who intentionally, knowingly or recklessly violates the requirements of Section 3(2) of this Act shall be guilty of a Class A misdemeanor [~~Any physician who fails to comply with the provisions of KRS 311.730, upon conviction thereof shall be fined not more than five hundred dollars ($500)~~].

(11) *Any person who intentionally, knowingly or recklessly violates the requirements of Section 4 of this Act shall be guilty of a Class A misdemeanor* [~~Failure to procure the informed consent of those required to give their consent pursuant to KRS 311.740, prior to performing an abortion shall be punishable by imprisonment in the county jail not to exceed one (1) year or a fine not to exceed one thousand dollars ($1,000), or both~~].

(12) *Any person who performs an abortion upon an unemancipated minor or incompetent woman either with knowledge or in reckless disregard of her minority or incompetency and who intentionally, knowingly or recklessly fails to conform to any requirement of Section 6 of this Act shall be guilty of a Class D felony.*

(13) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether Section 7 of this Act applies to her and who intentionally, knowingly or recklessly fails to conform to the requirements of Section 7 of this Act shall be guilty of a Class D felony.

(14) Any person convicted of violating KRS 311.750 shall be imprisoned in the penitentiary for a term of not less than ten (10) nor more than twenty (20) years.

(15)[~~(13)~~] Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(16)[~~(14)~~] Any person who violates KRS 311.770 or 311.780 shall be imprisoned for a term not to exceed two (2) years or fined not more than five thousand dollars ($5,000), or both.

(17)[~~(15)~~] A person convicted of violating KRS 311.780 shall be imprisoned in the penitentiary for not less than two (2) nor more than twenty-one (21) years.

(18)[~~(16)~~] Any person who violates KRS 311.810 shall be imprisoned in the county jail for a term not to exceed twelve (12) months or fined a sum not to exceed one thousand dollars ($1,000), or both.

(19)[~~(17)~~] Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606, shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500) for each failure to so report as described in KRS 311.606.

(20)[~~(18)~~] Any person who violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(21)[~~(19)~~] Any administrator, officer or employe of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(22)[~~(20)~~] Any person who violates KRS 311.914 shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

If any section of this Act or any part of any section shall be invalid or unconstitutional, the declaration of such invalidity shall not affect the validity of the remaining portions thereof.

Section 12.The following KRS sections are repealed:

311.730 Counseling by physician required prior to performance of abortion.
311.740 Consent requirements.
436.023 Waiting period required between consent to and performance of abortion.

Committee Amendment No. 1 to **HB 339** is as follows:

Amend printed copy of **HB 339** on page 6, lines 17 and 18, after the words "*Section 5 (1)*" by adding the following: "*and (2)*"

and on line 20, by deleting the words "*Section 5 (2)*" and inserting in lieu thereof the words "*Section 5 (3)*"

Committee Amendment No. 2 to **HB 339** is as follows:

Amend printed copy of **HB 339** on page 11, line 7, delete the word "*state* and insert in lieu thereof the word "*circuit*"

and on page 13, line 24, delete the word "*state*" and insert in lieu thereof the word "*circuit*"

and on page 21, line 21, by inserting a period after the word "*purposes*" and deleting the words "*except to the extent necessary to*"

and on page 22, by deleting lines 1 through 4 in their entirety

SB 27, AN ACT relating to drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Legend drug" means any drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription."

(2) "Distributor" means any person, corporation, or other entity which distributes for resale a legend drug under its own label even though it is not the actual manufacturer of the legend drug.

(3) "Solid dosage form" means capsules, tablets, or similar legend drug products intended for oral administration.

(4) "Board" means the Kentucky board of pharmacy.

SECTION 2. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

No legend drug in finished solid dosage form may be manufactured or distributed within the Commonwealth unless it has clearly and prominently marked or imprinted on it an individual symbol, number, company name, words, letters, marking, National Drug Code, or any combination thereof, identifying the drug product and the manufacturer or distributor of the drug product.

SECTION 3. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

Manufacturers or distributors shall make available to the board, upon the board's request, descriptive material which will identify each current imprint used by the manufacturer or distributor on legend drugs in solid dosage form.

SECTION 4. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

The board may exempt a particular drug product from the requirements of Section 2 of this Act, upon application of a manufacturer or distributor showing that the drug product's size, texture, or other unique characteristics render imprinting impractical or impossible.

SECTION 5. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not apply to drug products compounded by a pharmacist licensed pursuant to KRS Chapter 315, in a pharmacy operating under a permit as required by KRS 315.035.

SECTION 6. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

All legend drugs in solid dosage form that are possessed, distributed, sold or offered for sale in violation of the provisions of this Act shall be deemed contraband and shall be seized by the board and forfeited to the state.

SECTION 7. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

The board shall promulgate regulations implementing the provisions of this Act.

Section 8. KRS 217.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 217.350 shall be fined not more than twenty-five dollars ($25.00).

(2) Any person who violates any of the provisions of subsection (2) of KRS 217.390 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100), or imprisoned for not more than fifty (50) days, or both.

(3) Except as provided in subsections (1) and (2) of this section, any person who violates any of the provisions of KRS 217.280 to 217.390 or who refuses to comply with any lawful order or requirement duly made in writing as provided in KRS 217.380, shall, for the first offense, be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100), or imprisoned for not more than thirty (30) days, or both, and for any subsequent offense shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200), or imprisoned for not more than ninety (90) days, or both. Each day after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate such conditions, as ordered under KRS 217.380, shall be a separate offense.

(4) Any person who violates any of the provisions of KRS 217.400 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100).

(5) Any person who violates any of the provisions of KRS 217.420 to 217.440 shall be fined not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than one (1) year, or both.

(6) Any person who violates any of the provisions of KRS 217.450 shall be fined one hundred dollars ($100).

(7) Any person who violates any provision of KRS 217.801 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

(8) Any person who violates any of the provisions of KRS 217.808 to 217.812, or any rule or regulation adopted thereunder, or who operates a vending machine company or vending machine commissary without a permit as prescribed in KRS 217.808 to 217.812, or who fails to comply with any order of the department or of any local health department issued pursuant thereto shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100). Each day of violation or noncompliance shall constitute a separate offense.

(9) Wilful noncompliance with KRS 217.816 shall constitute a violation and shall subject the violator to a fine of not over fifty dollars ($50.00) for the first offense and not over two hundred dollars ($200) for a subsequent offense.

(10) Any person who, thirty (30) days after the name of a drug has been published and distributed by the formulary council, as having a generic equivalent, wilfully fails to comply with the provisions of KRS 217.822 shall be guilty of a violation and shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation.

(11) Any person who violates any of the provisions of KRS 217.177 shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than five (5) nor more than thirty (30) days, or both.

(12) Any manufacturer or distributor who dispenses, sells, or otherwise provides to any other person any legend drug in solid dosage form that fails to comply with the requirements of this Act, shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

Section 9. The provisions of this Act shall not apply to drug products manufactured prior to July 1, 1983.

Orders of the Day

HB 111 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 111** be passed.

On the roll call the vote was yeas 89-Arnold, Barrows, Bendl, Bennett, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Clarke, T. Jones.

HB 111 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 111** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 171, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved the adoption of the Committee Substitute to **HB 171.** Agreed.

Representative Holbrook moved that **HB 171,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 0.

HB 171, by way of Committee Substitute, was passed and the title agreed to.

Representative Holbrook moved that the vote by which **HB 171,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 177 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Handy moved that **HB 177** be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 3-Barrows, Schmidt, Stumbo.

HB 177 was passed and the title agreed to.

Representative Handy moved that the vote by which **HB 177** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 305, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of the Floor Amendment No. 1 to **HB 305.** Agreed.

Representative Meyer moved that **HB 305,** as amended, be passed.

On the roll call the vote was yeas 71-Arnold, Barrows, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Crupper, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Johnson, R. Jones, Kenton, Kidd, LeMaster, Lile, List, Long, Lundergan, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, F. Smith, Stone, Thomas, Thomason, Turner, Williams, Worthington, Yates. Nays 21-Allen, Blandford, Boswell, Craddock, Curd, Deskins, Ford, Freibert, Fryman, Holloway, T. Jones, Little, Maggard, Overstreet, Patrick, Perkins, Richards, B. Smith, Todd, Van Horn, White.

HB 305, as amended, was passed and the title agreed to.

Representative Meyer moved that the vote by which **HB 305,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HR 14 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved the adoption of **HR 14.**

On the roll call the vote was yeas 72-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Dunn, Farrow, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Head, Heleringer, Holbrook, Johnson, R. Jones, T. Jones, Kidd, Long, Lundergan, Mann, McBee, Meyer, Moberly, Moore, Morris, Noe, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 8-Burnett, Caldwell, Endicott, Hines, Holloway, Little, Rattliff, Turner.

HR 14 was adopted and the title agreed to.

Representative F. Smith moved that the vote by which **HR 14** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 19, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved the adoption of the Floor Amendment No. 1 to **HR 19.** Agreed.

Representative Dunn moved that **HR 19,** as amended, be passed.

On the roll call the vote was yeas 84-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moore, Morris, Nett, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 3-Barrows, Little, Noe.

HR 19, as amended, was adopted and the title agreed to.

Representative Dunn moved that the vote by which **HR 19,** as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

Representative Donnermeyer moved that he be recorded as voting "yea" on **HB 59.** Agreed.

Representative Bruce moved that **HB 15** be withdrawn. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 60, HB 61, HB 72, HB 76, HB 78, HB 79,** and **HCR 8** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 60, HB 61, HB 72, HB 76, HB 78, HB 79, and **HCR 8** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions and Communications (Continued)

Representative Boswell moved that the rules be supsended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, **HB 156;** Representative Donnermeyer, **HB 334;** Representative Endicott, **HB 298;** Representative Farrow, **HB 298;** Representative Foster, **HB 298;** Representative Lundergan, **HB 298;** Representative McNutt, **HB 438;** Representative Moore, **HB 298;** Representative Richards, **HB 298, HB 439.**

The following meetings were announced:

Committee on Rules: On adjournment, Room 316.

Committee Chairmen: Fifteen minutes after adjournment; Room 105.

Budget Review Human Resources: Wednesday, 9:00 a.m., Room 103.

Judiciary-Civil: Wednesday, 8:30 a.m., Room 104.

Energy: Special meeting, Thursday, 12 noon, place to be announced.

Transportation: On adjournment, Room 104.

Business Organizations and Professions: Wednesday, 8:30 a.m., Room 109.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 2 to **HB 299,** by Representative McNutt:

Amend printed copy of **HB 299** on page 9, below line 7, to add the following:

"Section 3. KRS 337.520 is amended to read as follows:

(1) The commissioner shall make initial determinations and current revisions thereof of schedules of rates of prevailing wages, of the amount of fringe benefits included therein as defined in KRS 337.505, and the number of hours applicable thereto. The commissioner shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of KRS 337.505 to 337.550 and to prevent the circumvention or evasion thereof. Such rules and regulations *shall not* [~~may~~] include [~~but shall not be limited to~~] a provision that each contractor and subcontractor shall furnish [~~weekly~~] a sworn affidavit with respect to the wages paid each employe [~~during the preceding week and such other relative information and in such form as the commissioner may require~~]. No rule or regulation or revisions thereof shall be issued by the commissioner except upon reasonable notice to, and opportunity to be heard by, any interested person.

(2) The commissioner shall require the filing of all wage contracts of all laborers, workmen, and mechanics in this state which have been agreed to between bona fide organizations of labor and an employer or associations of employers. Such contracts shall be filed within ten (10) days after they are signed.

(3) The commissioner shall have the authority to determine schedules, and current revisions thereof, of the rates of prevailing wages as defined in KRS 337.505, but in no case shall the commissioner determine wages to be paid for a legal day's work to laborers, workmen, and mechanics engaged in the construction of public works at less than the prevailing wages paid in the localities. The commissioner in determining what rates of wages prevail shall consider the following criteria:

(a) Wage rates paid on previous public works constructed in the localities. In considering such rates the commissioner shall ascertain, insofar as practicable, the names and addresses of the contractors, including subcontractors, the locations, approximate costs, dates of construction and types of projects, the number of workers employed on each project and the respective wage rates paid each worker who was engaged in the construction of these projects.

(b) Wage rates previously paid on reasonably comparable private construction projects constructed in the localities. In considering such rates the commissioner shall ascertain[~~, insofar as practicable,~~] the names and addresses of *all* [~~the~~] contractors including subcontractors, the locations, approximate costs, dates of construction and types of projects, the number of workers employed on each project and the respective wage rates paid each worker who was engaged in the construction of [~~these~~] projects.

(c) Collective bargaining agreements or understandings between bona fide organizations of labor and their employers located in the commonwealth of Kentucky which agreements apply or pertain to the localities wherein the public works are to be constructed.

(4) The wage rates to be used by the public authority in a contract for the construction of public works shall be the prevailing wage as of the date the public works project is advertised and offered for bid. If contracts are not awarded within ninety (90) days after the date of offering for bid the public authority shall ascertain the prevailing rate of wages from the department before the contract is awarded. The schedule or scale of prevailing wages shall be incorporated in and made a part of each contract.

(5) The commissioner shall have the authority to make regulations authorizing the employment of apprentices and trainees in skilled trades at wages lower than the applicable prevailing wage.

Section 5. KRS 337.530 is amended to read as follows:

(1) Where a prevailing rate of wages has been determined and prescribed, the contract executed between a public authority and the successful bidder or contractor shall contain a provision requiring the successful bidder and all of his subcontractors to pay not less than the rate of wages so established. The successful bidder or contractor and all subcontractors shall strictly comply with these provisions of the contract.

(2) All contractors and subcontractors required by KRS 337.505 to 337.550 and by contracts with any public authority to pay not less than the prevailing rate of wages, shall pay such wages in legal tender without any deductions. These provisions shall not apply where the employer and employe enter into an agreement in writing at the beginning of or during any term of employment covering deductions for food, sleeping accommodations or any similar item if this agreement is submitted by the employer to the department and is approved by the department as fair and reasonable. All contractors and subcontractors affected by the terms of KRS 337.505 to 337.550 shall keep full and accurate payroll records covering all disbursements of wages to their employes to whom they are required to pay not less than the prevailing rate of wages. Such records shall indicate the hours worked each day by each employe in each classification of work and the amount paid each employe for his work in each classification. They shall be open to the inspection and transcript of the commissioner or his authorized representative at any reasonable time, [~~and every employer shall furnish to the commissioner or his authorized representative on demand a sworn statement of them,~~] and shall *be in compliance* [~~comply~~] with all regulations issued by the commissioner. [~~The commissioner may require the statement to be upon forms prescribed or approved by him.~~] These payroll records shall not be destroyed or removed from this state for one (1) year following the completion of the improvement in connection with which they are made.

(3) Each contractor and subcontractor subject to the provisions of KRS 337.505 to 337.550 shall post and keep posted in a conspicuous place or places at the site of the construction work a copy or copies of prevailing rates of wages and working hours as prescribed in the contract with the public authority, showing the rates of wages prescribed and the working hours for each class of laborers, workmen, and mechanics employed by him in the work of constructing the public works provided for in the contract with the public authority.

(4) Every employer shall permit the commissioner or his authorized agents to question any of his employes at the site of the public work and during work hours in respect to the wages paid, hours worked and duties of such employe or other employes."

Floor Amendment No. 1 to **HB 336,** by Representative Thomason:

Amend printed copy of **HB 336** on page 1, line 8, add the following new section:

Section 2. KRS 95.510 is amended to read as follows:

(1) The chief and all members of the police force in cities of the third class shall be peace officers of the city and the state, with the same powers to make arrests, execute process and enforce the laws as constables and sheriffs, *anywhere in the county in which the city is located, but they shall not be required to police any territory outside of the city limits.*

[~~(2) Their jurisdiction shall be coextensive with the city, and extend one (1) mile beyond its limits.~~]

Floor Amendment No 1. to **SB 57,** by Representative Stumbo:

Amend printed copy of **SB 57** on page 13, by deleting lines 7 through 26, and inserting in lieu thereof the following: "within the voting precincts of Abbott, Auxier, Rough & Tough, Middle Creek #8, Jack Allen, Maytown, Beechgrove & Bosco"

and on page 14, by deleting lines 1 through 6

Floor Amendment No. 2 to **SB 57,** by Representative Stumbo:

Amend printed copy of **SB 57** on page 13, lines 20 and 21 by deleting "an unnamed street" and inserting in lieu thereof "Marshall Street"

and on page 13, line 22 by deleting "unnamed street" and inserting in lieu thereof "Marshall Street"

and on page 13, lines 25 and 26 by deleting "an unnamed street" and inserting in lieu thereof "Mayo Branch"

and on page 14, line 1 by deleting "stream" and inserting in lieu thereof "Mayo Branch"

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 458, by Representative Lundergan: AN ACT relating to landlord and tenant.

HB 459, by Representative Gray: AN ACT relating to marital property.

HB 460, by Representatives Brown, Cyrus, and Stone: AN ACT relating to revenue and taxation.

HB 461, by Representatives Lundergan, Arnold, Allen, Boswell, Bruce, Donnermeyer, Freibert, Harper, Holloway, Morris, B. Smith, F. Smith, and Turner: AN ACT relating to state purchasing.

HB 462, by Representatives Mann, Donnermeyer, and Petty: AN ACT relating to workers' compensation.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 342.**

Banking and Insurance: **SB 28, HB 427.**

Education: **HB 242, HB 394, HB 425, HB 439, SB 4, SB 8, SB 31, SB 62, SB 94, SB 115, SB 116, SB 117.**

The Clerk announced the following Bills and resolutions have been withdrawn from Committee consideration:

Education: **HJR 13, HB 193, HB 356.**

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, February 10, 1982.

On the roll call the vote was yeas 51-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Burch, Caldwell, Clapp, Clark, Crupper, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Freibert, Fryman, Gray, Haering, Harper, Head, Johnson, T. Jones, Kidd, LeMaster, List, Long, McBee, Meyer, Moberly, Nett, Noland, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Stone, Stumbo, Thomas, Todd, Worthington, Yates. Nays 30-Barrows, Brown, Clarke, Cline, Cowan, Deskins, Endicott, Ford, Foster, Guenthner, Hancock, Handy, Heleringer, Holbrook, Holloway, R. Jones, Kenton, Layman, Lile, Mann, Moore, Noe, Overstreet, Perkins, Schmidt, B. Smith, F. Smith, Turner, Van Horn, Williams.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 10, 1982

TWENTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Roy Boatwright, Director of Missions, Franklin Baptist Mission, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Lefevers and Tobin.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 9, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 2, SB 65, SB 159, SB 161, SB 163, HB 22,** and **HB 24** with Senate Amendment.

Introduction of Bills and Resolutions

HJR 31, by Representative Mann: A JOINT RESOLUTION directing that the major state correctional facilities convert to coal as such action can be supported by a study of economic feasibility, and specifically, that the Blackburn Correctional Complex continue to burn coal to produce space and process heat, and do so efficiently.

HB 463, by Representative Boswell: AN ACT relating to motor vehicle operator's licenses.

HB 464, by Representative Curd: AN ACT relating to motor carriers.

HB 465, by Representatives Priddy and Haering: AN ACT relating to traffic regulations.

HB 466, by Representative Priddy: AN ACT relating to controlled substances.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 451.**

Appropriations and Revenue: **HB 455, HB 460.**

Business Organizations and Professions: **HB 454.**

Cities: **HB 452, SB 133, SB 141.**

Counties and Special Districts: **HB 456, HB 457.**

Education: **HB 449, HB 453.**

Energy: **SB 104.**

Judiciary-Civil: **HB 458, HB 459.**

Judiciary-Criminal: **HB 450.**

Labor and Industry: **HB 462.**

State Government: **HB 461, SB 107, SR 15.**

Report of Committees

The Committee on Rules reported **HB 284, HB 334, SB 41** and **SB 46** have been posted for passage in Orders of the Day, February 11, 1982.

The Committee on Banking and Insurance reported **HB 87,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Committee Amendment No. 1 to **HB 87** is as follows:

Amend printed copy of **HB 87,** page 7, after line 20, by adding the words:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 299 IS CREATED TO READ AS FOLLOWS:

Every policy issued by a company under this chapter after the effective date of this Act shall have prominently printed or stamped on the face page the words "This is an assessable policy."

Committee Amendment No. 2 to **HB 87** is as follows:

Amend printed copy of **HB 87,** page 7, after line 20, by adding the words:

"Section 5. KRS 299.450 is amended to read as follows:
The president and secretary of each company shall, on or before *March* [~~February~~] 1 of each year, make a sworn statement to the commissioner showing the condition of the company as of the preceding December 31. The statement shall contain the following information: The amount and kind of property insured; the number of policies issued from the time of organization of the company up to the time of making the statement; the number insured during the year last past; the amount of insurance accepted and the amount withdrawn, expired and canceled during the year; the whole amount of insurance in force on December 31; the amount of money received during the year; the amount of disbursements, specifying the amount paid for fees, salaries and commissions; and all other matters of interest to the company or members that the commissioner may require."

The Committee on Banking and Insurance reported **HB 247, HB 283, HB 304** with Committee Amendment attached thereto, **HB 306, HB 340** with Committee Amendment attached thereto, and **HR 24** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 247, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18.470 is amended to read as follows:
(1) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 *or as a nonprofit hospital, medical-surgical, dental and health service corporation,* which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization *or as a nonprofit hospital, medical-surgical, dental and health service corporation* and which is qualified under the requirements of the United States department of health, education and welfare except as provided in subsection (2) of this section.

(2) The secretary of the department of finance, upon the recommendation of the commissioner of personnel, may procure from one (1) or more health, hospitalization, medical, major medical and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, major medical and dental insurance or health maintenance organization coverage encompassing all or any class or classes of state employes. All state employes for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside, the state employes may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization *or as a nonprofit hospital, medical-surgical, dental and health service corporation* and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employes, except that the procuring of each is permissive.

(3) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employe, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage over the premium amount contributed by the state or department, board or agency for any other insurance coverage shall be paid by the employe.

(4) If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(5) No payment of premium by the state or department, board or agency shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe. Any premium or other expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

(6) The policy or policies may contain such provisions with respect to the class or classes of employes covered, amounts of insurance or coverage for designated classes or groups of employes, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(7) The secretary of the department of finance is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance and health maintenance organization coverage under the provisions of this section.

HB 283, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-150 is amended to read as follows:

(1) Terms and conditions of contracts and certificates or other evidence of insurance coverage sold or issued in this Commonwealth providing motor vehicle tort liability, basic reparation, and added reparation insurance coverages, and of forms used by insurers offering these coverages, are subject to approval and regulation by the commissioner of insurance. The commissioner shall approve only terms and conditions consistent with the purposes of this subtitle and fair and equitable to all persons whose interests may be affected.

(2) The following terms and conditions of insurance contracts and certificates or other evidence of insurance coverage are consistent with the purposes of this subtitle and fair and equitable to all persons whose interests may be affected:

(a) Designation by explicit description of, or appropriate reference to, the motor vehicles or class of motor vehicles to which coverage is specifically granted.

(b) Designation by explicit description of the purposes or classes of motor vehicles for which coverage for such motor vehicles is specifically excluded.

(c) Provision affording liability insurance to the named insured (the person or persons named on the declarations page of the policy) with respect to any motor vehicle covered by such policy, and to the same extent that insurance is afforded to the named insured, to any other person using, or legally responsible for the use of, such motor vehicle, provided such use is by the named insured or with his permission, express or implied, and within the scope of such permission, except that:

1. With regard to insurance afforded for the loading or unloading of any such motor vehicle, the insurance may be limited to apply only to the named insured, a relative of the named insured who is a resident of the named insured's household, a lessee or bailee of the motor vehicle, or an employe of any such person; and

2. The insurance afforded to any person other than the named insured need not apply to any employe with respect to bodily injury sustained by a fellow employe injured in the scope and course of his employment, or any person, or to any agent or employe thereof, employed or otherwise engaged in the business of selling, repairing, servicing, delivering, testing, road testing, parking, or storing motor vehicles with respect to any accident arising out of the maintenance or use of a motor vehicle in connection therewith.

(d) Provisions providing for the exclusion of:

1. Liability assumed by the insured under contract.

2. Liability for bodily injury or property damage caused intentionally by or at the direction of the insured.

3. Liability imposed upon or assumed by the insured under any workers' compensation law or disability or similar law.

4. Liability for bodily injury to any employe of the insured arising out of and in the course of his employment.

5. Liability for bodily injury to an insured or any member of an insured's family residing in an insured's household.

6. Liability for damage to property owned, rented to, transported by, or in charge of, an insured.

7. Liability for any bodily injury or property damage with respect to which insurance is or can be afforded under a nuclear energy liability policy.

8. Liability for any damages for which the United States government might be liable for the insured's use of the motor vehicle.

The term "the insured" as used in subparagraphs 1., 2., 3., 4. and 8. of this paragraph shall mean only that insured under the policy against whom the particular claim is made or suit is brought. The term "an insured" as used in subparagraphs 5. and 6. of this paragraph shall mean any insured under the policy.

(e) Provision requiring an insured to cooperate with the insurer and to give notice as soon as possible to the insurer of accidents and claims or lawsuits made against an insured. The term "an insured" as used in this paragraph shall mean any insured under the policy.

(f) Provision providing for exclusion of basic reparation benefits arising from:

1. Injury to any person arising out of the use of a motor vehicle located as a dwelling or other premises.

2. Injury to any person due to war or resulting from the properties of nuclear material.

Section 2. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application to other persons or circumstances shall not be affected thereby.

HB 304, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any person who is entitled to receive payment from an insurer under any insurance policy issued or delivered in this state shall be entitled to receive payment of interest, at a per annum rate of four percent (4%) in excess of the discount rate on ninety-day commercial paper in effect at the federal reserve bank in the federal reserve district where the person resides, from the insurer on any payment entitlement from the date of the occurrence of the insured loss.

Committee Amendment No. 1 to **HB 304** is as follows:

Amend printed copy of **HB 304,** page 1, line 5, by adding after the word "*state*" the words:

"*which is held up for a period of forty-five (45) days without due cause*" page 1, line 8 by adding after "*effect*" the words: "*on the date forty-five (45) days after the insured has filed his claim with the insurer*"

page 1 line 10 by deleting the words: "*of the*"

page 1 line 11 by deleting the words: "*occurrence of the insured loss.*"

page 1 line 10 by adding after "*date*" the words:

"*forty-five (45) days after the insured has filed his claim with the insurer.*"

HB 306, AN ACT relating to credit unions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 290.080 is amended to read as follows:

(1) The membership of the corporation shall consist of the incorporators, and such persons, societies, associations, partnerships, and corporations, as have been duly elected to membership, and have subscribed for one or more shares and have paid for the shares in whole or in part, together with the entrance fee as provided in the bylaws and have complied with such other requirements as the articles of incorporation and the bylaws specify.

(2) Membership in each corporation shall be limited to those persons, societies, associations, partnerships, and corporations, and the members of the immediate family living in the same household of such persons, societies, associations, partnerships, and corporations, which, independent of their membership in the credit union, have a mutual affiliation by either:

(a) Duly enrolled membership in a religious, social or educational group or association;

(b) Identity of profession, occupation, trade or business, so long as members of such profession, occupation, trade or business are bona fide members of a common bona fide profession, occupation, trade or business group;

(c) Identity of their employer, including subsidiary and affiliated companies; or

(d) Location for common residential or occupational purposes, within an area, to be defined in the bylaws, containing, at the time the credit union is organized, not more than two thousand (2,000) persons, societies, associations, partnerships, or corporations eligible to become members of such credit union.

(3) The officers, directors and members of committees of credit unions organized in this state, and of federal credit unions operating in Kentucky, may form a credit union in which they, and credit unions so operating, may have membership.

(4) A credit union has a special obligation of confidentiality to its members; therefore, the provisions of KRS 271A.260 shall be limited to the extent that a credit union shall be obligated to provide a shareholder only names and addresses of its member shareholders.

HB 340, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 20 IS CREATED TO READ AS FOLLOWS:

No insurer shall increase the premium on an insured's private passenger automobile insurance policy because of an accident which results from use of any motor vehicle owned by the insured's employer and used in the business of the insured's employer at the time of the accident.

Committee Amendment No. 1 to **HB 340** is as follows:

Amend printed copy of **HB 340,** page 1, line 8, after the word "*accident*" by adding the words: "*, unless said insurer makes a claim payment on behalf of its insured because of the accident*"

HR 24, A RESOLUTION opposing the attachment of the Kentucky Housing Corporation to the Department of Transportation by Executive Order, in contravention of the intent of the Kentucky General Assembly.

WHEREAS, in 1978 the General Assembly, after four years of study and interim committee work, created the Department of Housing, Buildings and Construction and attached the Kentucky Housing Corporation to that agency for administrative purposes; and

WHEREAS, since that date the members of the General Assembly have made clear their continuing intention to retain the Kentucky Housing Corporation in that Department; and

WHEREAS, the Governor, by Executive Order 81-108, attached the Corporation to the Department of Transportation, citing statutory "conflicts" which do not exist according to any of the established principles of statutory construction and interpretation; and

WHEREAS, the Board of the Department of Housing, Buildings and Construction has been assigned by statute the most comprehensive responsibilities of any state agency in the area of housing, and this Executive Order seriously undermines the Board's ability to effectively coordinate the various elements of the housing industry;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its opposition to the attachment of the Kentucky Housing Corporation to the Department of Transportation by Executive Order, in contravention of the intent of the Kentucky General Assembly.

Section 2. That a copy of this resolution be sent to the Honorable John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, to the Chairman of the Board of the Department of Housing, Buildings and Construction, and to the Secretary of the Department of Transportation.

The Committee on Business Organizations and Professions reported **HB 161,** with Committee Amendment attached thereto, and **HB 219** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 161, AN ACT relating to territorial exclusivity in the distribution of malt beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any distributor to sell any brand of malt beverage in the Commonwealth of Kentucky, except in the territory described in a written agreement between the supplier or brewer and distributor, authorizing sale by the distributor of that brand within a designated area, and within that designated area the distributor shall not refuse to sell or offer reasonable service to licensed retailers during the normal business hours of the distributor. Where a supplier or brewer sells several brands, the agreement need not apply to all brands sold by the supplier or brewer and may apply to only one (1) brand. No supplier or brewer shall provide by the written agreement for the distribution of a brand of malt beverages to more than one (1) distributor for all or any part of the designated territory. All territorial agreements shall be filed with the department.

(2) Each distributor shall comply with such quality control standards as are specified in writing from time to time by the owner of the trademark of the brand of malt beverage, provided those controls are:

(1) - Normal industry practice;

(2) - Reasonably relate to the maintenance of quality control;

(3) - Are consistent with the provisions of this chapter and all regulations promulgated pursuant thereto; and

(4) - The distributor has received written notice of them from such owner.

(3) A distributor may sell to only those licensed retailers, religious, charitable or fraternal organizations located within his designated geographical territory as provided in this section and to his employes and to other distributors of the same brand. No brand of malt beverage may be sold in the Commonwealth of Kentucky without prior written approval of the brewer and supplier filed with the department.

(4) An exclusive territorial designation in any agreement between a distributor and brewer or supplier pursuant to this section shall be modified only upon written consent of the brewer or supplier and the distributor, and such modification shall be filed pursuant to the provisions of this section. The board

shall require each party to verify that the level of service within the designated territory will not be adversely affected by such modification. When a distributor is prevented from selling or servicing retailers within his territory due to natural disasters, labor disputes or other such causes beyond his control, the distributor may allow another distributor of the same brand of malt beverages to sell and service that brand within his territory upon approval of the brewer or supplier.

(5) No provisions of any agreement shall expressly or impliedly establish or maintain the resale price of any brand of malt beverage by the distributor.

Committee Amendment No. 1 to **HB 161** is as follows:

Amend printed copy of **HB 161,** page 2, line 19, after the numeral *(4)* by deleting the words "*An exclusive*" and inserting in lieu thereof the word "*A*"; and

On line 21, after the word "*only*" by deleting the word "*upon*"; and

On line 22, by deleting the line in its entirety; and

On line 23, by deleting the word "*tributor*" and inserting in lieu thereof the following language: "*in accordance with all the rights and duties of the distributor and brewer or supplier contained in any written agreement between them or by such other action of the brewer, supplier or distributor that is consistent with the terms of their agreement.*"

HB 219, AN ACT relating to alcoholic beverage control and making conforming amendments related thereto.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.560 is amended to read as follows:

(1) Any order of the board refusing, revoking or suspending a license may be appealed from by the applicant or licensee, and any order of the board granting or refusing to revoke or suspend a license may be appealed from by any citizen feeling himself aggrieved.

(2) The person aggrieved may, within ten (10) days after the entry of the order with which he is dissatisfied, file in the office of the clerk of the *circuit court of the county in which the aggrieved person is licensed or seeking licensure to conduct business* [~~Franklin Circuit Court~~] an attested copy of the order, of all the evidence heard, and of all the steps taken by the board relative to the contested order, but shall first post a bond to secure the costs of that action, in a sum approved by the circuit clerk, with a corporate surety approved by the department of insurance as to solvency and responsibility and authorized to transact business in this state.

(3) The board and the licensee or applicant shall be necessary parties to such appeals. The circuit court clerk shall docket the case as though it were a petition in equity, and shall immediately issue a summons for the board, if the appeal is taken by an applicant or licensee, or a summons for the board and the licensee, if the appeal is prosecuted by a citizen. The summons shall be returnable in the same manner as summons in equity cases. If the appeal is from an order refusing, revoking or suspending a license, the board, when served with the summons, or such person as the board may designate, shall appear and defend the action of the board in refusing, revoking or suspending the license in question. If the appeal is from an order granting or refusing to revoke or suspend a license the burden of appearing and defending the action of the board shall be upon the licensee.

(4) No formal pleading shall be required in appeals from orders of the board.

Section 2. KRS 243.570 is amended to read as follows:

(1) The case shall be set down by the court for as early a day as possible for a hearing, and shall in all respects be expedited in the same manner as a declaratory judgment suit.

(2) No new or additional evidence shall be introduced in the *circuit court* [~~Franklin Circuit Court~~] except as to the fraud or misconduct of some party engaged in the administration of this chapter and affecting the order appealed from, but the court shall otherwise hear the case upon the record as attested by the board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:

(a) The board acted without or in excess of its powers;

(b) The order appealed from was procured by fraud;

(c) If questions of fact are in issue, whether or not any substantial evidence supports the order appealed from.

(3) After such a hearing the court shall enter a judgment sustaining or setting aside the order of the board appealed from or remanding the case to the board for further consideration.

(4) If the appeal is from an order of the board refusing, revoking or suspending a license, the costs shall be taxed against the applicant or licensee in any event. If the appeal is from an order issuing or refusing to revoke or suspend a license, the costs shall be taxed against the citizen who, feeling himself aggrieved, has contested the order, if the order of the board issuing or refusing to revoke or suspend the license is sustained. If the order is set aside with direction to the board to refuse, revoke or suspend the license, the costs shall be taxed against the licensee.

Section 3. KRS 243.580 is amended to read as follows:

(1) No order of the board issuing a license shall become effective, and no license under that order shall be issued, until the expiration of ten (10) days after the date of the entry of the order. If, within the period of ten (10) days, an appeal from the order of the board has been filed as provided by KRS 243.560 the order shall not become effective until the appeal has been finally determined.

(2) If a license is revoked or suspended by an order of the board, the licensee shall at once suspend all operations authorized under his license, except as provided by KRS 243.540, though he files an appeal in the *circuit court* [~~Franklin Circuit Court~~] from the order of revocation or suspension.

(3) No court may enjoin the operation of an order of revocation or suspension pending an appeal. If upon appeal to the *circuit court* [~~Franklin Circuit Court~~] an order of suspension or revocation is upheld, or if an order refusing to suspend or revoke a license is reversed, and an appeal is taken to the Court of Appeals, no court may enjoin the operation of the judgment of the *circuit court* [~~Franklin Circuit Court~~] pending the appeal.

Section 4. KRS 243.590 is amended to read as follows:

Any party aggrieved by a judgment of the *circuit court* [~~Franklin Circuit Court~~] may appeal to the Court of Appeals in accordance with the Rules of Civil Procedure.

Section 5. KRS 230.330 is amended to read as follows:

Any licensee or any applicant aggrieved by any order of the commission may appeal to the [~~Franklin~~] circuit court [~~within the time and in the manner provided by KRS 243.560 to 243.590~~].

Section 6. KRS 230.368 is amended to read as follows:

Any person dissatisfied with the decision of the commission in this regard may appeal to the [~~Franklin~~] circuit court [~~in accordance with the provisions of KRS 243.560 to 243.590~~].

The Committee on Education reported **HB 95** with Committee Amendment attached thereto, **HB 203** with Committee Amendments attached thereto, and **HB 322** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 95, AN ACT relating to teachers' retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1978, a member of the retirement system may qualify for service retirement by meeting either of the following requirements:

(a) Attainment of age fifty-five (55) years and completion of five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, or

(b) Completion of *twenty-seven (27)* [~~thirty (30)~~] years of Kentucky service, two (2) years of which are subsequent to July 1, 1941.

(c) Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under (a) who are less than age sixty (60) years.

(2) Any member shall be automatically retired as of July 1 next following his seventieth (70th) birthday, providing, however, that a member reaching age seventy (70) and having fewer than five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6) in lieu of a retirement annuity.

(3) Any person who has been a teacher in Kentucky for *twenty-seven (27)* [~~thirty (30)~~] years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member

is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(4) Service credit in the Kentucky employes retirement system, the state police retirement system, the county employes or the judicial retirement system may be used in meeting the service requirements of subsections (1)(a) and (1)(b) of this section, provided such service is subsequent to July 1, 1956.

(5) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

(6) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to his death.

Section 2. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age at retirement may be applied as provided in this section.

(b) For retirements effective July 1, 1982, and thereafter the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after July 1, 1982, shall be valued at two and one-half percent (2 ½%) of the final average salary for all members not employed by a state university or college.

(c) If the member has five (5) years or more of Kentucky service, but less than *twenty-seven (27)* [~~thirty (30)~~] years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than *twenty-seven (27)* [~~thirty (30)~~] years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than eighty-eight dollars ($88) multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums shall be effective July 1, 1978, and shall apply to those members retiring on or subsequent to that date.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1980, the monthly allowance of each member retired on or before July 1, 1979, and of each recipient of a retirement option of such retired member shall be increased in the amount of three percent (3%) of the monthly allowance. Effective July 1, 1980, the monthly allowance of each member retired on or before July 1, 1975, and of each recipient of a retirement option of such retired member shall be increased in the amount of two percent (2%) of the monthly allowance. Effective July 1, 1981, the monthly allowance of each member retired on or before July 1, 1980, and of each recipient of a retirement option of such retired member shall be increased in the amount of three percent (3%) of the monthly allowance. Effective July 1, 1981, the monthly allowance of each member retired on or before July 1, 1976, and of each recipient of a retirement option of such retired member shall be increased in the amount of two percent (2%) of the monthly allowance. The above percentages shall be based on an assumed minimum allowance of two hundred dollars ($200) per month and an assumed maximum allowance of seven hundred and fifty dollars ($750) per month of annuity in effect the previous month.

(6) Effective July 1, 1980, each member retired prior to that date and each recipient of a retirement option of such member shall receive an increase in monthly benefits equal to one dollar ($1.00) for each year, up to a maximum of fifteen (15) years, of credited service prior to July 1, 1941. Effective July 1, 1980, each member who retired prior to that date and each recipient of a retirement option of such member shall receive an increase in monthly benefits equal to five dollars ($5.00) for each year, after the first fifteen (15) years, of credited service prior to July 1, 1941.

(7) Effective July 1, 1980, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of such child or until such time as the mental condition creating the dependency no longer exists. Benefits under this subsection shall not apply to adopted children. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

Committee Amendment No. 1 to **HB 95** is as follows:

Amend printed copy of **HB 95**, page 1, line 9, by deleting the word "*twenty-seven (27)*" and by deleting the brackets before and after the word "thirty (30)" and by deleting the strikethrough in the word "thirty (30)"

page 1, line 11, by adding the following after "1941." "*A member having less than thirty (30) years of service may retire with benefits reduced according to the following schedule:*

29 years - 90% of benefits

28 years - 80% of benefits

27 years - 70% of benefits."

page 2, line 2, by inserting the following after the word "who": "*retires pursuant to the provisions of subsection (1)(b) of this section*" and by inserting a bracket before the word "has" and striking through "has been a teacher in Kentucky"

page 2, line 3, by striking through the word "for," deleting the word "*twenty-seven (27)*" and the brackets before and after "thirty (30)," striking through the words "years or more," and inserting a bracket after the word "more."

page 3, lines 25 and 26, by deleting "*twenty-seven (27)*" and by deleting the brackets before and after "thirty (30)" and by deleting the strikethrough.

page 4, lines 3 and 4, by deleting "*twenty-seven (27)*" and by deleting the brackets before and after "thirty (30)" and by deleting the strikethrough.

HB 203, AN ACT relating to the status of disabled teachers and superintendents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) Teachers and superintendents with continuing status who retire because of disability shall, notwithstanding provisions of KRS 161.720 to 161.810 to the contrary, retain continuing status in the school district from which they retired for forty-two (42) calendar months from the date of retirement, if the teacher or superintendent:

(a) Is approved for disability retirement under the provisions of KRS 161.661, or

(b) Is approved for disability retirement but elects to have benefits calculated on the service retirement formula under the provisions of KRS 161.661, or

(c) Is disqualified from receiving disability retirement benefits by KRS 161.661(2) but is otherwise eligible for disability retirement under the remaining provisions of KRS 161.661.

(2) If the teacher or superintendent recovers from disability and presents written notice of such recovery, supported by the statement of a licensed physician, to the employing board of education within the forty-two (42) calendar month period, the board of education shall reinstate the teacher or superintendent to active continuing status at the beginning of the next school year. If notice of recovery from disability is not presented to the employing board of education within the forty-two (42) calendar month period, or if the teacher or superintendent states to the board, in a verified document, prior to expiration of the forty-two (42) calendar month period that he or she will not return to employment in the school system, the continuing service contract of the teacher or superintendent shall terminate as by retirement under the provisions of KRS 161.661.

(3) Retirement because of disability under this section shall not be cause for termination of the contract of a teacher or superintendent under KRS 161.790 during the forty-two (42) calendar month period described in this section.

Committee Amendment No. 1 to **HB 203** is as follows:

Amend printed copy of **HB 203**, page 1, line 7, by deleting "*forty-two (42)*" and inserting "*twenty-four (24)*" in lieu thereof

page 2, lines 2 and 3, 7 and 8, 10, and 18, by deleting "*forty-two (42)*" and inserting "*twenty-four (24)*" in lieu thereof

page 2, line 19, by adding the following after the word "*section.*" "*A teacher or superintendent who applies for disability retirement under the provisions of KRS 161.661 shall retain continuing service status during the period of time the application for disability retirement is being processed. If the application is not approved, the teacher or superintendent may return to the contract, employment, or leave status held prior to submission of the application.*

(4) If the teacher or superintendent recovers from the disability and presents written notice of such recovery, supported by the statement of a licensed physician, to the employing board of education within twenty-five (25) through forty-two (42) months from the date of retirement, the board shall give priority consideration to re-employment of the teacher or superintendent for the first available position for which the teacher or superintendent is qualified and certified."

Committee Amendment No. 2 to **HB 203** is as follows:

Amend printed copy of **HB 203**, page 2, line 3, by adding the following after the word "*period*": "*but not less than thirty (30) days prior to the beginning of the school term,*"

HB 322, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.597 is amended to read as follows:

Any school tax authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 may be recalled as follows:

(1) The order or resolution levying any of the school taxes designated heretofore in this section shall go into effect not less than thirty (30) days nor more than ninety (90) days after its passage. If during the thirty (30) days immediately following the passage of the order or resolution a petition signed by a number of registered and qualified voters equal to fifteen percent (15%), except in counties containing a city of the first class, equal to five percent (5%), of the votes cast in the school district or combined taxing district levying the tax for the office receiving the greatest total vote at the last preceding presidential election is presented to the county board of elections requesting that the order or resolution of such tax be placed on the ballot for voter approval, the order or resolution shall be suspended from going into effect for that district until after the election provided for in subsection (2) of this section. The person presenting the petition shall be given a receipt indicating the date of presentation. Each sheet of the petition shall contain the names and addresses of voters in but one (1) voting precinct and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, number or designation of the district or ward wherein the precinct is situated. Each voter shall sign his name in the same manner as he signed the current registration form described in KRS 116.155 or subsection (2) of KRS 116.045, as the case may be. If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One or more persons shall verify by affidavit the signatures and addresses of the signers of the petition. The county board of elections shall make the determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution, and immediately thereafter shall notify the school board that the petition has been received and that the order or resolution levying such tax will be placed on the ballot for voter approval [~~at the next general election~~]. The board of elections shall certify to the school board [~~within thirty (30) days of receipt of the petition~~] that the petition is properly presented and in compliance with the provisions of this section. If the board of elections finds the petition to be invalid, it shall state in writing the deficiency of said petition. Written notification that the petition has been declared invalid and the deficiencies thereof shall be sent by certified mail to the person to whom a receipt was given by the board of elections, and shall be published at least one (1) time in a newspaper of general circulation within the county containing the school district levying the tax, or if there be no such newspaper, shall be posted at the courthouse door. [~~If good cause is shown, the board of elections shall permit the petitioners to correct the deficiencies either by securing additional valid signatures or by circulating a new petition, such petition to be submitted to the board within thirty (30) days from the date of the written notification of the deficiencies.~~]

(2) Thereupon, if it has been determined that the petition contains enough valid signatures to suspend the effect of the order or resolution, the county board of elections shall submit *the question* to the voters of the school district *at the next regular election or a called common school election, either of which is to be held not less than sixty (60) days from the date of the passage of the order or resolution.* [~~in which a valid recall petition has been filed pursuant to subsection (1) of this section at the next regular November election the question as to whether the tax shall be levied~~]. The question shall be so framed that the voter may by his vote answer, "for" or "against." If a majority of the votes cast in a district or combined taxing district upon the question oppose its passage, the order or resolution shall not go into effect in that district or combined taxing district. If a majority of the votes cast in a district or combined taxing district upon the question favor its passage, the order or resolution shall go into effect in that district. In the event that the election is to be held in more than one (1) school district within a county the votes shall be counted separately. *The cost of a called common school election shall be borne by the school district causing the election to be held.*

(3) If any statute in existence on June 17, 1978, is found to be in conflict with any provision of this section, the provisions of this section shall prevail.

Section 2. Whereas, school districts are required to submit a balanced budget to the department of education by June 30 each year; and whereas, sufficient lead time is necessary to comply with the requirements of this Act during the current year, an emergency is declared to exist and this Act shall become effective upon its passage and signature of the Governor.

Committee Amendment No. 1 to **HB 322** is as follows:

Amend printed copy of **HB 322,** page 3, lines 11 through 17, by deleting the brackets and strikethrough

page 4, line 21, by deleting "June 30" and inserting the word "September" in lieu thereof

page 2, lines 25 and 26, by deleting the brackets and strikethrough

The Committee on Judiciary-Civil reported **HB 191** with Committee Substitute attached thereto, **HB 328, HB 329,** and **HB 335** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 191, AN ACT relating to court costs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 412.150 is amended to read as follows:

(1) The creditor must be made defendant to an action brought pursuant to KRS 412.140, but shall not be liable for costs.

(2) The provisions of [~~KRS 453.220 to 453.245,~~] KRS 425.301 to 425.316 and KRS 425.501 to 425.526 shall apply to such action.

Section 2. The following KRS sections are repealed:

453.220 Plaintiffs who must file bond as security for costs.
453.225 Action to be dismissed if bond not given.
453.230 Plaintiff becoming nonresident must give bond.
453.235 Other plaintiffs may be required to give security for costs.
453.235 1980 Acts Chapter 396, Section 145, effective July 1, 1982 — Other plaintiffs may be required to give security for costs — When additional security may be required.
453.240 When additional security may be required.
453.245 Liability of plaintiff's attorney until bond given.

Committee Substitute to **HB 191** is as follows:

HB 191, AN ACT relating to court costs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 453.040 is amended to read as follows:

(1) Except as provided by subsection (2):

(a) The successful party in *any* [~~an ordinary~~] action shall recover his costs, unless otherwise provided by law. If the plaintiff succeeds against part of the defendants, and not against others, he shall recover his costs from the former, and the latter shall recover their costs from the plaintiff.

(b) [~~The successful party in an equitable action shall recover his costs, except against nominal parties. If the plaintiff succeeds against a part of the defendants, he shall recover his costs against such only.~~

~~(c)~~] Successful defendants who are necessary nominal parties shall not recover their costs, but each party shall be decreed to pay his own costs. Successful defendants who are not necessary parties shall recover their costs.

(2) In actions between parceners, tenants in common or joint tenants, and in actions for settling the distribution and division of deceased persons' estates, to settle partnerships and to settle or enforce trusts, the court shall exercise a judicial discretion in regard to costs.

Section 2. KRS 453.060 is amended to read as follows:

(1) If the successful party is represented by a licensed attorney and no jury is impaneled, the following attorney's fees shall be allowed:

(a) In the Court of Appeals[~~:~~
~~In equity cases~~], ... $10.00
[~~In common-law cases, ... 5.00~~]
(b) In the circuit court[~~:~~
~~In equity cases~~], ... 5.00
[~~In common-law cases, ... 2.50~~]
(c) In all cases in the district court, ... 2.50

(2) A guardian ad litem or warning order attorney shall be allowed by the court a reasonable fee for his services, to be paid by the plaintiff and taxed as costs.

(3) In a county containing an urban-county form of government the attorney fees allowed by subsection (1)(b) and (c) shall be taxed as costs at the termination of the action and the clerks of the various courts shall at the end of each month pay all sums collected as taxed attorney's fees during the month to the trustees of the county law library to be used by the trustees pursuant to KRS Chapter 172.

Section 3. KRS 412.150 is amended to read as follows:

(1) The creditor must be made defendant to an action brought pursuant to KRS 412.140, but shall not be liable for costs.

(2) The provisions of [~~KRS 453.220 to 453.245,~~] KRS 425.301 to 425.316 and KRS 425.501 to 425.526 shall apply to such action.

Section 4. The following KRS sections are repealed:
453.220 Plaintiffs who must file bond as security for costs.
453.225 Action to be dismissed if bond not given.
453.230 Plaintiff becoming nonresident must give bond.
453.235 Other plaintiffs may be required to give security for costs.
453.235 1980 Acts Chapter 396, Section 145, effective July 1, 1982 — Other plaintiffs may be required to give security for costs — When additional security may be required.
453.240 When additional security may be required.
453.245 Liability of plaintiff's attorney until bond given.

HB 328, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS sections are repealed:
189.760 Vehicle equipment safety compact adopted.
189.763 Declaration of need for and objectives of compact.
189.767 Governor as executive head of state.
189.770 Rules and regulations adopted under compact to supersede statutes.
189.773 Rules and regulations to be approved by legislature.
189.777 Commissioner of vehicle regulation to be vehicle equipment safety commissioner.
189.780 Agreements to place commission employes under retirement system.
189.783 State agencies to cooperate with vehicle equipment safety commission.
189.787 Documents filed with secretary of state.
189.790 Budgets to department of finance — Inspection of accounts.

189.793 Penalties.

HB 329, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 187.290 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Department" means the department of transportation.

(2) "Highways" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license or privilege, for purpose of vehicular traffic.

(3) "Judgment" means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

(4) "Motor vehicle" means every self-propelled vehicle which is designed for use upon a highway, including trailers designed for use with such vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, mopeds, and well drillers) and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.

(5) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(6) "License" means any operator's license, temporary instruction permit or temporary license issued under the laws of this state pertaining to the licensing of operators.

(7) "Nonresident" means every person who is not a resident of this state.

(8) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in this state.

(9) "Operator" means every person who is in actual physical control of a motor vehicle.

(10) "Owner" means a person who holds the legal title of a motor vehicle, or in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of this chapter.

(11) [~~"Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle in the amount of ten thousand dollars ($10,000) because of bodily injury to or death of one (1) person in any one (1) accident, and, subject to said limit for one (1) person, in the amount of twenty thousand dollars ($20,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of five thousand dollars ($5,000) because of injury to or destruction of property of others in any one (1) accident.~~

~~(12)~~] "Registration" means registration certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.

(12)[~~(13)~~] "State" means any state, territory or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

Section 2. KRS 187.410 is amended to read as follows:

[~~(1)~~] Upon the receipt of a certified copy of a judgment, the department shall forthwith suspend (except as provided in KRS 187.440) the license and registration and the nonresident's operating privilege of any person against whom such judgment was rendered.

[~~(2) If the judgment creditor consents in writing, in such form as the department may prescribe, that the judgment debtor be allowed license and registration or nonresident's operating privilege, the same may be allowed by the department, in its discretion, for six (6) months from the date of such consent and thereafter until such consent is revoked in writing, notwithstanding default in the payment of such judgment, or of any instalments thereof prescribed in KRS 187.440.~~]

Section 3. KRS 187.420 is amended to read as follows:

Such license, registration and nonresident's operating privilege shall (except as provided in KRS 187.440) remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is stayed, satisfied or discharged *and a court order so stating is received by the department.*

Section 4. KRS 187.440 is amended to read as follows:

(1) A judgment debtor upon due notice to the judgment creditor may apply to the court in which such judgment was rendered for the privilege of paying such judgment in instalments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the instalments.

(2) The department shall not suspend a license, registration or a nonresident's operating privilege, and shall restore any license, registration or nonresident's operating privilege suspended following nonpayment of a judgment, when the judgment debtor [~~gives proof of financial responsibility and~~] obtains such an order permitting the payment of such judgment in instalments, and while the payment of any said instalment is not in default.

(3) In the event the judgment debtor fails to pay any instalment as specified by such order, then upon notice of such default, the department shall forthwith suspend the license, registration or nonresident's operating privilege of the judgment debtor until such judgment is satisfied as provided in KRS 187.290 to 187.620.

Section 5. KRS 187.430, What constitutes satisfaction of judgment; and 187.600, Self-insurance are repealed.

HB 335, AN ACT relating to abandoned property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 393.110 is amended to read as follows:

(1) Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the department with respect to the property annually as of July 1. The report shall be filed in the office of the department on or before September 1 of each year for the preceding July 1. *The report shall be verified and shall include:*

(a) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of twenty-five dollars ($25) or more presumed abandoned under this chapter and in the case of unclaimed funds of life insurance corporations the full name of the insured or annuitant and his last known address according to the records of the life insurance corporation;

(b) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under twenty-five dollars ($25) each may be reported in the aggregate. The holder of abandoned property shall maintain its records for a period of five (5) years from the date of its report for items reported in the aggregate. If the owner of property reported in the aggregate makes a valid claim therefor within five (5) years, the holder shall refund the property and deduct the amount refunded from the next report due to the department;

(c) The date when the property became payable, demandable, or returnable, and the date of the last known transaction with the owner with respect to the property if readily available; and

(d) Any other information which the department prescribes by rules and regulations necessary [~~; and shall give the name of the owner, his last known address, the amount and kind of property, and such other information as the department may require~~] for the administration of this chapter. The report shall be made in duplicate; the original shall be retained by the department, and the copy shall be mailed to the sheriff of the county where the property is located or held. It shall be the duty of the sheriff to post for not less than twenty (20) consecutive days said copy on the courthouse door or the courthouse bulletin board, and also to publish said copy pursuant to KRS Chapter 424; except the sheriff shall not be required to publish any item with a fair cash value of twenty-five dollars ($25) or less. The list shall be published within thirty (30) days of its receipt by the sheriff and this publication shall constitute compliance with the requirements of KRS Chapter 424. The cost of the publication shall be paid by the state. The sheriff shall immediately certify in writing to the department the dates when the list was posted and published. The list shall be posted and published as required on or before October 1 of the year when it is made, and such posting and publishing shall be constructive notice to all interested parties.

(2) Within sixty (60) days after the receipt of the report required by subsection (1) of this section, the department shall mail notice to each person having an address listed therein who appears to be entitled

to property presumed abandoned under this chapter; except the department shall not be required to mail a notice to any person whose name appears on the abandoned property list where the fair cash value of the property is twenty-five dollars ($25) or less. The notice shall contain:

(a) A statement that according to a report filed with the department properties being held to which the addressee appears entitled;

(b) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder;

(c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the department to whom all further claims must be directed.

(3) Any person who has made a report of any estate or property presumed abandoned, as required by this chapter, shall, between November 1 and November 15 of each year, turn over to the department all property so reported; but if the person making the report or the owner of the property shall certify to the department by sworn statement that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exist or never did exist, or shall certify the existence of any fact or circumstance which has a substantial tendency to rebut such presumption, then, the person reporting or holding the property shall not be required to turn the property over to the department except on order of court. If a person files an action in court claiming any property which has been reported under the provisions of this chapter, the person reporting or holding such property shall be under no duty while any such action is pending to turn the property over to the department, but shall have the duty of notifying the department of the pendency of such action.

(4) The person reporting or holding the property or any claimant thereof shall always have the right to a judicial determination of his rights under this chapter and nothing therein shall be construed otherwise; and the Commonwealth may institute an action to recover such property as is presumed abandoned whether it has been reported or not and may include in one (1) petition all such property within the jurisdiction of the court in which the action is brought provided the property of different persons is set out in separate paragraphs.

The Committee on Transportation reported **HB 204** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 204, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The department of transportation may, upon receipt of the written recommendation of the court in which any person has been convicted of a traffic violation, thereby causing the suspension or revocation of his operator's license, issue an occupational operator's license, except to those persons convicted of driving while intoxicated as provided by KRS 186.560(1)(b) and 189.520.

(2) No court shall recommend an occupational license unless the following evidence is established by the applicant:

(a) The person has demonstrated a need to operate a motor vehicle as an essential part of that person's livelihood, family obligation or both;

(b) The refusal to issue occupational license would result in undue hardship to the person or his family;

(c) The essential purposes for which the person needs an operator's license;

(d) The county or counties wherein the person needs to operate a motor vehicle for an essential purpose; and

(e) The person is currently enrolled or has successfully completed rehabilitative training or aid for those violations which caused the suspension or revocation.

(3) The court shall inform the person or organization providing the training or aid that the holder of the occupational operator's license is required to receive training. In the event the holder of said license does not complete or fails to attend the training program, the person or organization shall immediately inform the department, at which time said occupational operator's license shall be revoked.

(4) Occupational operator's license shall be limited in use to the operation of a motor vehicle for essential purposes as demonstrated by the court and in the county or counties the court has determined as necessary to operate a motor vehicle to accomplish said purposes.

(5) Occupational operator's license shall expire one (1) year from the date of issue and shall not be renewable except that when the suspension or revocation period exceeds one (1) year, the person may reapply to the department upon expiration of the license.

(6) A person shall be eligible for only one (1) occupational operator's license during his lifetime, with the exception that it may be renewed on a continuous basis for the term of revocation or suspension, if such is for a period exceeding one (1) year.

(7) Applicants for an occupational driver's license shall pay to the circuit clerk upon issuance of occupational operator's license a fee of fifty dollars ($50). The clerk shall deposit in the state treasury to the credit of the general fund ten dollars ($10) and forty dollars ($40) shall be credited to a special account within the state road fund and used by the department exclusively for the purposes of driver improvement training.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

Any holder of an occupational operator's license who violates the restrictions or conditions of his license or is convicted of an offense which would cause suspension or revocation of a regular operator's license or convicted of an offense which would result in the assessment of three (3) or more points against his driving record shall immediately have his occupational operator's license revoked and shall be fined not less than five hundred dollars ($500) or imprisoned in the county jail for not more than six (6) months or both.

The Committee on Judiciary-Criminal reported **HB 32,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 32, AN ACT relating to criminal responsibility.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 504 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Bureau" means the bureau of corrections;

(2) "Foreseeable future" means not more than three hundred sixty (360) days;

(3) "Incompetency to stand trial" means that, as a result of mental condition, lack of capacity to appreciate the nature and consequences of the proceedings against one or to participate rationally in one's own defense;

(4) "Insanity" means that, as a result of mental condition, lack of substantial capacity either to appreciate the criminality of one's conduct or to conform one's conduct to the requirements of law;

(5) "Mental illness" means substantially impaired capacity to use self-control, judgment or discretion in the conduct of one's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior or emotional symptoms can be related to physiological, psychological or social factors;

(6) "Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period and is a condition which may exist concurrently with mental illness or insanity;

(7) "Psychiatrist" means a physician licensed pursuant to KRS Chapter 311 who is certified or eligible to apply for certification by the American board of psychiatry and neurology, inc.;

(8) "Psychologist" means a person licensed at the doctoral level pursuant to KRS Chapter 319 who has been designated by the Kentucky board of examiners of psychology as competent to perform examinations;

(9) "Treatment" means medication or counseling, therapy, psychotherapy and other professional services provided by or at the direction of psychologists or psychiatrists. "Treatment" does not include electroshock therapy or psychosurgery;

(10) "Treatment facility" means an institution, or part thereof, approved by the department for human resources, which provides evaluation, care and treatment for insane, mentally ill or mentally retarded persons on an in-patient or out-patient basis or both.

SECTION 2. A NEW SECTION OF KRS CHAPTER 504 IS CREATED TO READ AS FOLLOWS:

(1) A defendant who intends to show his incompetency to stand trial or his mental illness or insanity at the time of the offense shall file written notice of his intention at least twenty (20) days before trial.

(2) The prosecution shall be granted reasonable time to move for examination of the defendant, or the court may order an examination on its own motion.

(3) If the court orders an examination, it shall appoint at least one (1) psychologist or psychiatrist to examine, treat and report on the defendant's mental condition. If it appears the examination will not be completed before the trial date, the court may, on its own motion or on motion of either party, postpone the trial date until after the examination.

(4) No less than ten (10) days before trial, the prosecution shall file the names and addresses of witnesses it proposes to offer in rebuttal along with reports prepared by its witnesses.

SECTION 3. A NEW SECTION OF KRS CHAPTER 504 IS CREATED TO READ AS FOLLOWS:

(1) A court may commit a defendant to a treatment facility for up to thirty (30) days so that a psychologist or psychiatrist can examine, treat and report on the defendant's mental condition.

(2) Reports on a defendant's mental condition prepared under this chapter shall be filed within ten (10) days of the examination.

(3) The defendant shall be present at any hearing on his mental condition unless he waives his right to be present.

(4) The examining psychologist or psychiatrist shall appear at any hearing on defendant's mental condition unless the defendant waives his right to have him appear.

(5) A psychologist or psychiatrist retained by the defendant shall be permitted to participate in any examination under this chapter.

(6) The department for human resources, if the department or its agent or employe does not provide the examination, shall pay a reasonable fee to any psychologist or psychiatrist ordered to examine, treat and report on a defendant's mental condition.

(7) The termination of criminal proceedings under this chapter is not a bar to the institution of civil commitment proceedings.

SECTION 4. A NEW SECTION OF KRS CHAPTER 504 IS CREATED TO READ AS FOLLOWS:

No defendant who is incompetent to stand trial shall be tried, convicted or sentenced so long as the incompetency continues.

SECTION 5. A NEW SECTION OF KRS CHAPTER 504 IS CREATED TO READ AS FOLLOWS:

(1) If the court has reasonable grounds to believe the defendant is incompetent to stand trial, the court shall appoint at least one (1) psychologist or psychiatrist to examine, treat and report on the defendant's mental condition.

(2) The report of the psychologist or psychiatrist shall state whether or not he finds the defendant incompetent to stand trial. If he finds the defendant is incompetent, the report shall state:

(a) Whether there is a substantial probability of his attaining competency in the foreseeable future; and

(b) What type treatment and what type treatment facility the examiner recommends.

(3) After the filing of a report (or reports), the court shall hold a hearing to determine whether or not the defendant is competent to stand trial.

SECTION 6. A NEW SECTION OF KRS CHAPTER 504 IS CREATED TO READ AS FOLLOWS:

(1) If the court finds the defendant incompetent to stand trial but there is a substantial probability he will attain competency in the foreseeable future, it shall commit the defendant to a treatment facility and order him to submit to treatment for sixty (60) days or until the psychologist or psychiatrist treating him finds him competent, whichever occurs first. Within ten (10) days of that time, the court shall hold another hearing to determine whether or not the defendant is competent to stand trial.

(2) If the court finds the defendant incompetent to stand trial but there is no substantial probability he will attain competency in the foreseeable future, it shall conduct an involuntary hospitalization proceeding under KRS Chapter 202A or 202B.

(3) If the court finds the defendant competent to stand trial, the court shall continue the proceedings against the defendant.

SECTION 7. A NEW SECTION OF KRS CHAPTER 504 IS CREATED TO READ AS FOLLOWS:

In cases in which the defendant provides evidence at trial of his mental illness or insanity at the time of the offense, the jury or court may find the defendant:

(1) Guilty;

(2) Not guilty;

(3) Not guilty by reason of insanity at the time of the offense; or

(4) Guilty but mentally ill at the time of the offense.

SECTION 8. A NEW SECTION OF KRS CHAPTER 504 IS CREATED TO READ AS FOLLOWS:

(1) The defendant may be found guilty but mentally ill if:

(a) The prosecution proves beyond a reasonable doubt that the defendant is guilty of an offense; and

(b) The defendant proves by a preponderance of the evidence that he was mentally ill at the time of the offense.

(2) If the defendant waives his right to trial, the court may accept a plea of guilty but mentally ill if it finds that the defendant was mentally ill at the time of the offense.

SECTION 9. A NEW SECTION OF KRS CHAPTER 504 IS CREATED TO READ AS FOLLOWS:

If a defendant is found guilty but mentally ill, the court shall appoint at least one (1) psychologist or psychiatrist to examine, treat and report on the defendant's mental condition at the time of sentencing.

SECTION 10. A NEW SECTION OF KRS CHAPTER 504 IS CREATED TO READ AS FOLLOWS:

The court shall sentence a defendant found guilty but mentally ill at the time of the offense in the same manner as a defendant found guilty. If the defendant is found mentally ill at the time of sentencing, treatment shall be provided the defendant until he is no longer mentally ill or until expiration of his sentence, whichever occurs first.

(2) Treatment shall be a condition of probation, shock probation, conditional discharge, parole or conditional release so long as the defendant is mentally ill.

Section 11. KRS 504.030 is amended to read as follows:

[~~(1)~~] When a defendant is *found not guilty* [~~acquitted of an offense for lack of criminal responsibility~~] by reason of *insanity* [~~mental disease or defect, as defined in KRS 504.020~~], the court *shall conduct an involuntary hospitalization proceeding under* [~~may on motion of the prosecuting attorney or on its own motion proceed immediately to have the defendant committed for examination and possible detention pursuant to the provisions of~~] KRS Chapter 202A or 202B.

[~~(2) To facilitate the procedure established in subsection (1), the court, if it has reasonable grounds to believe that the defendant will cause injury to himself or others if not immediately restrained, may order him to be hospitalized in a state hospital for a period not to exceed seven consecutive days. The order of commitment under this subsection shall be pursuant to and under the authority of KRS Chapter 202A or 202B.~~]

Section 12. KRS 196.065 is amended to read as follows:

(1) The bureau shall operate a forensic psychiatric facility to provide mental health care for persons convicted of a crime who are committed to the bureau. This care shall be provided by the bureau for the duration of the person's sentence.

(2) The bureau shall initiate or be responsible for initiation of hospitalization proceedings under KRS Chapter 202A or 202B for any inmate who needs mental health care at the expiration of his sentence.

Section 13. KRS 196.070 is amended to read as follows:

The commissioner of the bureau of corrections shall:

(1) Supervise and administer the Kentucky state reformatory, the Kentucky correctional institution for women, the Kentucky state penitentiary, other minimum security correctional institutions established and operated by the bureau, or any divisions of those institutions, and the prison industry program within those institutions.

(2) Supervise the employment of prisoners who have not been paroled or conditionally released, either within or without the walls or enclosures of these institutions.

(3) Have the authority to transfer, with the approval of the commissioner and the secretary of the department of finance, appropriated funds from the budget of one (1) penal institution to another.

(4) Determine minimum, maximum and conditional release dates of prisoners in accordance with KRS 197.045.

(5) Authorize the transfer of [~~male~~] prisoners between institutions.

(6) Approve the forfeiture or restoration of good time earned by prisoners during their term of confinement.

Section 14. The following KRS sections are repealed:

504.040 Mental disease or defect — Proceedings — Examination.
504.050 Requirement of notice and examination of defendant.

[illegible] Committee Amendment No. 1 to **HB 32** is as follows:

Amend printed copy of **HB 32,** page 3, lines 3-4, by deleting after the word "*to*" in line 3 and before the word "*his*" in line 4, the words "*show his incompetency to stand trial or*" and insert in lieu thereof, the following language: "*introduce evidence of*"

And on page 5, line 3, by inserting after the word "*If*" and before the word "*the*" the following additional language: "*upon arraignment, or during any stage of the proceedings,*"

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HB 140, HB 386, HB 275.**

Cities: **SB 13.**

Calendar

HB 119, HB 175, HB 212, HB 296, HB 350, HB 107, HB 298, HB 269, HB 339, and **SB 27** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 336, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomason moved the adoption of the Floor Amendment No. 1 to **HB 336.** Agreed.

Representative Meyer moved that **HB 336,** as amended, be passed.

On the roll call the vote was yeas 79-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Endicott, Ford, Foster, Freibert, Gray, Haering, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, White, Williams, Worthington, Yates. Nays 13-Allen, Barrows, Burnette, Clapp, Dunn, Farrow, Hancock, Head, Moberly, Moore, Rattliff, P. Richardson, Van Horn.

HB 336, as amended, was passed and the title agreed to.

Representative Meyer moved that the vote by which **HB 336,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 132 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 132** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 132 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 132** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 200 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **HB 200** be passed.

On the roll call the vote was yeas 77-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Brown, Burch, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Gray, Haering, Hancock, Handy, Harper, Head, Hines, Holloway, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 12-Barrows, Caldwell, Clarke, Fryman, Guenthner, Heleringer, Holbrook, Lile, Moberly, Moore, Rattliff, Schmidt.

HB 200 was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 200** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 244, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Turner moved that **HB 244** be passed.

On the roll call the vote was yeas 83-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, Richards, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 4-Holloway, T. Jones, Petty, Worthington.

HB 244 was passed and the title agreed to.

Representative Turner moved that the vote by which **HB 244** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 276, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Amendment No. 1 to **HB 276.** Agreed.

Representative Thomas moved that **HB 276,** as amended, be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 4-Burnette, Ellington, Haering, Hancock.

HB 276, as amended, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 276**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 299, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McNutt moved the adoption of the Floor Amendment No. 2 to **HB 299**.

On the roll call the vote was yeas 47-Allen, Arnold, Blevins, Burnette, Caldwell, Clarke, Craddock, Crupper, Curd, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Handy, Harper, Head, Holbrook, Holloway, R. Jones, T. Jones, Lile, List, Long, McNutt, Meyer, Moore, Morris, O'Brien, Patrick, Pearman, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Schmidt, B. Smith, Thomason, Todd, Turner, Worthington. Nays 44-Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Clark, Cline, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Gray, Heleringer, Hines, Johnson, Kenton, Kidd, LeMaster, Little, Maggard, Mann, Moberly, Nett, Noe, Noland, Perkins, Priddy, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Van Horn, White, Williams, Yates.

Floor Amendment No. 2 to **HB 299** was adopted.

Representative Bennett moved the adoption of the Floor Amendment No. 1 to **HB 299**.

On the roll call the vote was yeas 46-Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Clark, Clarke, Cline, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Gray, Handy, Heleringer, Hines, Johnson, Kenton, Kidd, Little, Maggard, Mann, Meyer, Moberly, Nett, Noe, Noland, Perkins, Priddy, Robinson, Seum, F. Smith, Stone, Stumbo, Van Horn, White, Williams, Yates. Nays 47-Allen, Burnette, Caldwell, Clapp, Cowan, Craddock, Crupper, Curd, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Harper, Head, Holloway, R. Jones, T. Jones, LeMaster, Lile, List, Long, McBee, McNutt, Moore, Morris, O'Brien, Patrick, Pearman, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, B. Smith, Thomas, Thomason, Todd, Turner, Worthington.

Floor Amendment No. 1 to **HB 299** was rejected.

Representative R. Jones moved that **HB 299**, as amended, be passed.

Representative Bennett moved that **HB 299**, as amended, be laid on the table.

On the roll call the vote was yeas 40-Barrows, Bennett, Blandford, Boswell, Bronger, Brown, Bruce, Burch, Clark, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Gray, Handy, Hines, Johnson, Kidd, Little, Maggard, Mann, Meyer, Moberly, Morris, Nett, Noe, Noland, Perkins, Petty, Priddy, Robinson, Seum, F. Smith, Stone, Stumbo, Van Horn, White, Williams, Yates. Nays 50-Allen, Arnold, Blevins, Burnette, Caldwell, Clarke, Cowan, Craddock, Crupper, Curd, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Harper, Head, Heleringer, Holbrook, Holloway, R. Jones, T. Jones, LeMaster, Lile, List, Long, Lundergan, McBee, McNutt, Moore, O'Brien, Patrick, Pearman, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, B. Smith, Thomas, Thomason, Todd, Turner, Worthington.

The motion that **HB 299**, as amended, be laid on the table was rejected.

Representative Mann moved that **HB 299**, as amended, be laid on the Clerk's desk.

Representative R. Jones moved the adoption of the previous question on **HB 299**, as amended.

Representative Mann moved that the motion that the previous question be adopted on **HB 299**, as amended, be laid on the table.

On the roll call the vote was yeas 33-Bennett, Blandford, Boswell, Bronger, Brown, Burch, Clark, Cyrus, Deskins, Donnermeyer, Dunn, Gray, Handy, Hines, Kidd, Little, Mann, Meyer, Moberly, Nett, Noe, Noland, Perkins, Priddy, Robinson, Seum, F. Smith, Stone, Stumbo, Van Horn, White, Williams, Yates. Nays 50-Allen, Arnold, Blevins, Burnette, Caldwell, Clapp, Clarke, Cowan, Craddock, Crupper, Curd, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Harper, Head, Heleringer, Holbrook, Holloway, R. Jones, T. Jones, LeMaster, Lile, List, Long, McBee, McNutt, Moore, Morris, O'Brien, Patrick, Pearman, Rapier, Rattliff, B. Richardson, P. Richardson, Riner, Schmidt, B. Smith, Thomas, Thomason, Todd, Turner, Worthington.

The motion that the motion that the previous question be adopted on **HB 299,** as amended, be laid on the table was rejected.

On the roll call the vote was yeas 35-Arnold, Blandford, Blevins, Brinkley, Burnette, Cowan, Craddock, Crupper, Curd, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Hancock, Head, Holloway, R. Jones, T. Jones, List, Long, McBee, McNutt, Moore, Noland, Patrick, Pearman, Rapier, Riner, B. Smith, Todd, Turner, Worthington. Nays 40-Barrows, Boswell, Bronger, Brown, Burch, Caldwell, Clark, Cyrus, Deskins, Donnermeyer, Dunn, Gray, Haering, Handy, Heleringer, Hines, Johnson, Kidd, LeMaster, Little, Maggard, Mann, Moberly, Morris, Noe, Perkins, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, Williams, Yates.

The motion that the previous question be adopted on **HB 299,** as amended, was rejected.

On the roll call the vote was yeas 43-Barrows, Bendl, Bennett, Boswell, Brinkley, Bronger, Brown, Burch, Clark, Cyrus, Deskins, Donnermeyer, Dunn, Gray, Haering, Handy, Hines, Johnson, Kenton, Kidd, Little, Maggard, Mann, McBee, Meyer, Moberly, Nett, Noe, Noland, Overstreet, Perkins, Petty, Priddy, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Van Horn, White, Williams, Yates. Nays 49-Allen, Arnold, Blandford, Blevins, Burnette, Caldwell, Clapp, Clarke, Cowan, Craddock, Crupper, Curd, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Hancock, Harper, Head, Heleringer, Holbrook, Holloway, R. Jones, T. Jones, LeMaster, Lile, List, Long, McNutt, Moore, Morris, O'Brien, Patrick, Pearman, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, B. Smith, Thomason, Todd, Turner, Worthington.

The motion that **HB 299,** as amended, be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 50-Allen, Arnold, Barrows, Blevins, Bruce, Burnette, Caldwell, Clarke, Cowan, Craddock, Crupper, Curd, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Harper, Head, Holbrook, Holloway, R. Jones, T. Jones, LeMaster, Lile, List, Long, McBee, McNutt, Meyer, Morris, O'Brien, Patrick, Pearman, Rapier, Rattliff, B. Richardson, P. Richardson, Riner, Schmidt, B. Smith, Thomas, Thomason, Todd, Turner, Worthington. Nays 38-Bennett, Blandford, Boswell, Bronger, Brown, Burch, Clapp, Clark, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Gray, Handy, Heleringer, Hines, Kidd, Little, Maggard, Mann, Moberly, Nett, Noe, Noland, Perkins, Petty, Priddy, Robinson, Seum, F. Smith, Stone, Stumbo, Van Horn, White, Williams, Yates.

HB 299, as amended, was passed and the title agreed to.

Representative R. Jones moved that the vote by which **HB 299,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that the vote on **HB 244** be reconsidered and that it be placed in Orders of the Day. Agreed.

HB 244, with Committee Substitute attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Turner moved the adoption of the Committee Substitute to **HB 244.** Agreed.

Representative Turner moved that **HB 244,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 53-Allen, Arnold, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, Clark, Crupper, Cyrus, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster Freibert, Head, Heleringer, Hines, Holbrook, Holloway, T. Jones, LeMaster, Lile, List, Long, Mann, McNutt, Meyer, Morris, Noland, Pearman, Perkins, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, Yates. Nays 1-Moore.

HB 244, by way of Committee Substitute, was passed and the title agreed to.

Representative Turner moved that the vote by which **HB 244,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 22** had been examined and found correctly enrolled. **HB 22** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 43,** by Representative Worthington:

Amend printed copy of **HB 43,** page 3, line 22, by adding the following new section:

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not apply to any boarding home operated or regulated by the federal government.

Floor Amendment No. 1 to **HB 107,** by Representative Pearman:

Amend printed copy of **HB 107,** page 1, line 3, by inserting after "(1)" the following: "*Upon nomination by the county judge/executive and approval by the fiscal court,*".

Floor Amendment No. 1 to the Committee Substitute to **HB 119,** by Representative Holbrook:

Amend printed copy of Committee Substitute to **HB 119,** page 9, line 20, by inserting after "tax" the following: "*, in accordance with the limitations and procedures of KRS 132.027,*";

and on page 12, line 8, by inserting after "tax" the following: "*, in accordance with the limitations and procedures of KRS 132.027,*";

and on page 13, line 11, by inserting after "body" the following: "*, in accordance with the limitations and procedures of KRS 132.027,*";

and on page 18, line 9, by inserting after "body" the following: "*, in accordance with the limitations and procedures of KRS 132.027,*".

Floor Amendment No. 1 to **HB 334,** by Representative Mann:

Amend printed copy of **HB 334,** page 5, line 19, before the word "the" delete bracket;

page 6, line 4, after the word "him" delete bracket.

Floor Amendment No. 1 to **SB 53,** by Representative Clapp:

Amend printed copy of **SB 53,** page 1, following line 18, by inserting the following:

Section 2. KRS 250.040, 1980 Acts, Chapter 342, Section 1, effective July 1, 1982, is amended to read as follows:
(1) Except as provided in subsections (2) and (3) of this section, every lot of agricultural seeds, when in bulk or a container of one (1) pound or more, or in the case of tobacco seed of one-twelfth (1/12) ounce

or more, shall have affixed, in a conspicuous place on the exterior of the container of the seeds, a label in plainly written or printed English, in a manner prescribed by the director, stating:

(a) The name of the kind and variety for each agricultural seed component present in excess of five percent (5%) of the whole and the percentage by weight of each. Provided, that the director may by regulation omit the requirement for variety designation for those kinds of seeds not commonly sold by variety name, and if the person labeling the seed does not know and is unable to determine the variety, the term "Variety Unknown" may be used in lieu of the variety designation. Hybrids shall be labeled as hybrids;

(b) Lot number or other lot identification;

(c) Percentage by weight of all weed seeds;

(d) Percentage by weight of inert matter;

(e) Percentage by weight of agricultural seeds other than those required to be on the label;

(f) The name and rate of occurrence per pound of noxious weed seed present; and

(g) For each named agricultural seed;

1. Percentage of germination, exclusive of hard seed;
2. Percentage of hard seeds, if present;
3. Origin, state or foreign country, if known. If the origin is unknown, this fact shall be stated;
4. The calendar month and year in which the germination test was completed; and
5. Name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within this state.

(2) The seal of certification of the Kentucky Seed Improvement Association approved by the director of the Kentucky agricultural experiment station shall be accepted in lieu of the written or printed tag or label required herein.

(3) It shall be unlawful to sell or offer for sale in Kentucky tobacco seed for seeding purposes unless the seed has been certified by the Kentucky seed improvement association or by the agency responsible for certification in the state, province, or country where the seed originated, and then only when the standards there are in no way lower than those of the Kentucky seed improvement association, except as provided in KRS 250.030. *However, any variety of tobacco seed which is not certified but is accepted by the farmer and the tobacco trade and has been grown and sold in Kentucky for three (3) years previous to July 1, 1982 may continue to be sold.*

and on page 1, line 19, by renumbering "Section 2" to "Section 3".

Floor Amendment No. 1 to **HB 284,** by Representative Rapier:

Amend printed copy of **HB 284,** page 2, line 3, after the word "*sell.*" by inserting the following language thereafter: "*Any costs for such advertisements shall be borne by the retail licensee.*"

The Clerk announced a meeting of the Committee on Rules, on adjournment, Room 316.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 467, by Representative Clarke: AN ACT relating to the collection of delinquent taxes.

HR 32, by Representatives Brinkley, Stumbo, and Hancock: A RESOLUTION directing the Speaker of the House to appoint a special legislative committee to investigate the concerns of the Kentucky Association of Transportation Engineers.

HB 468, by Representative LeMaster: AN ACT relating to insurance.

HB 469, BY Representative LeMaster: AN ACT relating to insurance.

HB 470, by Representative Clarke: AN ACT relating to the coal severance and processing tax and the distribution thereof.

Report of Committees

The Committee on Natural Resources and Environment reported **HB 129, HB 147,** and **SB 47** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 129, AN ACT relating to water.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.100 is amended to read as follows:

As used in KRS 151.100 to 151.460 and 151.990, the words listed herein shall have the following respective meanings, unless another or different meaning or intent shall be clearly indicated by the context:

(1) The word "authority" shall mean the water resources authority of Kentucky;

(2) The word "department" shall mean the department for natural resources and environmental protection;

(3) [~~The word "division" shall mean the division of water resources;~~ ~~(4)~~] The word "stream" or "watercourse" shall mean any river, creek or channel, having well defined banks, in which water flows for substantial periods of the year to drain a given area, or any lake or other body of water in the Commonwealth;

(4)[~~(5)~~] The word "diffused surface water" shall mean that water which comes from falling rain or melting snow or ice, and which is diffused over the surface of the ground, or which temporarily flows vagrantly upon or over the surface of the ground as the natural elevations and depressions of the surface of the earth may guide it, until such water reaches a stream or watercourse;

(5)[~~(6)~~] The word "ground water" or "subterranean water" shall mean all water which fills the natural openings under the earth's surface including all underground watercourses, artesian basins, reservoirs, lakes, and other bodies of water below the earth's surface;

(6)[~~(7)~~] The word "floodway" shall mean that area of a stream or watercourse necessary to carry off flood water as determined by the commissioner;

(7)[~~(8)~~] The word "floodplain" shall mean the area in a watershed that is subject to inundation;

(8)[~~(9)~~] The word "watershed" shall mean all of the area from which all drainage passes a given point downstream;

(9)[~~(10)~~] The word "domestic use" shall mean the use of water for ordinary household purposes, and drinking water for poultry, livestock, and domestic animals;

(10)[~~(11)~~] The word "water resource project" or "project" shall mean any construction, development, improvement or any other activity intended to conserve and develop the water resources of the Commonwealth;

(11)[~~(12)~~] The word "withdraw" or "withdrawal of water" shall mean the actual removal or taking of water from any stream, watercourse or other body of public water;

(12)[~~(13)~~] The word "dam" shall mean any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either (1) is or will be twenty-five (25) feet or more in height from the natural-bed of the stream or watercourse at the downstream toe of the barrier, as determined by the department, or (2) has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre-feet or more;

(13)[~~(14)~~] The word "person" shall mean any individual, public or private corporation, political subdivision, government agency, municipality, co-partnership, association, firm, trust, estate, or other entity whatsoever;

(14)[~~(15)~~] "Secretary" shall mean the secretary of the department for natural resources and environmental protection;

(15)[~~(16)~~] "Authorized representative" shall mean an individual specifically authorized by the commissioner to act in his behalf;

(16)[~~(17)~~] The word "reservoir" shall mean any basin which contains or will contain the water impounded by a dam;

(17)[~~(18)~~] "Owner" shall mean any person who owns an interest in, controls, or operates a dam.

Section 2. KRS 151.340 is amended to read as follows:

Administrative details and other activities of the authority shall be administered by the executive director of the authority and he shall maintain correct, complete records of all the authority's transactions and proceedings which shall constitute public records open to inspection at reasonable times. The executive director of the authority shall be the director of the division *in the department responsible for administering the provisions of this chapter* [~~of water~~].

HB 147, AN ACT relating to water.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

The department may negotiate with the appropriate federal agencies for the operation or maintenance of a navigable waterway within the state boundaries. The department shall not initiate negotiation for operation or maintenance of a waterway under federal control unless the lack of an agreement jeopardizes the continued navigation of said waterway. Any agreement negotiated by the department shall be subject to the approval of the governor and the secretary of the department of finance.

SB 47, AN ACT relating to the confidentiality of hazardous waste records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.036 is amended to read as follows:

Any record or any other information furnished to or obtained by the department relating to hazardous waste shall be open to reasonable public inspection, except that any record or information which constitutes a trade secret or confidential business information and is designated as such by the department upon a satisfactory showing by the owner in accordance with the rules and regulations of the department shall not be disclosed. Further, no record or information designated by the owner to be either a trade secret or confidential business information shall be released to the public[~~, to the federal government~~] or to any other agency, department or officer of the Commonwealth without providing the owner fifteen (15) days written notice.

Nothing herein shall be construed to prevent the use of such records or information by the department in compiling or publishing reports, analyses or summaries relating to general conditions in the environment, nor shall anything herein prevent the use of any record or other information for the purposes of administration or enforcement of any federal, state or local pollution control law. However, no such report, analyses, summary or use shall directly or indirectly publicly reveal information otherwise confidential under this section.

The Committee on Judiciary-Criminal reported **HB 253** with Committee Substitute and Committee Amendment attached thereto, **HB 319** with Committee Amendment attached thereto, and **HB 383** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 253, AN ACT relating to theft of services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.060 is amended to read as follows:

(1) A person is guilty of theft of services when:

(a) He intentionally obtains services by deception or threat or by false token or other means to avoid payment for the services which he knows are available only for compensation; or

(b) Having control over the services of others to which he is not entitled, he intentionally diverts such services to his own benefit or the benefit of another not entitled thereto*; or*

(c) Issues or passes a check or similar sight order for payment of money to any individual, partnership, corporation, or other business to induce that individual, partnership, corporation, or business to continue to provide or to establish any service, knowing that the check or similar sight order will not be honored by the drawee.

(2) Where compensation for services is ordinarily paid immediately upon the rendering of such services, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay shall be prima facie evidence that the services were obtained by deception as to intention to pay.

(3) In any prosecution for theft of gas, water, electricity or other public service, where the utility supplying the service had installed a meter or other device to record the amount of service supplied, proof that:

(a) The meter or other device has been altered, tampered with, or bypassed in such manner as to prevent or reduce the recording thereof; or

(b) Service has been, after having been disconnected by the utility supplying service, reconnected without authorization of such utility,

shall be prima facie evidence of the intent to commit theft of service by the person or persons obligated to pay for service supplied through such meter or other device.

(4) For purposes of subsection (1) of this section, an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal.

(5) Theft of services is a Class A misdemeanor unless the value of the service is one hundred dollars ($100) or more, in which case it is a Class D felony.

Committee Substitute to **HB 253** is as follows:

HB 253, AN ACT relating to theft of services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property *or services* of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; or

(b) Prevents another from acquiring information which would affect his judgment of a transaction; or

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or

(d) Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1), an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within 10 days after receiving notice of that refusal.

(5) Theft by deception is a Class A misdemeanor unless the value of the property *or service* is $100 or more, in which case it is a Class D felony.

Committee Amendment No. 1 to the Committee Substitute to **HB 253** is as follows:

Amend printed copy of Committee Substitute to **HB 253,** page 1, title line, by deleting the title appearing thereon and inserting in lieu thereof "AN ACT relating to crimes and punishments."

HB 319, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of theft of mail matter when he:

(a) Steals;

(b) Takes;

(c) Abstracts;
(d) By fraud or deception obtains;
(e) Embezzles;
(f) Conceals;
(g) Damages; or
(h) Destroys any mail matter (including but not limited to any letter, postal card, package, bag, or other item) from any letterbox, mail receptable, or other authorized depository for mail matter, or from a letter carrier, postal vehicle, or private mail box or which has been left for collection or delivery adjacent thereto.
(2) Theft of mail matter is a Class D felony.

SECTION 2. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of possession of stolen mail matter when he:
(a) Buys;
(b) Receives;
(c) Conceals;
(d) Deals in;
(e) Sells; or
(f) Unlawfully has in his possession any mail matter (as defined in Section 1 of this Act) knowing or having reason to believe that it has been the subject of theft in violation of Section 1 of this Act.
(2) Possession of stolen mail matter is a Class D felony.

Committee Amendment No. 1 to **HB 319** is as follows:

Amend printed copy of **HB 319,** page 1, line 12, following the word "*matter*" by adding the words "*of another*"

and on page 1, line 17, following the word "*thereto*" by adding the words "*by the United States Postal Service*"

HB 383, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of assault in the third degree when:
(a) He intentionally or wantonly causes physical injury to a state, county, or federal peace officer or probation and parole officer; or
(b) With recklessness he causes physical injury to a state, county, or federal peace officer or probation and parole officer by means of a deadly weapon or a dangerous instrument.
(2) Assault in the third degree is a Class D felony.

Section 2. KRS 508.030 is amended to read as follows:

(1) A person is guilty of assault in the *fourth* [~~third~~] degree when:
(a) He intentionally or wantonly causes physical injury to another person; or
(b) With recklessness he causes physical injury to another person by means of a deadly weapon or a dangerous instrument.
(2) Assault in the *fourth* [~~third~~] degree is a Class A misdemeanor.

Committee Amendment No. 1 to **HB 383** is as follows:

Amend printed copy of **HB 383,** page 1, line 6, following the word "*county,*" by adding "*city,*"

and on page 1, line 9, following the word "*county,*" by adding "*city,*"

Motions, Petitions and Communications (continued)

Representative Johnson moved that he be recorded as voting "nay" on **HB 299.** Agreed.

Representative Bronger moved that **HB 356** be withdrawn. Agreed.

The following meetings were announced.

Energy: Special meeting, 12 noon, Thursday, Room 12.

Majority Caucus: Thirty minutes after adjournment, Tuesday, Room 109.

Budget Hearing - Human Resources: Thursday, 9 a.m., Room 103.

Appropriations and Revenue: Thursday, 11 a.m., Room 109.

Budget Review - Education: Thursday, 12:30 p.m.

Adjournment

Representative LeMaster moved that the House adjourn until 2 p.m., Thursday, February 11, 1982.

On the roll call the vote was yeas 54-Arnold, Blevins, Boswell, Burch, Caldwell, Clapp, Clark, Cowan, Craddock, Crupper, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Harper, Hines, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, List, Long, McBee, Meyer, Moberly, Nett, Noe, Noland, Patrick, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Thomas, Thomason, Todd, Van Horn, Williams, Yates. Nays 11-Barrows, Bronger, Handy, Holbrook, Holloway, Lile, Maggard, Mann, Moore, Perkins, Schmidt.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 11, 1982

TWENTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Charles E. Dietze, First Christian Church, Henderson, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Lefevers, McBee and Tobin.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 10, 1982, be dispensed with and the same approved. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 63** had been examined and found correctly enrolled. **SB 63** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 22 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Senate Message

Announcing passage of **SB 79.**

Introduction of Bills and Resolutions

HB 471, by Representatives Bronger, Mann, Burch, Nett, Gray, Blandford, Heleringer, Stumbo, Rapier, Clark, Handy, and Hines: AN ACT relating to condemnation proceedings.

HB 472, by Representative Meyer: AN ACT relating to motor vehicles.

HB 473, by Representatives Meyer, Farrow, Perkins, Thomason, Holbrook, Guenthner, Williams, Van Horn, T. Jones, Thomas, Mann, Johnson, Moberly, Cowan, Heleringer, Barrows, and LeMaster: AN ACT relating to notaries public.

HB 474, by Representative List: AN ACT relating to cemetery lots.

HB 475, by Representatives Clarke and LeMaster: AN ACT relating to appropriations for the operations, maintenance, support and functioning of the Judicial Branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

HB 476, by Representative Burch: AN ACT relating to crimes and punishments.

HB 477, by Representatives Thomas and B. Richardson: AN ACT relating to the backside improvement commission.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 467, HB 470.**

Banking and Insurance: **HB 468, HB 469.**

Education: **SB 65.**

Energy: **HR 31.**

Health and Welfare: **SB 159, SB 161, SB 163.**

Judiciary-Criminal: **HB 466.**

Transportation: **HB 463, HB 464, HB 465, HR 32, SB 2.**

Report of Committees

The Committee on Rules reported **HB 175, HB 212, HB 350,** and **SB 27** have been posted for passage in Orders of the Day, February 16, 1982.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Jucidiary-Civil: **SB 21, SB 67, HB 358, HB 392, HB 398, HB 188, HB 407.**

Transportation: **HB 301, HB 312, HB 237.**

Health and Welfare: **HB 97, HB 401, SB 25.**

Cities: **HB 332, SB 14.**

Energy: **HB 380, SB 104, SR 1.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Judiciary-Civil: **HB 221.**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 260, HB 280** and **HB 357** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 260, AN ACT relating to fairs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.140 is amended to read as follows:

(1) The state fair board:

(a) Shall have the custody and control of such property as now is under its custody and control, and of such property as may hereafter be placed under its control or transferred to it by the state property and buildings commission, for any purposes mentioned in this section and the physical properties so under its custody and control or transferred to it are hereinafter referred to in this section, and in KRS 247.150 and 247.160, as the "state fair grounds and an area in a city of the first class to be used as an exhibition center."

(b) May erect and repair buildings on the state fair grounds and exhibition center, make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objects defined in this section.

(c) Shall promote the progress of the state and stimulate public interest in the advantages and development of the state by providing the facilities of the state fair grounds for agricultural and industrial exhibitions, public gatherings, cultural activities, and other functions calculated to advance the educational, physical and cultural interests of the public and by providing the facilities of the exhibition center for conventions, trade shows, public gatherings and other functions calculated to advance and enhance the visitor industry, economy, entertainment, cultural and educational interests of the public.

(d) May hold an annual fair on the state fair grounds, for the exhibition of agricultural, mechanical, horticultural, dairy, forestry, poultry, livestock, mineral, and all other industrial interests of the state, and prepare premium lists and establish rules of exhibition for the fair. *Beginning with the year 1985, the fair shall not be held before August 25 of each year.*

(e) May purchase liability insurance for the members and executive officers exempted from the classified service of the state by KRS 18.140.

(2) The state fair board may take, acquire and hold property, and all interest therein, by deed, gift, devise, bequest, lease, or eminent domain, or by transfer from the state property and buildings commission, and may dispose of any property so acquired in the manner provided by law. In the exercise of its power of eminent domain it shall proceed in the manner provided in the Eminent Domain Act of Kentucky.

HB 280, AN ACT relating to ginseng and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context clearly requires otherwise:

(1) "Harvest" means to take any part of the wild ginseng plant while the plant is living.

(2) "Wild ginseng" means any ginseng plant growing as nature caused the plant to grow without any assistance from man, but includes any plant grown from seeds of a wild plant replanted within fifty (50) feet of the harvesting point using no implement other than fingers for planting.

(3) "Cultivated ginseng" means any ginseng plant grown under natural or artificial shade and cultivated according to varying standards of cultivation procedures.

SECTION 2. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

(1) The department shall administer a program for wild American ginseng in Kentucky which provides a framework, including a limited harvesting season and the licensing of buyers and diggers, in which wild American ginseng shall be eligible for exportation in compliance with federal requirements.

(2) The department shall administer a program for cultivated American ginseng in Kentucky which provides a framework, including the licensing of dealers and the registration of growers for the purpose of monitoring the production and for the purpose of providing a method of protection of the cultivated crop from theft, vandalism or molestation, in which cultivated American ginseng shall be eligible for exportation in compliance with federal requirements.

(3) The department shall promulgate regulations to carry out this program and cooperate with and enter into agreements with any other agency of this state, any other state, or the federal government to carry out this program. Any regulation promulgated or standard set under this section, in respect to harvesting seasons or marketing of wild or cultivated ginseng, shall satisfy the minimum federal requirements.

SECTION 3. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

No person shall harvest wild or cultivated ginseng on the land of another without the written permission of the landowner or of those individuals with legal authority over the land.

SECTION 4. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

State agencies shall cooperate with the department in fulfilling its responsibilities under this Act, particularly in regard to assessing the condition of the wild ginseng population and the licensing of dealers and the registration of growers of cultivated ginseng for the purpose of monitoring production and providing protection from theft, vandalism or molestation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates any provisions of this Act, except Section 3, or the regulations issued by the department to conform with this Act shall be fined not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200.00) for each offense.

(2) Any person who violates Section 3 of this Act shall be guilty of theft by unlawful taking as provided in KRS 514.030.

Section 6. There is hereby appropriated out of the state's General Fund to the Department of Agriculture the sum of $10,000 for the fiscal year 1982-83 and the sum of $10,000 for the fiscal year 1983-84 to carry out the purposes of this Act, including reimbursing the University of Kentucky College of Agriculture for expenses incurred in ginseng research.

HB 357, AN ACT relating to livestock.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 257.530 is amended to read as follows:

(1) No person shall engage in the business of being a livestock dealer without having first obtained a license from the division. Application for such license shall be made on a form provided by the division and accompanied by a fee of ten dollars ($10), payable to the Kentucky state treasurer. The license shall expire on December 31 and must be renewed annually. All license fees shall be deposited in a revolving fund to be used for the administration of KRS 257.510 to 257.540.

(2) Any livestock dealer shall maintain records of all transactions conducted by him for the next preceding six-month period including the names and addresses of persons from whom he has purchased or to whom he has sold livestock and the date of such transactions and to make such records available to [~~the~~] division *representatives* upon [~~written~~] request; provided, however, there shall be no requirement to maintain or furnish records or information as to the amount paid or received for any head of livestock.

(3)[~~(2)~~] The following acts by any livestock dealer shall be violations of this chapter *and may result in said license being revoked or suspended by the commissioner of agriculture*:

(a) Failure to maintain the records required under subsection *(2)* [~~(1)~~] of this section;

(b) Failure to provide access to division *representatives* [~~employes~~] of such records;

(c) Buying or selling livestock under an assumed name or address; and

(d) Violation of any valid regulation or statute governing disease control.

(4) Whenever the commissioner has reasonable cause to believe any provision of KRS 257.510 to 257.540 is being or has been violated by any livestock dealer, the commissioner shall notify the livestock dealer that his license shall be suspended or revoked.

(a) Such suspension or revocation shall be effective ten (10) days from the date of the mailing of the notice, unless the livestock dealer requests a hearing in writing within the ten (10) day period. Any request for a hearing shall be directed to the commissioner.

(b) When a hearing is requested, the commissioner shall give reasonable notice of the time, place, and date of the hearing.

(c) The hearing may be conducted by the commissioner or his designated hearing officer who shall report findings and recommendations to the commissioner. The commissioner shall make the final determination to revoke or suspend a livestock dealer license.

(5) The decision of the commissioner may be reviewed by the Franklin circuit court if an action seeking review is filed within twenty (20) days from the date of the commissioner's decision.

(a) Any such review shall be in a summary manner upon the record of proceedings by the commissioner. The court shall sustain the decision of the commissioner when it appears that evidence in the record supports the findings of the commissioner.

Section 2. KRS 257.270 is amended to read as follows:

The board may employ veterinarians for the purpose of carrying out the provisions of this chapter. [~~The veterinarians shall be paid not more than fifteen dollars ($15.00) per diem and their necessary expenses incurred in the discharge of their official duties.~~]

Section 3. KRS 257.120 is amended to read as follows:

(1) Indemnities shall be paid by the state *or federal government* [~~only~~] for animals destroyed or slaughtered on account of *a communicable disease,* foot and mouth disease, glanders, contagious pleuropneumonia, bovine tuberculosis, Bang's disease, or maladie du coit or dourine, or a disease for which the United States government *pays the amounts specified by the state and federal cooperative agreement* [~~or any department of it pays one-third (⅓) of the appraised value~~].

(2) Indemnity for Bang's reactors or exposed animals,*if indemnity is available,* shall be paid *by the state or federal government* in accordance with amounts specified by the state and federal cooperative agreement.

(3) No indemnity shall be paid for any animal unless it was the property of the person claiming indemnity, and was within the state, for a period of at least six (6) months prior to the time of the first

test, except when animals are destroyed or slaughtered on account of aphthous fever or foot and mouth disease, dourine, glanders or contagious pleuro-pneumonia.

(4) No indemnity shall be paid for any animal:

(a) Owned by the United States, the state or any county or city;

(b) Brought into this state in violation of the law or any regulation of the board;

(c) When the owner at the time of coming into possession of the animal had any reason to believe that it was infected; or

(d) When the board or its authorized agents have satisfactory evidence that the owner has been guilty of negligence in permitting the animal to become exposed to the communicable disease.

[~~(5) In case of communicable diseases, if animals are destroyed by order of the United States government or a department of it, and an indemnity of one-third (⅓) the appraised value is being paid by the United States government, the state shall pay a like amount.~~]

Section 4. KRS 246.990 is amended to read as follows:

(1) Any person who violates *subsection (2) of KRS 246.210 or* subsection (2) of KRS 246.220 shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200) for the first offense; he shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and be confined in the county jail for not less than sixty (60) days nor more than one hundred and twenty (120) days, for each subsequent offense.

(2) Any person who violates subsection (3) of KRS 246.220 shall be fined not less than five dollars ($5.00) nor more than one hundred dollars ($100) or be imprisoned for not more than ten (10) days, or both. Each day's hindering or refusal of access shall constitute a separate offense.

(3) Any person who violates subsection (4) of KRS 246.220 shall be fined not less than two dollars ($2.00) nor more than fifty dollars ($50.00).

(4) Any person who violates subsection (5) of KRS 246.220 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(5) Any person who violates subsection (6) of KRS 246.220 shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00).

(6) Any person who violates subsection (7) of KRS 246.220 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than three (3) months, or both.

(7) Any owner or operator of a dairy plant who shall fail to comply with the provisions of KRS 246.240 or any part thereof shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars ($100).

(8) Any person violating any of the provisions of KRS 246.510 to 246.590 shall be fined not less than $100 nor more than $500, and imprisoned not more than one (1) year, or both. Each violation shall be deemed a separate offense.

The Committee on Energy reported **HR 23** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 23, A RESOLUTION creating Rule 42A of the Rules of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Rule 42A of the Rules of the House of Representatives is created to read as follows:

Rule 42A. Joint Subcommittee on Energy Production, Marketing and Utilization. There is established a subcommittee of the standing Committee on Energy known as the Subcommittee on Energy Production, Marketing and Utilization. The membership of such subcommittee of not less than five nor more than seven members of the Committee on Energy, shall be appointed by the chairman of the Committee on Energy who shall designate one such appointee as co-chairman of such subcommittee. The Subcommittee on Energy, Production, Marketing and Utilization shall meet only in joint session with a like committee of the Senate for the purpose of monitoring energy development within the Commonwealth and considering the social, environmental and economic impact of such development.

The Committee on Labor and Industry reported **HB 375** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 375, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) A worker filing a new claim for unemployment benefits shall, at the time of filing such claim, disclose whether or not he owes child support obligations as defined under this section. If any such worker discloses that he owes child support obligations, and is determined to be eligible for unemployment benefits, the secretary shall notify the state or local child support enforcement agency enforcing such obligation that the worker has been determined to be eligible for unemployment benefits.

(2) The secretary shall deduct and withhold from any unemployment benefits payable to a worker that owes child support obligations:

(a) The amount specified by the worker to the secretary to be deducted and withheld under this subsection, if neither (b) nor (c) apply;

(b) The amount, if any, determined pursuant to an agreement submitted to the secretary under 42 U.S.C. 654 (Section 454(20)(b)(i) of the Social Security Act) by the state or local child support enforcement agency if (c) is not applicable; or

(c) Any amount required to be so deducted and withheld from such unemployment benefits pursuant to legal process as that term is defined in 42 U.S.C. 662(e) (Section 462(e) of the Social Security Act) properly served upon the secretary.

(3) (a) Any amount deducted and withheld under this section shall be paid by the secretary to the appropriate state or local child support enforcement agency.

(b) Any amount deducted and withheld under this section shall for all purposes be treated as if it were paid to the worker as unemployment benefits and paid by such worker to the state or local child support enforcement agency in satisfaction of the worker's child support obligations.

(4) For purposes of this section, the term "unemployment benefits" shall mean any compensation payable under this Act (including amounts payable by the secretary pursuant to an agreement under any federal law providing compensation, assistance, or allowances with respect to unemployment).

(5) The provisions set forth in this section apply only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the secretary under this section which are attributable to child support obligations being enforced by the state or local child support enforcement agency.

(6) The term "child support obligations" is defined for purposes of these provisions as including only obligations which are being enforced pursuant to a plan prescribed in 42 U.S.C. 654 (Section 454 of the Social Security Act) which has been approved by the secretary of Health and Human Services under 42 U.S.C. 651-662 (Part D of Title IV of the Social Security Act).

(7) The term "state or local child support enforcement agency" as used in these provisions means any agency of a state or a political subdivision thereof operating pursuant to a plan described in this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) No work shall be deemed to be suitable work for a worker making a claim for extended benefits, nor a disqualification imposed for refusal thereof, which does not accord with the labor standard provisions required by 26 U.S.C. 3304(a)(5) (Section 3304(a)(5) of the Internal Revenue Code of 1954) and set forth herein under KRS 341.100, or if a worker would not be denied benefits by reason of the requirements set forth in KRS 341.350 as required by 26 U.S.C. 3304(a)(8) (Section 3304(a)(8) of the Internal Revenue Code of 1954).

(2) For purposes of this section, the term "suitable work" shall mean, with respect to any worker, any work which is within such worker's capabilities, provided, however, that the gross average weekly remuneration payable for the week must exceed the sum of:

(a) The worker's extended weekly benefit amount as determined under this chapter, plus

(b) The amount, if any, of supplemental unemployment benefits as defined in 26 U.S.C. 501(c)(17)(D) (Section 501(c)(17)(D) of the Internal Revenue Code of 1954) payable to such worker for such week; and further

(c) Pays wages not less than the higher of:

1. The minimum wage provided by 29 U.S.C. 206 (Section 6(a)(1) of the Fair Labor Standards Act of 1938) without regard to any exemption; or

2. The applicable state or local minimum wage;

(d) Provided, however, that no worker shall be denied extended benefits for failure to accept an offer of or apply for any job which meets the definition of suitability as described above if:

1. The position was not offered to such worker in writing or was not listed with the employment service; or

2. Such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants as provided in this chapter to the extent that such criteria of suitability in that section are not inconsistent with the provisions of this subsection; or

3. The worker furnishes satisfactory evidence to the secretary that his prospects for obtaining work in his customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such worker shall be made in accordance with the definition of suitable work for regular benefit claimants without regard to the definition specified in this section.

Section 3. KRS 341.030 is amended to read as follows:

(1) As used in this chapter, unless the context clearly requires otherwise, and except as provided in subsections (2) to (6) of this section, "wages" means all remuneration for services, including commissions, bonuses, and, except for services performed in agriculture and domestic employment, the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the commission.

(2) Amounts paid to traveling salesmen or other workers as allowance or reimbursement for traveling or other expenses, incurred on the business of the employing unit, constitute wages only to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the worker to his employer*; provided, however, that the cash value of meals and lodging when furnished to the worker for the convenience of the employer shall not constitute wages.*

(3) Gratuities and tips customarily received by a worker in the course of his employment from persons other than his employing unit do not constitute wages but only if the employing unit does not:

(a) Determine the distribution; or

(b) Take them into account to determine wages; or

(c) Impose or require such tips from other persons.

(4) "Wages" does not include the amount of any payment made to, or on behalf of, a worker under a plan or system established by an employing unit that makes provision for its workers generally or for a class of its workers, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment, on account of:

(a) Retirement;

(b) Sickness or accident disability;

(c) Medical and hospitalization expenses in connection with accident or sickness disability; or

(d) Death, if the worker has not:

1. The option to receive, instead of provision for such death benefit, any part of the payment, or if such death benefit is insured, any part of the premiums or contributions to premiums paid by his employing unit, and

2. The right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of it either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employing unit.

(5) "Wages" does not include the amount of any payment made by an employing unit without deduction from the remuneration of the worker of the tax imposed under section 3101 of the Internal Revenue Code *or any payment required from an employer under a state unemployment compensation law with respect to remuneration paid to an employe for domestic service in a private home of the employer or for agricultural labor.*

(6) "Wages" does not, for the purposes of KRS 341.260 to 341.310, include that part of remuneration which, after wages equal to six thousand dollars ($6,000) have been paid in a calendar year to a worker by a subject employer or his predecessor with respect to covered employment during any calendar year, is paid to such worker by such subject employer during such calendar year unless that part of the wages is subject to a tax under a federal law, imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purpose of this subsection, the term "covered employment" shall include service constituting covered employment under any unemployment compensation law of another state.

Section 4. KRS 341.094 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Extended benefit period" means a period which:

(a) Begins with the third week after *a* [~~whichever of the following weeks occurs first:~~
~~1. A week for which there is a national "on" indicator, or~~
~~2. A~~] week for which there is a state "on" indicator; and

(b) Ends with either of the following weeks, whichever occurs later:

1. The third week after the first week for which there is [~~both a national "off" indicator and~~] a state "off" indicator; or

2. The thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

(2) [~~There is a "national 'on' indicator" for a week if the U. S. secretary of labor determines that for the period consisting of such week and the immediately preceding twelve (12) weeks, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded 4.5 percent (4.5%).~~

~~(3) There is a "national 'off' indicator" for a week if the U. S. secretary of labor determines that for the period consisting of such week and the immediately preceding twelve (12) weeks, the rate of insured unemployment (seasonally adjusted) for all states was less than 4.5 percent (4.5%).~~

~~(4)~~] There is a "state 'on' indicator" for this state for a week if the secretary determines, in accordance with the regulations of the U. S. secretary of labor, that for the period consisting of such week and the immediately preceding twelve (12) weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:

(a) Equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding two (2) calendar years, and

(b) Equaled or exceeded *five* [4] percent *(5%)*[~~(4%)~~];

(3)[~~(5)~~] There is a "state 'off' indicator" for this state for a week if, for the period consisting of such week and the immediately preceding twelve (12) weeks, either paragraph (a) or (b) of subsection *(2)*[~~(4)~~] of this section was not satisfied.

Section 5. KRS 341.096 is amended to read as follows:

As used in this chapter unless the context clearly requires otherwise:

(1) "Rate of insured unemployment" means the percentage derived by dividing:

(a) The average weekly number of workers filing claims *for regular benefits* in this state for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the secretary on the basis of his report to the U.S. secretary of labor, by

(b) The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of such 13-week period. Such computations shall be made by the secretary, in accordance with regulations prescribed by the U.S. secretary of labor.

(2) "Regular benefits" means benefits payable to a worker under this chapter or under an unemployment compensation law of any other state (including benefits payable to federal civilian employes and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits and additional benefits.

(3) "Extended benefits" means benefits (including benefits payable to federal civilian employes and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to a worker under the provisions of KRS 341.700 to 341.740 for weeks of unemployment in his eligibility period.

(4) "Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law.

(5) "Eligibility period" of a worker means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(6) "Exhaustee" means a worker who, with respect to any week of unemployment in his eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were available to him under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employes and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week; provided, that, for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(b) His benefit year having expired prior to such week, has no, or insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week; and

(c) Has no right to unemployment benefits or allowances, as the case may be, under the railroad unemployment insurance act or under such other federal laws as are specified in regulations issued by the U.S. secretary of labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada [~~or the Virgin Islands~~]; but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law, the individual shall be considered an exhaustee if the other provisions of this definition are met.

Section 6. KRS 341.350 is amended to read as follows:

An unemployed worker shall, except as provided in KRS 341.360 and 341.370, be eligible for benefits with respect to any week of unemployment only if:

(1) He has made a claim for benefits;

(2) He has registered for work with respect to such week in accordance with regulations prescribed by the secretary;

(3) He is physically and mentally able to work;

(4) He is available for suitable work, and making such reasonable effort to obtain work as might be expected of a prudent person under like circumstances;

(5) His base-period wages in that calendar quarter of his base period in which such wages were highest are equal to at least five hundred dollars ($500), and his total base-period wages are not less than one and *one-half (1 ½)* [~~three-eighths (1 ⅜)~~] times the base-period wages paid to him in such quarter and he was paid base-period wages in the last six (6) months of his base period equal to at least eight (8) times his weekly benefit rate with a minimum of five hundred dollars ($500) earned outside the high quarter;

(6) An otherwise eligible worker shall not be denied benefits under subsection (4) of this section or because of his failure to actively seek work, nor disqualified under paragraph (a) of subsection (1) of KRS 341.370 with respect to any week he is in training with the approval of the secretary.

(7) Notwithstanding any other provisions of this chapter, no otherwise eligible worker shall be denied benefits for any week because he is in training approved under 19 U.S.C. 2296 (Section 236(a)(1) of the Trade Act of 1974), nor shall such worker be denied benefits by reason of leaving work to enter such training provided such work is not suitable employment, or because of the application to any such week in training of provisions in this law (or any applicable federal unemployment compensation law) relating to availability for work, active search for work, or refusal to accept work. For purpose of this subsection, the term "suitable employment" shall mean employment of a substantially equal or higher skill level than the worker's past adversely affected employment as defined in 19 U.S.C. 2319 (Trade Act of 1974), and wages for such work are not less than eighty percent (80%) of the workers' average weekly wage as determined for purposes of the Trade Act of 1974.

(8) The foregoing eligibility requirements and the conditions of benefit disqualifications imposed by KRS 341.370 shall be strictly construed. Nothing in this section, excepting subsection (5), nor in KRS 341.360 or 341.370 shall affect the establishment of a "benefit year."

Section 7. KRS 341.390 is amended to read as follows:

There shall be deducted from the benefit rate determined for a worker in accordance with subsection (2) of KRS 341.380:

(1) Eighty percent (80%), adjusted to the nearest multiple of one dollar ($1.00), of the amount of wages earned by such worker during the week of unemployment with respect to which he claims benefits;

(2) The amount of remuneration which the worker has received or is receiving with respect to such week of unemployment (adjusted to the nearest multiple of one dollar ($1.00)) in the form of remuneration in lieu of notice; and

(3) (a) The amount of compensation payable to an individual for any week which begins after March 31, 1980, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment *under a plan maintained or contributed to a chargeable or base-period employer* [~~which is based on the previous work of such individual~~] shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment which is reasonably attributable to such week; *except that the secretary may provide for limitations on the amount of any such deduction to take into account contributions made by the worker for the pension, retirement or retired pay, annuity, or other similar periodic payment.*

(b) No reduction shall be made under this section by reason of the receipt of a pension if the services performed by the worker during the base period (or remuneration received for such services) for such employer did not affect the worker's eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or other similar periodic payment. The conditions specified by this subsection shall not apply to pensions paid under the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law). Payments made under such acts shall be treated solely in the manner specified by subsection (a) of this section.

(c)[~~(b)~~] If Public Law 94-566 *or Public Law 96-364* or the federal act which [~~it~~] amends *either* for any cause shall become inoperative in its application, or stayed pendente lite, as to deductions of such compensation, then, subsection (3) of this section, by virtue of that fact, shall likewise and to the same extent, become inoperative as to such deductions.

Section 8. KRS 341.710 is amended to read as follows:

(1) A worker shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the secretary finds that with respect to such week:

(a)[~~(1)~~] He is an "exhaustee" as defined in subsection *(6)*[~~(5)~~] of KRS 341.096, and

(b)[~~(2)~~] He has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to workers claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

(2) A worker shall not be eligible for extended benefits for any week if:

(a) Extended benefits are payable for such week pursuant to an interstate claim filed in any state under the interstate benefit payment plan, and no extended benefit period is in effect for such week in such

state. However, this provision shall not apply with respect to the first two (2) weeks for which extended benefits are payable to a worker pursuant to an interstate claim filed under the interstate benefit payment plan; or

(b) The secretary finds that during such period:

1. He failed to accept any offer of suitable work (as required for extended benefits), or he failed to apply for any suitable work to which he was referred by the secretary; or

2. He failed to actively engage in seeking work as defined in this section.

(3) Any individual who has been found ineligible for extended benefits by reason of the provisions set forth in this section shall be denied benefits for the week in which such failure occurred and thereafter until he has been employed in each of four (4) subsequent weeks (whether or not consecutive) and has earned at least four (4) times his weekly benefit rate in bona fide full-time covered employment.

(4) For the purpose of this section, a worker shall be treated as actively engaged in seeking work during any week if:

(a) Such worker has engaged in a systematic and sustained effort to obtain work during such week, and

(b) Such worker furnishes tangible evidence that he has engaged in such effort during such week.

(5) The secretary shall refer any claimant entitled to receive extended benefits to any suitable work which meets the criteria as required in this Act for workers claiming extended benefits.

(6) Notwithstanding any other provisions of this chapter, if the benefit year of any worker ends within an extended benefit period, the remaining balance of extended benefits that such worker would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the worker received any amounts as trade adjustment allowances within that benefit year, multiplied by the worker's weekly benefit amount for extended benefits.

Section 9. KRS 341.740 is amended to read as follows:

Whenever an extended benefit period is to become effective in this state [~~(or in all states)~~] as a result of a state [~~or a national~~] "on" indicator, or an extended benefit period is to be terminated in this state as a result of *a* state [~~and national~~] "off" *indicator* [~~indicators~~], the commissioner shall make an appropriate public announcement.

Section 10. Sections 4 and 6 of this Act shall become effective September 26, 1982.

The Committee on State Government reported **HB 50, HB 98, HB 257** with Commitee Amendment attached thereto, **HB 308, HB 426,** and **SB 32** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 50, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13.080 is amended to read as follows:

As used in KRS 13.080 to 13.125:

(1) "Administrative body" means each state board, bureau, commission, department, division, authority, officer, or other entity, except the legislature and the courts, authorized by law to make regulations.

(2) "Subcommittee" means administrative regulation review subcommittee.

(3) "Regulation" means each statement of general applicability issued by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization procedure, or practice requirements of any administrative body. The term includes the amendment or repeal of a prior regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public, or

(b) Declaratory rulings, or

(c) Intradepartmental memoranda, or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways, or

(e) Rules, regulations, and policies of the governing boards of institutions of higher education pertaining to students attending or applicants to such institutions or to the control and maintenance of land and buildings occupied by the respective institutions.

(4) "Regulatory impact analysis" means a written statement containing the provisions required by Section 3 of this Act.

(5)[~~(4)~~] "Affirmative consideration" means that an administrative body must either adopt suggestions or recommendations regarding a regulation or issue a concise statement setting forth the reasons for not adopting suggestions or recommendations regarding a regulation.

(6)[~~(5)~~] Compliance with the provisions of KRS 13.080 to 13.125 does not dispense with the requirements of any other law necessary to make the regulation effective.

Section 2. KRS 13.085 is amended to read as follows:

(1) Except as provided in subsection (2) of this section no regulation made by any administrative body after July 15, 1980 shall become effective until after an original and five duplicate copies of the regulation are forwarded to the office of the legislative research commission, and:

(a) The proposed regulation has been published in the administrative register as required by KRS 13.096; and

(b) A public hearing is held, if requested, by a person having an interest in the subject matter, within thirty (30) days following publication of proposed regulation, as provided by subsection (4) of this section; provided, however, that if no public hearing is requested within thirty (30) days of publication the regulation shall be submitted to the administrative regulation review subcommittee; and

(c) A regulatory impact analysis has been prepared as required by this Act; and

(d)[~~(c)~~] The proposed regulation has been reviewed and accepted by the administrative regulation review subcommittee as required by KRS 13.087; or

(e)[~~(d)~~] The proposed regulation is reviewed and accepted by the appropriate interim committee, if required by KRS 13.087; or

(f)[~~(e)~~] The proposed regulation is placed before and not disapproved by the general assembly, if required by KRS 13.087.

(2) The requirements of subsection (1) of this section shall not apply when the administrative body finds that an emergency exists, and the governor issues an executive order that the regulation become effective immediately upon being filed in the office of the legislative research commission. A regulation so filed shall expire upon sine die adjournment of the next regular session of the general assembly, provided that between the filing of the regulation and such sine die adjournment the proposed regulation may be processed in accordance with this section if the administrative body desires it to become permanent after sine die adjournment of the next regular session of the general assembly. The general assembly hereby declares that it is the state policy that emergencies are held to a minimum. Within sixty (60) days after an emergency regulation is filed under this subsection, the subcommittee shall review the emergency regulation and may recommend that the governor revoke such regulation. The subcommittee and the interim committee with appropriate jurisdiction may also review an emergency regulation at any time while it is in effect and may recommend that the governor revoke such regulation.

(3) Each proposed or revised regulation submitted to the legislative research commission shall include a citation of the authority pursuant to which it, or any part of it, was adopted, a brief statement which sets forth with particularity the necessity for issuing the regulation, a summary of the functions sought to be implemented by the proposed or revised regulation, and the place and manner in which interested persons may present their views. A violation of this subsection shall constitute reason for rejection of the proposed regulations.

(4) If within thirty (30) days following publication of the text of a proposed regulation a request is received by the administrative body from a person having an interest in the subject matter of the regulation to offer comment upon the proposed regulation, the administrative body shall fix a date, time and place for a hearing, open to the public, on the proposed regulation. Every hearing shall be conducted in such a manner so as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so; provided, however, every hearing shall be conducted so as to be completed within sixty (60) days from the date the proposed regulation was first published in the administrative register. No transcript need be taken of the hearing unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. Following the hearing the administrative body shall give affirmative consideration to all written and oral statements submitted regarding the proposed regulation. The administrative body shall then forward to the legislative research commission within ninety (90) days of the hearing, a copy of the regulation as amended, if amended as a result of the hearing a statement indicating what changes have been made in the original wording, and a statement summarizing the comments submitted to the administrative body at the hearing. If the regulation is amended as a result of the hearing, the full text shall be reprinted in the administrative register prior to subcommittee consideration.

(5) The legislative research commission shall cause to be endorsed on the original and duplicate copies of each regulation *and regulatory impact analysis attached thereto, as required by this Act,* submitted the time and date of the filing thereof and shall maintain a file of such regulations *and regulatory impact analysis* for public inspection, with suitable indexes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) Prior to submitting all regulations, except as provided in KRS 13.085, subsection (2), every administrative body shall prepare and submit to the legislative research commission an original and five (5) duplicate copies of a regulatory impact analysis for every proposed regulation. The regulatory impact analysis shall include, but not be limited to, the following information:

(a) The type and number of individuals, businesses, organizations and state and local governments affected by the regulation; and

(b) The direct and indirect costs or savings, as well as, the compliance, reporting and paperwork requirements of the regulation on those affected for the first year following the implementation of the regulation, and the continuing costs or savings for the second year with any factors which might increase or decrease the cost of the regulation, including the effect on competition being noted; and

(c) The direct and indirect costs or savings and paperwork requirements to the promulgating administrative body for the administration and enforcement of the regulation for the first year following the implementation of the regulation, and the continuing costs or savings for the second year with any factors which might increase or decrease the cost of the regulation being noted; and

(d) An assessment of any anticipated effect on state and local revenues; and

(e) An assessment of alternative methods for accomplishing the purpose of the regulation and the reasons why they were rejected in favor of the proposed regulation; and

(f) A written statement identifying any statute, rule, regulation or governmental policy which the proposed regulation may be in conflict with, overlap or duplicate; and a written statement for the necessity to promulgate the regulation if conflict, overlapping or duplication is found to exist. The administrative body shall also indicate whether or not any effort has been made to harmonize the proposed regulation with any statute, rule, regulation or governmental policy which it has been found to be in conflict with.

(2) The legislative research commission shall review all regulatory impact analyses submitted by all administrative bodies, and prepare a written analysis thereof and of the proposed regulation. The legislative research commission may require any administrative body to submit background data upon which subsections (1)(a) through (1)(f) are based and an explanation of how the data was gathered.

(3) The administrative regulation review subcommittee may use the regulatory impact analysis and staff analysis attached thereto, when determining if the regulation carries out the legislative intent of the statute under which it was promulgated, as required by KRS 13.087, subsection (4).

Section 4. KRS 13.096 is amended to read as follows:

(1) The legislative research commission shall compile, publish and distribute the regulations filed by administrative bodies in a manner which will accommodate changes in regulations and allow distribution of any topical or organizational part of the regulations as well as all of them. This compilation shall be known as the Kentucky administrative regulations service and shall constitute the official state publication of administrative regulations.

(2) There is hereby created a publication known as "The Administrative Register" to be printed and published on a monthly basis by the legislative research commission for the purpose of giving notice of proposed regulations filed in accordance with KRS 13.085. Every regulation forwarded to the legislative research commission shall have its complete text printed in the administrative register along with the accompanying statements required by KRS 13.085.

(3) The commission shall prescribe reasonable fees for subscription to the Kentucky administrative regulations service and the administrative register. All fees paid to the commission for these publications shall be placed in the state treasury to the credit of a revolving, trust or agency fund account, for use by the legislative research commission in carrying out the provisions of this section.

(4) Copies of regulatory impact analyses shall be made available to any interested party upon request to the legislative research commission. The commission may prescribe reasonable fees for duplication services and all fees paid to the commission for duplication services shall be placed in the state treasury to the credit of a revolving trust or agency fund account, for use by the legislative research commission in carrying out the provisions of this subsection.

HB 98, AN ACT relating to hazardous duty retirement for probation and parole officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, *(including the position of probation and parole officer),* active fire suppression or prevention, or other positions, including but not limited to pilots of the department of transportation, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning.

(2) Each employer shall certify to the board in the manner prescribed by the board, the names of all employes deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employes whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employe determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employes determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. Such rate will be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) In the event the employer participated in the system prior to electing hazardous duty coverage, then said employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. Should the employer elect not to make the additional payment, then the employe may make the lump sum payment in his own behalf. If neither the employer nor employe makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the state police retirement system as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employe's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employe under this section, the board shall determine the benefits payable under KRS 61.510 to 61.692 or 78.510 to 78.852 or 16.510 to 16.652.

SECTION 2. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

The position of probation and parole officer shall be considered as a hazardous duty position within the meaning of KRS 61.592 and the department shall make the employer contributions required for participation in the hazardous duty retirement program.

HB 257, AN ACT relating to death benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every full-time police officer, sheriff, or deputy sheriff, who works not less than forty (40) hours per week, elected to office or employed by any county or city or by the state; "fire fighter" means every full-time fire fighter who works not less than forty (40) hours per week, employed by any county or city or by the state.

(2) The spouse of any police officer, sheriff, deputy sheriff or fire fighter whose death occurs as a direct result of an act in the line of duty shall receive a lump sum payment of twenty-five thousand dollars ($25,000), which sum shall be paid by the state treasurer from the general expenditure fund of the state treasury. If there is no surviving spouse, the payment shall be made to the surviving children. *If there are no surviving children, the payment shall be made to the estate of the deceased.*

(3) The benefits payable under this section are in addition to any benefits now or hereafter prescribed under any police, sheriff or fire fighter's retirement or benefit fund established by the state, county, or any municipality.

Section 2. The provisions of this Act shall be retroactive to October 15, 1979.

Committee Amendment No. 1 to **HB 257** is as follows:

Amend printed copy of **HB 257** on page 1, line 19, by inserting after "*deceased.*" the following: "*In the case of a retroactive payment pursuant to this ACT, the payment shall be that amount specified by this section at the time the death occurred.*"

HB 308, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the state police retirement system created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky retirement systems;

(3) "Employer" or "state police" means the bureau of state police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employe subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employe contributions deducted except as otherwise provided in KRS 16.541;

(5) "Prior service" means the number of years and completed months of employment as an employe prior to July 1, 1958, for which creditable compensation was paid to the employe by the Commonwealth;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(8) "Creditable compensation" means all salary and wages paid to the employe as a result of services performed for the employer, living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other such items as are determined by the board shall be excluded;

(9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during such five (5) year period multiplied by twelve (12); such five (5) years may be fractional, and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: one thousand nine hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any *former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system* [~~member entitled to receive benefits under the provisions of KRS 16.510 to 16.652~~];

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of such actuarial tables as are adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employe in accordance with the personnel policy of the bureau of state police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the state police retirement system or a member of the county employes retirement system covered by this section with twenty-five (25) or more years of service credit at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday. Members of the Kentucky employes retirement system covered by this section who have completed thirty (30) years of service, at least fifteen (15) of which are current, may declare their "normal retirement date" to be some date prior to their fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or partial disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student, as defined in the federal social security act, who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Disability ratio" means that percentage determined by the board as being applicable to the degree of disability suffered or incurred by a member;

(20) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of duty;

(21) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has twenty (20) years of service;

(22) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535; and

(23) "Regular full-time officers" means the occupants of positions as set forth in KRS chapter 18 as provisional full-time, probationary full-time and permanent full-time.

Section 2. KRS 16.586 is amended to read as follows:

(1) Partial disability as used in KRS 16.510 to 16.652 shall mean such disability as results in *a* member's incapacity to continue as an employe of the employer, and which disability has incapacitated such member and is the result of bodily injury or disease. The board shall have full power and exclusive authority to determine the existence of partial disability; it shall establish by appropriate findings utilizing consistent procedures, including services of *medical examiners pursuant to KRS 61.665* [~~an examiner~~], the disability ratio applicable to such disabled member.

(2) Notwithstanding the provisions of subsection (1) of this section, no injury shall be deemed to be disability if such injury results directly or indirectly from:

(a) Injury intentionally self-inflicted while sane or insane;

(b) Injury or disease resulting from military service; or

(c) Disease suffered or contracted prior to date of employment as an employe of the employer.

(3) In the event the board determines that total and permanent disability of a member receiving benefits under KRS 16.581 has ceased in accordance with the definition of disability in KRS 16.580, then said member shall be deemed to have a partial disability, provided the conditions set out in subsection (1) of this section apply to the member.

Section 3. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky employes retirement system as follows:

(1) Cessation of membership, as provided for by KRS 61.535;
(2) Medical examiners, as provided for by KRS 61.665;
(3) Actuarial bases, as provided for by KRS 61.670;
(4) Duties of the employer, as provided for by KRS 61.675;
(5) Exemption of benefits of the system for taxation as provided for by KRS 61.690;
(6) Retirement allowance increase as provided for by KRS 61.691;
(7) Calculation of retirement allowance as provided for by KRS 61.595(3) and (4);
(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;
(9) Year of service credit, as provided for by KRS 61.545;
(10) Refund of contributions, death after retirement, as provided by KRS 61.630;
(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;
(12) Credit for service prior to membership date, as provided for by KRS 61.526;
(13) Transfer of dormant accounts, as provided for by KRS 61.626;
(14) Member's account, confidential, as provided for by KRS 61.661;
(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
(16) Correction of errors in records, as provided for by KRS 61.685;
(17) Maximum disability benefit, as provided for by KRS 61.607;
(18) Retirement application procedure, effective retirement date as provided for by KRS 61.590;
(19) Employer contributions as provided for by KRS 61.565;
(20) Reinstatement of lost service credit as provided for by KRS 61.552;
(21) Reciprocal arrangement between systems, as provided by KRS 61.680; [~~and~~]
(22) Refund of contributions, conditions, as provided by KRS 61.625*;*
(23) Hospital and medical insurance plan, as provided by KRS 61.702; and
(24) Death benefit, as provided by KRS 61.705.

Section 4. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.692, unless the context otherwise requires:

(1) "System" means the Kentucky employes retirement system created by KRS 61.515 to 61.692;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.692, the members, officers and employes of the general assembly and any other body, entity or instrumentality designated by executive order by the governor, shall be deemed to be a department notwithstanding whether said body, entity or instrumentality is an integral part of state government;

(4) "Examiner" means the medical [~~examiner or~~] examiners as provided in KRS 61.665;

(5) "Employe" means the members, officers and employes of the general assembly and every regular full-time appointed or elective officer or employe of a participating department, including the department of military affairs. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 61.515 to 61.692;

(6) "Employer" means a department or any authority of such department having the power to appoint or select an employe in such department, including the senate and the house of representatives;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1956, (except that for members, officers and employes of the general assembly this date shall be January 1, 1960) for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7) and KRS 61.555, and each member, officer and employe of the general assembly shall be credited with a month of current service for each month he occupies such position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1956, for which creditable compensation was paid; except that, for members, officers and employes of the general assembly this date shall be January 1, 1960. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer and employe of the general assembly shall be credited with a month of prior service for each month he occupied such position during a legislative biennium prior to January 1, 1960;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, except that for members of the general assembly it shall mean an assumed salary of $18,000 per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers and employes of the general assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) month period immediately preceding the member's effective retirement date except for members of the general assembly the "final rate of pay" shall be the creditable compensation. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate:[~~;~~] 1,950 hours, 260 days, 52 weeks, 12 months, one year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in cases of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 61.515 to 61.692;

(19) "Fiscal year" of the system means the twelve (12) months from July 1, through the following June 30;

(20) "Officers and employes of the general assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the general assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions" as used in subsection (5) of this section shall mean all positions as set forth in KRS chapter 18 as provisional full-time, probationary full-time and permanent full-time, all

positions of local health departments meeting the definitions as set forth in KRS chapter 18 of provisional full-time, probationary full-time and permanent full-time and all other positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, *the period of time shall not exceed six (6) months in any event;*

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed six (6) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employe for current service obtained under KRS 61.552. Such amount shall be determined using the same formula adopted by the board for purchase of service under KRS *61.552(8)* [~~61.552(7)~~] except the employe shall pay a single payment of fifty percent (50%) of the total cost of such service with no cost to the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434; [~~and~~]

(23) "Parted employer" means a department, portion of a department, board or agency (such as Outwood Hospital and School) which previously participated in the system, but due to lease, or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore, no longer participating in the system*; and*

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system.

Section 5. KRS 61.541 is amended to read as follows:

(1) The creditable compensation of fee officers who receive salary or fees or maintenance or other perquisites as a result of their official duties is the gross amount thus received decreased by the cost of salary paid deputies and clerks and the cost of office supplies and other official expenses.

(2) Each such officer shall estimate the amount of creditable compensation he expects to receive during a calendar year and shall report and pay employe contributions monthly on one-twelfth (1/12) of such estimated creditable compensation.

(3) On or before April 30 of each fiscal year, each such officer shall file with the retirement office a report of his actual creditable compensation during the previous calendar year. This report shall be in the form of an affidavit and shall be used by the retirement system as a basis of adjusting the individual's account in the retirement system.

(4) The retirement office shall make a calculation of the amount of the additional contributions due or the excess contributions paid during the previous calendar year. In the event additional contributions are due, both the officer and employer shall pay such contributions on or before June 30 of the year in which the recalculation was made. In the event the recalculation shows that excess contributions have been paid both the officer and the employer shall be reimbursed the amount of overpayment.

(5) *Refund of contributions or* retirement allowances which might otherwise be due such an officer shall be withheld until the provisions of this section have been fully met.

Section 6. KRS 61.546 is amended to read as follows:

(1) Any member of the Kentucky employes retirement system or the state police retirement system who is employed by the Commonwealth *and whose retirement date is August 1980 or thereafter,* shall[~~, on retirement,~~] receive credit for unused sick leave accrued *while contributing to the retirement system from which the retirement benefit is to be paid* [~~in the state service~~] in accordance with this section.

(2) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring *member's* [~~employe's~~] unused, accumulated sick leave balance to the board of trustees of the Kentucky retirement systems. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.510 to 16.552 or KRS 61.510 to 61.702. Such sick leave balance shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.702.

[~~(3) The board shall compute the cost to the retirement system of the sick leave credit of each retiring member and shall bill the last employer of the retiring employe for such cost. The employer shall pay the cost of such service credit by interaccount charge.~~]

Section 7. KRS 61.552 is amended to read as follows:

(1) Any employe of a department participating in the Kentucky employes retirement system, or any employe of an agency participating in the county employes retirement system, or any member of the state police retirement system, or any active contributing member of the teachers' retirement system or a contributing member of the judicial retirement *plan or legislators retirement plan* [~~system~~] or an employe of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the teachers' retirement system and provided further that KRS 21.460 shall govern with respect to regaining credit in the judicial retirement *plan or legislators retirement plan* [~~system~~]. Such payment including interest as determined by the board shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member.

(2) Any employe of a county participating in the county employes retirement system or any former county employe who is an employe of a participating department in the Kentucky employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, [~~or~~] judicial retirement *plan or legislators retirement plan* [~~system~~] who did not elect membership in the county employes retirement system as provided in subsection (2) of KRS 78.540 may obtain credit in the county employes retirement system for prior service and for current service by paying to the county employes retirement system a delayed contribution payment for the service he would have received had he elected membership.

(3) Any employe of a participating department or any former state employe who is an employe of a county participating in the county employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, [~~or~~] judicial retirement *plan or legislators retirement plan* [~~system~~] who did not elect membership in the Kentucky employes retirement system as provided in subsection (2) of KRS 61.525 may obtain credit in the Kentucky employes retirement system for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership.

(4) An employe of a participating department which did not participate in the system effective July 1, 1956, or any former state employe who is an employe of a county participating in the county employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, [~~or~~] judicial retirement *plan or legislators retirement plan* [~~system~~] may obtain credit in the Kentucky employes retirement system for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956.

(5) An employe of a county participating in the county employes retirement system which did not participate in the system effective July 1, 1958, or any former county employe who is an employe of a department participating in the Kentucky employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, [~~or~~] judicial retirement *plan or legislators retirement plan* [~~system~~] may obtain credit in the county employes retirement system for current service between July 1, 1958, and the effective date of participation of his county by paying to the county employes retirement system a delayed contribution payment for the services he would have received had his county participated on July 1, 1958.

(6) Effective January 1, 1975, service credit obtained under subsections (1) to (5) of this section shall be disallowed and the recontribution of refund including interest as determined by the board and the delayed contribution payment, if any, shall be paid to the member, upon request, or in the event of his death to his properly designated beneficiary if the member does not obtain for service performed six (6) months current service credit in either the Kentucky employes retirement system, county employes retirement system, state police retirement system, teachers' retirement system, judicial retirement *plan or legislators retirement plan* [~~system~~], or as an employe of a parted employer.

(7) Any employe of a county participating in the county *employes* [~~employes'~~] retirement system, or any employe of a department participating in the Kentucky *employes* [~~employes'~~] retirement system, who has obtained for service performed six (6) months current service credit in either retirement system, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by an advance funded retirement program in which he could vest during his period of employment, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the county *employes* [~~employes'~~] retirement system or the Kentucky *employes* [~~employes'~~] retirement system for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county *employes* [~~employes'~~] or Kentucky *employes* [~~employes'~~] retirement system.

(8) (a) Effective August 1, 1980, any county participating in the county employes retirement system may purchase current service, between July 1, 1958 and participation date of the county, for present employes of the county who have obtained coverage under KRS 78.540*(2)*.

(b) Effective July 1, 1973, any department participating in the Kentucky employes retirement system may purchase current service between July 1, 1956 and participation date of the department, for present employes of the department who were employes on the participation date of the department and elected coverage under KRS 61.525(2).

(c) [~~Effective August 1, 1980, any county participating in the county employes retirement system or employe or former employe may purchase current service between July 1, 1958 and the participation date of the county for former employes who were employed by the county on or after July 1, 1958 but before the county's participation date, KRS 78.540 notwithstanding.~~

~~(d)~~] Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period.

(d)[~~(e)~~] If a county or department elects the provisions of this subsection any present employe who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsections (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or KRS 78.640.

(e)[~~(f)~~] Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(9) Interest paid by a member of the Kentucky employes retirement system, county employes retirement system, or state police retirement system under this section or other similar statutes under KRS 16.505 to 16.652 or 61.510 to 61.692 or 78.510 to 78.852 prior to June 19, 1976 shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

Section 8. KRS 61.559 is amended to read as follows:

(1) In lieu of any other benefits due under KRS 61.510 to *61.705* [~~61.692~~] and KRS 78.520 to 78.852 a member who has attained the age of sixty-five (65) *and who has obtained at least one (1) month of service credit but no more than forty-seven (47) months of service,* may elect to receive an annual retirement allowance payable monthly or less frequently as determined by the board which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

(2) A member sixty-five (65) years of age or older is eligible for a retirement allowance determined under KRS 61.595 provided such member has forty-eight (48) months of service, at least twelve (12) of which are current service, or a retirement allowance determined under KRS 61.595 prior to age sixty-five (65) provided:

(a) The member has attained age fifty-five (55) and has service of sixty (60) months at least twelve (12) of which are current service; or

(b) The member is a retired member of the state police retirement system, has attained age fifty-five (55), and has service of forty-eight (48) months at least twelve (12) of which are current service; or

(c) The member has thirty (30) or more years of service at least fifteen (15) of which are current service; or

(d) The member has attained age fifty-five (55) and was an employe of a parted employer at the time his employer became ineligible to continue participation in the system, and his service in the system when added to his service with the parted employer subsequent to his separation from state government equals the early retirement service eligibility requirement of the system on the date his employer became ineligible to continue participation in the system.

Section 9. KRS 61.625 is amended to read as follows:

If a member's employment has been terminated for a period of thirty (30) consecutive days or if the member has remained in a layoff, seasonal, emergency, temporary or part-time position for a period of thirty (30) consecutive days, he, if living, if not, his designated beneficiary, shall be paid, on demand, but not later than thirty (30) days thereafter, *provided said member is not reemployed in the same system at the time of such demand,* the amount of his accumulated contributions reduced by the amount of any retirement allowances previously received. Payments made under this section shall be in lieu of any other benefits due for such period of service under any of the provisions of KRS 16.505 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852, unless such period of service is regained as provided under KRS 61.552.

Section 10. KRS 61.640 is amended to read as follows:

(1) If an employe *who is of normal retirement age or greater is in the active employment of a participating agency or on official leave from such agency, provided such leave has been granted in accordance with the policy of the state department of personnel, with service credit of forty-eight (48) months or more, at least twelve (12) of which are current service, or if an employe of less than normal retirement age is* in the active employment of a participating agency or on official leave from such agency, provided such leave has been granted in accordance with the policy of the state department of personnel, with service credit of sixty (60) months, at least twelve (12) of which are current service, dies at any time before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary, then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2) or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(2) If a member not in the active employment of a participating agency, nor on official leave from such agency, with the service and age prescribed in KRS *61.559(2)* [~~61.559(1)~~] dies before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary, then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had he chosen benefits payable under KRS 61.635(2) or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(3) If a member, not in the active employment of a participating agency nor on official leave from such agency with twelve (12) or more years of service credit at least one (1) of which is current service, dies at any time before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2) or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(4) An alternative calculation of benefits payable to the beneficiary under subsection (1) or (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty per cent (50%) factor as provided for in KRS 61.635(4) then reduced by fifty per cent (50%), and the actuarial equivalent payable for one hundred twenty (120) months certain shall be determined.

(5) The highest monthly benefit determined under subsection (1) or (2) or (3) or (4) of this section for a life annuity or for payments for one hundred twenty (120) months certain shall be tendered to the beneficiary.

Section 11. KRS 61.665 is amended to read as follows:

(1) The board shall[~~, from time to time,~~] employ *at least (3)* [~~one (1) or more~~] physicians, practicing in the state and not members of the system, upon such terms and conditions as it may prescribe, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.692 and 16.505 to 16.652 and 78.510 to 78.852 or by the board, and to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to such person under KRS 61.510 to 61.652 and 16.505 to 16.692 and 78.510 to 78.852, and shall report in writing to the board his conclusions and recommendations upon all matters referred to him.

(2) (a) Each employe requesting disability retirement shall furnish the retirement office with the names and addresses of *two (2) or more* physicians who have the necessary information to report the employe's physical and mental condition.

(b) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employe's physicians with the request that the documents be filed with the board.

(c) The cost of a medical examination shall be paid by the employe. The *physicians* [~~physician~~] shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office.

(d) The board shall select *two (2) medical examiners* [~~a medical examiner~~] who shall evaluate the medical evidence submitted by the employe's physician. The *examiners* [~~examiner~~] shall recommend that disability retirement be approved, or that disability retirement be denied. *A third medical examiner shall review* *the medical evidence when necessary to provide a consensus if the recommendations of the first two (2) medical examiners do not agree.*

(e) If the medical *examiners recommend* [~~examiner recommends~~] that the employe be approved for disability retirement, the general manager shall proceed to make retirement payments in accordance with the retirement plan selected by the employe.

(f) If the medical *examiners recommend* [~~examiner recommends~~] that the employe be denied disability retirement, the general manager shall notify the board and the employe of this recommendation. The employe shall have the opportunity of furnishing additional medical evidence of total and permanent disability and any such additional evidence shall be submitted to the medical *examiners* [~~examiner~~].

(g) The medical *examiners* [~~examiner~~] shall be paid a reasonable amount by the retirement system for each case evaluated.

(3) Notwithstanding the foregoing provisions of this section the board is hereby authorized to pay for one (1) or more medical examinations requested by the *examiners* [~~examiner~~] for the purpose of providing medical information deemed necessary by the *examiners* [~~examiner~~].

Section 12. KRS 61.691 is amended to read as follows:

(1) Effective July 1, *1982* [~~1980 and July 1, 1981~~], a recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.510 to *61.705* [~~61.692~~] and 78.510 to 78.852 shall have his retirement allowance increased *based upon the number of months elapsed since the effective retirement date as follows:* [~~by six percent (6%).~~]

Months Retired	*Percent Increase*
1- 12	*1 %*
13- 24	*2 %*
25- 36	*3 %*
37- 48	*4 %*
49- 60	*5 %*
61- 72	*6 ¼%*
73- 84	*7 ½%*
85- 96	*8 ¾%*
97-108	*10 %*
109-120	*11 ½%*
121-132	*13 %*
133-144	*14 ½%*
145 or more	*15 %*

(2) *Effective July 1, 1983, a recipient of a retirement allowance under KRS 16.510 to 16.652 or 61.510 to 61.705 or 78.510 to 78.852 shall have his retirement allowance increased based upon the number of months elapsed since the effective retirement date as follows:*

Months Retired	*Percent Increase*
1- 12	*½%*
13- 24	*1 %*
25- 36	*1 ½%*
37- 48	*2 %*
49- 60	*2 ½%*
61- 72	*3 ¼%*
73- 84	*4 %*
85- 96	*4 ¾%*
97-108	*5 ½%*
109-120	*6 ½%*
121-132	*7 ½%*
133-144	*8 ½%*
145 or more	*9 ½%*

(3) A reemployed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving said retirement allowance at the time such increase under this section is effective.

Section 13. KRS 61.702 is amended to read as follows:

(1) The board of trustees of Kentucky retirement systems shall arrange by appropriate contract or on a self insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky employes retirement system, county employes retirement system

and state police retirement system. The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems, who are under age sixty-five (65), to be included in the state employes group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employes having the same medicare hospital and medical insurance eligibility status.

(2) Each employer participating in the state police retirement system as provided for in KRS 16.510 to 16.652, and each employer participating in the county employes retirement system as provided in KRS 78.510 to 78.852 and each employer participating in the Kentucky employes retirement system as provided for in KRS 61.510 to 61.692 shall contribute to the Kentucky retirement systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) The premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, a state police retirement system member or a hazardous position employe, as defined in KRS 61.592, who becomes disabled in line of duty, as defined in KRS 16.505(20), shall have his premium paid in full as if he had two hundred forty (240) months or more of service. *Further, a state police retirement system member or a hazardous position employe as defined in KRS 61.592, who is killed in the line of duty, as defined in KRS 16.505(20), shall have the premium for the beneficiary and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit.* "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems except service added to determine disability benefits shall not be counted as "months of service."

(4) Group rates under the hospital and medical insurance plan shall be made available to the spouse and dependents of a recipient who was a former member of one (1) or more of the three (3) retirement systems, and to the beneficiary where such beneficiary is receiving a retirement allowance, provided the premium for the spouse, dependent or beneficiary hospital and medical insurance is paid by payroll deduction from such retirement allowance or by another method. The other provisions of this section notwithstanding, the insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient who was a member of the general assembly *and is receiving a retirement allowance based on general assembly service*, or the beneficiary of such a member, as the fund pays or paid for the member.

(5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

Section 14. KRS 61.705 is amended to read as follows:

Upon the death of a retired member of the Kentucky employes retirement system, county employes retirement system, or state police retirement system [~~who received a retirement allowance for service or disability retirement,~~] who had a minimum of forty-eight (48) months of service, a death benefit of two thousand *five hundred* dollars *($2,500)* [~~($2,000)~~] shall be paid to the *retired* member's estate. Application for the death benefit made to the Kentucky retirement systems shall include acceptable evidence of death and of the eligibility of the applicant to act on the deceased *retired* member's behalf.

Section 15. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the county employes retirement system;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county or political subdivision or instrumentality, including school boards, or urban county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5) "Examiner" means the medical [~~examiner or~~] examiners as provided in KRS 61.665;

(6) "Employe" means every regular full-time appointed or elective officer or employe of a participating county. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employe to office or employment in such county;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1958, for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7), 61.555 and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1958, for which creditable compensation was paid. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five-year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five-year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) months period immediately preceding the member's effective retirement date. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: 1,950 hours, 260 days, 52 weeks, 12 months, one year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency to file reports with the county employes retirement system;

(21) "Regular full-time positions" as used in subsection (6) of this section shall mean all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, *the period of time shall not exceed six (6) months in any event*;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are non-renewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty, except in case of school bus drivers for school boards, in which event the school term average shall be eighty (80) hours of work per month in the performance of duty; [~~and~~]

(22) "Alternate participation plan" means a new method of participation in the system as provided for by KRS 78.530(3) which shall become effective July 1, 1973*; and*

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the system.

Section 16. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employes of a participating county after the date such county first participates in the system; and

(2) All persons who are employes of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following such county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.510 to 78.852.

[~~(3) Notwithstanding any other provisions of this section, membership in the system shall not include those employes of a county who are members of some other state, county or local retirement system, supported in whole or in part by public funds.~~]

Section 17. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky employes retirement system as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;
(2) Statement of member and employer, as provided for by KRS 61.540;
(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;
(4) Service credit determination, as provided for by KRS 61.545;
(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
(6) Service credit, armed forces, as provided for by KRS 61.555;
(7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;
(8) Retirement allowance increases as provided for by KRS 61.691;
(9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
(10) Disability retirement, conditions, as provided for by KRS 61.600;
(11) Disability retirement, allowance, as provided for by KRS 61.605;
(12) Medical examination after disability retirement, as provided for by KRS 61.610;
(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;
(14) Determination of retirement allowance as provided for by KRS 61.595;
(15) Refund of contributions, conditions, as provided for by KRS 61.625;
(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;
(17) Optional retirement plans as provided for by KRS 61.635;
(18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;
(19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;
(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;
(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;
(22) Medical examiners, as provided for by KRS 61.665;
(23) Actuarial bases, as provided for by KRS 61.670;
(24) Employer's administrative duties, as provided for by KRS 61.675;
(25) Correction of errors in records, as provided for by KRS 61.685;
(26) Exemptions of retirement allowances, as provided for by KRS 61.690;
(27) Credit for service prior to membership date, as provided for by KRS 61.526;
(28) Creditable compensation of fee officers, as provided for by KRS 61.541;
(29) Transfer of dormant accounts, as provided for by KRS 61.626;
(30) Members' account, confidential, as provided for by KRS 61.661;
(31) Retirement plan for employes determined to be in a hazardous position, as provided for by KRS 61.592;
(32) Maximum disability benefit, as provided for by KRS 61.607;
(33) Consent of employes to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;
(34) Employer contributions, as provided for by KRS 61.565; [~~and~~]
(35) Recontribution and delayed contribution payments, as provided for by KRS 61.552*;*
(36) Hospital and medical insurance plan, as provided by KRS 61.702; and
(37) Death benefit, as provided by KRS 61.705.

Section 18. KRS 78.615 is amended to read as follows:

(1) Employe contributions shall be deducted each payroll period from the creditable compensation of each employe of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless such person did not elect to become a member as provided by subsection (2) of KRS 78.540. Service credit will be allowed for each month such contributions are deducted during a fiscal or calendar year, provided the employe receives creditable compensation for an average of one hundred (100) hours or more of work per month, *except in the case of school bus drivers for school boards in which event the school term average shall be eighty (80) hours of work per month.* If the average number of hours of work is less than one hundred (100) hours per month, *or in the case of school bus drivers eighty (80) hours per month,* the employe shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work, *or in the case of school bus drivers eighty (80) hours of work.*

(2) Employe contributions shall not be deducted from the creditable compensation of any employe while he is seasonal, emergency, temporary or part-time. No service credit will be earned.

(3) Contributions shall not be made and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state department of personnel for approved educational leave, who is receiving 75% or more of full salary shall receive service credit and shall pay member contributions in accordance with KRS 78.610 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member the member and employer contributions paid during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

Section 19. KRS 78.625 is amended to read as follows:

(1) The treasurer of the county shall, by the tenth day of each month, forward to the board an amount equal to the aggregate amount of the employes' contributions deducted during the previous month in accordance with KRS 78.610 and the aggregate amount of the employer's contributions due for the previous month in accordance with KRS 61.565.

(2) The treasurer or some other person designated by the county shall forward a record of all such contributions to the board on such forms as the board may prescribe.

(3) Delinquent contributions, with interest at the rate of *seven and one-half percent (7 ½%)* [~~six per cent (6%)~~] per year compounded annually, may be recovered by action in the Franklin Circuit Court against the county liable therefore or may at the request of the board, be deducted from any other moneys payable to such county by any department or agency of the state.

(4) In the event an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions have been made.

HB 426, AN ACT relating to the acts and journals of the general assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 27A.210 is amended to read as follows:

(1) The following books and records shall be maintained by the state law library:

(a) All copies of volumes 1 to 77 of the Kentucky reports;

(b) Twenty-five (25) copies each of volumes 78 to 314 of the Kentucky reports;

(c) *Two (2)* [~~Six (6)~~] sets [~~each~~] of all future publications of the journals and *nine (9) sets of the* acts of the general assembly; and

(d) Two (2) sets of the official Kentucky statute publications.

(2) The state law librarian shall arrange with the proper official of each state of the United States and of the United States and its territories for the exchanges of the statutes and the acts of the legislatures of each state and of congress. When an exchange is agreed upon, the state law librarian shall send to such officer one (1) copy of the acts of the general assembly and one set of statutes as soon as they are ready for distribution.

(3) Copies of acts, statutes and other materials required to be kept by the state law librarian and to be made available for exchange shall be furnished to the state law librarian, without charge, by the agency or official responsible for the distribution of same.

(4) The state law librarian may arrange for the distribution or disposal of materials held by the state law library upon concurrence of the administrative assistant to the chief justice responsible for law library operations.

(5) The state law librarian may acquire, by purchase, exchange, donation, or otherwise, such books and other materials as he deems suitable for the holdings of the state law library.

(6) The state law librarian may, with the concurrence of the administrative assistant to the chief justice responsible for law library operations, sell such surplus books in the state law library as have a market value, collect the funds received therefor, and deposit them in the "state law library surplus books fund," which is hereby created in the state treasury. The "state law library surplus books fund" shall not lapse. The state law librarian may reinvest such funds in other books and materials that he deems suitable for the holdings of the state law library. The provisions of KRS 45.360(7) concerning the powers and duties of the executive department for finance and administration shall not apply to sales made by the state law librarian hereunder.

(7) The state law librarian may, with the concurrence of the administrative assistant to the chief justice responsible for law library operations, offer and provide technical and other assistance to county law libraries and to other publicly funded law libraries.

(8) The state law librarian may, upon the request of a county law library or other publicly funded law library and with the concurrence of the administrative assistant to the chief justice responsible for law library operations, purchase books, supplies, or other materials for such library. The funds used for such purposes shall be those of the county law library or other publicly funded law library.

(9) The state law librarian shall issue, with the concurrence of the administrative assistant to the chief justice responsible for law library operations, regulations for the operation, management, and lending policy of the state law library.

Section 2. KRS 57.300 is amended to read as follows:

The following officers and libraries are entitled free of charge to copies of the acts of the general assembly, as they are published: members of the general assembly that passed the acts, the governor, the state treasurer, secretary of state, auditor of public accounts, justices and judges of the Court of Justice, Commonwealth's attorneys, *and* county attorneys, [~~and county judges/executive,~~] one (1) copy each; the attorney general, four (4) copies; the legislative research commission, for the use of the senate, *five (5)* [~~ten (10)~~] copies, and for the use of the house of representatives, *ten (10)* [~~thirty (30)~~] copies; the state law library, *nine (9)* [~~six (6)~~] copies; the judge of each federal court for Kentucky, one (1) copy; the United States Court of Appeals at Cincinnati, one (1) copy; the Supreme Court of the United States, *one (1) copy* [~~three (3) copies; the secretary of state for the United States, two (2) copies~~]; the law library of each county, *one (1) copy* [~~two (2) copies~~]; the law library of the University of Kentucky, three (3) copies; the law library of the University of Louisville, *three (3)* [~~two (2)~~] copies; the Library of Congress, *five (5)* [~~seven (7)~~] copies; the Kentucky Historical Society, *one (1) copy* [~~two (2) copies~~]; *the department of library and archives, two (2) copies;* and each of the state universities in Kentucky, two (2) copies.

Section 3. KRS 57.310 is amended to read as follows:

The following officers and libraries are entitled free of charge to copies of the journals of each house of the general assembly, as they are published: Each member of the general assembly, one (1) copy for the session in which he served; the law library of each county, one (1) copy; the governor and secretary of state, one (1) copy each; the state law library, *two (2)* [~~six (6)~~] copies; the legislative research commission, five (5) copies for the use of the senate and *five (5)* [~~ten (10)~~] copies for the use of the house of representatives; the law library of the University of Kentucky, the law library of the University of Louisville, the Library of Congress, the Kentucky Historical Society, *the department of library and archives,* and each of the state universities in Kentucky [~~and Kentucky State College~~], two (2) copies each.

SB 32, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.025 is amended to read as follows:

Recognizing the necessity for grouping certain related functions of departments and administrative bodies in order to promote greater economy, efficiency and improved administration in establishing more effective organizational patterns and also recognizing the fact that such groupings and revisions in the general organizational structure need to be made as rapidly as possible when administrative functions change and the needs of government dictate, the governor may:

(1) Establish, abolish or alter the organization of any agency or statutory administrative department, including changing the name of a department to explain more clearly the functions performed by it. Also included in this authority shall be permission to transfer functions, personnel, funds, equipment, facilities and records from one (1) department to another. Reorganization made under this section shall be set forth in an executive order, signed by the governor and filed in the office of the secretary of state, which shall explain

the changes made and designate the functions, personnel, funds, equipment, facilities and records, as applicable, to be transferred.

(2) The governor shall recommend legislation to the next following session of the general assembly to confirm reorganizations effected under the provisions of this section. *The subject matter of each executive order relating to reorganization shall be presented to the general assembly in a separate bill.*

(3)[~~(2)~~] Appoint advisory or study committees to assist and recommend to him on problems concerning the various functions and departments of state government. Members of such committees shall serve without pay, but shall be reimbursed for necessary and actual expenses.

Section 2. Whereas, there have been a great number of executive orders relating to the reorganization of state government that cannot be adequately reviewed by the General Assembly unless the subject matter of each reorganization executive order is presented to the General Assembly separately, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Appropriations and Revenue reported **HB 342,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Calendar

HB 247, HB 283, HB 304, HB 306, HB 340, HR 24, HB 161, HB 219, HB 95, HB 203, HB 322, HB 191, HB 328, HB 329, HB 335, HB 204, HB 32, HB 129, HB 147, SB 47, HB 253, HB 319, and **HB 383** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

SB 57, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Floor Amendment No. 1 to **SB 57.**

On the roll call the vote was yeas 21-Barrows, Blevins, Brinkley, Bruce, Caldwell, Crupper, Cyrus, Dawahare, Endicott, Farrow, Gray, Heleringer, Holbrook, Lile, Little, Maggard, Noe, Perkins, Stone, Stumbo, White. Nays 35-Allen, Arnold, Boswell, Burch, Clapp, Clarke, Cowan, Craddock, Curd, Donnermeyer, Dunn, Ellington, Ford, Freibert, Fryman, Johnson, R. Jones, T. Jones, LeMaster, List, Long, Mann, McNutt, Moberly, O'Brien, Patrick, Pearman, Rattliff, B. Richardson, Schmidt, F. Smith, Thomason, Todd, Turner, Van Horn.

Floor Amendment No. 1 to **SB 57** was rejected.

Representative Stumbo moved the adoption of the Floor Amendment No. 2 to **SB 57.** Rejected.

Representative LeMaster moved that **SB 57** be passed.

On the roll call the vote was yeas 73-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Burnette, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Cyrus, Donnermeyer, Dunn, Ford, Foster, Fryman, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, List, Little, Long, Lundergan, Mann, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 18- Caldwell, Crupper, Curd, Dawahare, Endicott, Farrow, Freibert, Guenthner, Haering, Heleringer, Layman, Lile, Maggard, Morris, Perkins, Rattliff, Stumbo, White.

SB 57 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 57** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 69, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved the adoption of the Floor Amendment No. 1 to **HB 69.** Agreed.

Representative Hines moved that **HB 69,** as amended, be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 69, as amended, was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 69,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 43, with Committee Amendments and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster move that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved the adoption of the Committee Amendment No. 1 to **HB 43.** Agreed.

Representative Overstreet moved the adoption of the Committee Amendment No. 2 to **HB 43.** Agreed.

Representative Worthington moved the adoption of the Floor Amendment No. 1 to **HB 43.** Agreed.

Representative Bendl moved that **HB 43,** as amended, be passed.

On the roll call the vote was yeas 81-Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Brown, Burch, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 9-Allen, Burnette, Caldwell, Crupper, Dawahare, Fryman, Hancock, Layman, Patrick.

HB 43, as amended, was passed and the title agreed to.

Representative Bendl moved that the vote by which **HB 43,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 120 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative List moved that **HB 120** be passed.

On the roll call the vote was yeas 81-Allen, Arnold, Barrows, Bendl, Blandford, Boswell, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Craddock, Crupper, Curd, Dawahare, Deskins, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, White, Williams, Worthington, Yates. Nays 8-Bennett, Cyrus, Donnermeyer, Gray, R. Jones, Maggard, Perkins, Van Horn.

HB 120 was passed and the title agreed to.

Representative List moved that the vote by which **HB 120** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 166, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved the adoption of the Committee Amendment No. 1 to **HB 166.** Agreed.

Representative Pearman moved that **HB 166,** as amended, be passed.

On the roll call the vote was yeas 86-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lile, List, Little, Long, Lundergan, Maggard, McNutt, Moberly, Moore, Morris, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4-Barrows, Clarke, Hancock, Meyer.

HB 166, as amended, was passed and the title agreed to.

Representative Pearman moved that the vote by which **HB 166,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

Representative LeMaster moved that the rules be suspended to allow the privilege of the floor to three former members: John Y. Brown, Sr., Julian Carroll, and Bruce Blythe. Agreed.

Former Representative Blythe introduced John Y. Brown, Sr., who delivered the Lincoln Day Address.

Speaker Pro Tempore Thomason presiding.

Senate Message

Announcing passage of **SCR 23.**

Motions, Petitions and Communications (continued)

Representative LeMaster moved that the rules be suspended to report and act upon a Resolution. Agreed.

Representative LeMaster moved the adoption of the following **SCR 23:**

SCR 23, A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That when the Senate and the House of Representatives do adjourn on Thursday, February 11, 1982, they do so to convene again on Tuesday, February 16, 1982, at a time set by motion upon adjournment.

On the roll call the vote was yeas 65-Arnold, Barrow, Bendl, Bennett, Blevins, Boswell, Brinkley, Burch, Caldwell, Clark, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Harper, Head, Hines, R. Jones, T. Jones, Kenton, Layman, LeMaster, Little, Long, Maggard, Mann, McNutt, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Pearman, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, Worthington, Yates. Nays 2-Handy, Perkins.

SCR 23 was adopted and the title agreed to.

Representative Gray moved that **HB 459** be withdrawn. Agreed.

Representative LeMaster moved that no other business be conducted on this day other than Introduction of Bills and Resolutions, Report of Committees, and Announcements. Agreed.

Representative LeMaster moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative LeMaster moved that when the House adjourns, it do so by voice vote. Agreed.

Representative LeMaster moved that when the House adjourns, it do so until 2:00 p.m., Tuesday, February 16, 1982. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 478, by Representative LeMaster: AN ACT relating to the department of revenue.

HB 479, by Representative LeMaster: AN ACT relating to the financial administration of state government.

HB 480, by Representatives LeMaster and Thomason: AN ACT relating to comparative negligence.

HB 481, by Representatives T. Jones, Moberly, Thomas, and Farrow: AN ACT relating to successor trustees.

HB 482, by Representatives Endicott, Todd, Foster, Cryus, Moore, Overstreet, Holbrook, Caldwell, Fryman, Ford, Heleringer, Layman, Rattliff, Allen, Freibert, Blevins, Williams, Haering, Guenthner, Schmidt, Holloway, Turner, Lile, Little, Cline, Patrick, Harper, Lundergan, Noland, R. Jones, Morris, and Stumbo: AN ACT relating to state surplus personal property.

HB 483, by Representative Nett: AN ACT relating to cities.

HB 484, by Representatives Ford and Fryman: AN ACT relating to saving people from choking.

HB 485, by Representatives Ford, Fryman, Overstreet, Deskins, Layman, Patrick, Caldwell, Todd, and Noland: AN ACT relating to income tax.

HB 486, by Representative Thomason: AN ACT relating to public utilities.

HB 487, by Representatives Brinkley, Stone, Turner, P. Richardson, Farrow, Blandford, Van Horn, Bronger, Petty, Head, Hancock, Bruce, White, Burnette, Riner, and Johnson: AN ACT relating to state investments.

HB 488, by Representative Richards: AN ACT relating to school term.

HB 489, by Representatives Cowan, Morris, and B. Smith: AN ACT relating to crimes and punishments.

HJR 34, by Representative Craddock: A JOINT RESOLUTION providing for the adoption and implementation of the Kentucky Clean Community System Program for a more beautiful Kentucky.

HR 33, by Representative B. Smith: A RESOLUTION urging the United States not to renew the Most Favored Nation trading status of the Socialist Republic of Romania.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 323, HB 379, HB 347.**

Business Organizations and Professions: **SB 73.**

Banking and Insurance: **HB 445, SB 38, SB 82.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Banking and Insurance: **HB 225.**

Announcements

The following meetings were announced:

Majority Caucus: One-half hour after adjournment, Tuesday, February 16, Room 109.

Committee on Rules: On adjournment, Room 316.

Subcommittee on Energy: Monday, 9:00 a.m., Room 105.

Counties and Special Districts: Cancelled on Tuesday, February 16.

The following Floor Amendment was filed:

Floor Amendment No. 1 to **HB 161,** by Representative Holbrook:

Amend printed copy of **HB 161,** page 2, by adding a new section: *(6) No brewer shall discriminate directly or indirectly concerning prices charged among wholesalers for malt beverages bearing the same brand and trade name and of like age and quality.*

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, February 16, 1982.

The motion to adjourn was adopted by voice vote.

TUESDAY, FEBRUARY 16, 1982

TWENTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Wade M. Hughes, West Frankfort, Church of God, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Burnett, Clarke and Lefevers.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 11, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 171, SB 200, SB 208, SB 224, HB 84, HB 85, HB 294,** and **HB 19** with Senate Amendment.

Introduction of Bills and Resolutions

HR 35, by Representatives Heleringer, Bronger, Bendl, Bennett, Blandford, Burch, Clark, Cowan, Dunn, Guenthner, Haering, Handy, Hines, Holloway, Lile, Meyer, Nett, O'Brien, Priddy, Riner, Seum, Williams, Yates: A RESOLUTION adjourning the House of Representatives in honor of Archbishop Thomas Kelly.

HB 490, by Representative Bennett: AN ACT relating to unemployment compensation.

HB 491, by Representative Burch: AN ACT relating to sales and use tax.

HB 492, by Representative Mann: AN ACT relating to utilities.

HB 493, by Representatives Boswell and Johnson: AN ACT relating to industrial revenue bonds.

HB 494, by Representatives LeMaster and Richards: AN ACT relating to elementary and secondary education.

HB 495, by Representatives Stumbo, Deskins, Barrows, Moore, Heleringer, Dawahare, Farrow, and Little: AN ACT relating to the construction of mineral deeds.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 475, HB 478, HB 479, HB 485.**

Business Organizations and Professions: **HB 477.**

Cities: **HB 483.**

Counties and Special Districts: **HR 34.**

Education: **HB 488.**

Energy: **HB 486.**

Health and Welfare: **HB 484.**

Judiciary-Civil: **HB 471, HB 473, HB 474, HB 480, HB 481.**

Judiciary-Criminal: **HB 476, HB 489.**

State Government: **HB 482, HR 33, HB 487.**

Transportation: **HB 472, SB 79.**

Report of Committees

The Committee on Rules reported **HB 87, HB 107, HB 147, HB 191, HB 296, HB 298, HB 304, HB 306, HB 319, HB 322, HB 328, HB 335,** and **HB 339** have been posted for passage in Orders of the Day, February 17, 1982.

The Committee on Cities reported **HB 332, SB 13** and **SB 14** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 332, AN ACT relating to pensions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.620 is amended to read as follows:

(1) Except as provided in subsections (2), (3) and (4) of this section, the policemen's and fire fighter's pension fund in cities of the third or fourth class shall be held and distributed for the purpose of paying pensions and benefits, and for no other purpose.

(2) *From July 15, 1982 and thereafter,* the board of trustees of the pension fund *shall, upon the request of a member,* [~~may~~] refund a member's contributions upon that member's withdrawal from service prior to qualifying for pension. The member shall be entitled to receive a refund of the amount of contributions made by the member after the date of establishment, without interest.

(3) Any member receiving a refund of contributions shall thereby ipso facto forfeit, waive, and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The board may, in its discretion, regardless of cause, withhold payment of a refund for a period not to exceed six months after receipt of an application from a member.

(4) Any member who has received a refund shall be considered a new member upon subsequent re-employment if such person qualifies for membership under the provisions hereof. After the completion of at least five years of continuous membership service following his latest re-employment, such member shall have the right to make a repayment to the system of the amount or amounts previously received as refund, including six per cent interest from the dates of refund to the date of repayment. Upon the restoration of such refunds, as herein provided, such member shall have reinstated to his account all credited service represented by the refunds of which repayment has been made. Repayment of refunds by any member shall include all refunds received by a member prior to the date of his last withdrawal from service and shall be made in a single sum.

Section 2. KRS 95.768 is amended to read as follows:

(1) The police and fire fighter's pension fund in cities of the fourth class shall consist of (a) the proceeds of an annual tax, which may be levied by the city legislative body, of not more than three cents (3¢) on each hundred dollars ($100) in value of taxable property; (b) all rewards, fees, gifts or emoluments paid or given on account of extraordinary service of any member of the police or fire department; (c) assessments, which the board of trustees of the pension fund shall make, upon each member of the police and fire departments, of not more than three and one-half per cent (3 ½%) of his salary, to be held from the monthly salary and paid by the city treasurer into the pension fund. *Beginning July 15, 1982 and thereafter, upon a member's withdrawal from service prior to qualifying for a pension, the board of trustees shall be governed by the provisions of KRS 95.620(2), (3) and (4).*

(2) Said fund shall be for the pensioning of any policeman or fire fighter who has served in the police or fire departments for at least a period of twenty (20) years or more, providing that applicant has reached

his fifty-first birthday, and all members of the police and fire departments shall be entitled to be credited with the services rendered continuously prior to the adoption ordinance under the provisions of KRS 95.761, by said city, to the eligibility of the twenty (20) year or more, period for pension, not less than three (3), nor to exceed fifteen (15) years of previous service, and for the further purpose of pensioning any member of the police or fire department who may become permanently crippled while in the service and on duty, and for the further purpose of pensioning the widow or dependent children under fourteen (14) years of age, or either of them, of any member of said departments who may lose his life while in the service and on active duty. The payments made under the provisions of this section shall constitute and be kept as a fund to be called the "Policemen's and Fire Fighter's Pension Fund," and the board of trustees of the policemen's pension fund, are declared to be the trustees of said fund, and they shall have power, and it shall be their duty, from time to time, to invest the same, in whole or in part, as they shall deem most advantageous for the objects of said fund; and they are empowered to make all the necessary contracts and to pursue all the necessary remedies in the premises.

Section 3. KRS 95.560 is amended to read as follows:

In cities of the third class, any member of the police or fire department having served twenty (20) years or longer [~~consecutively~~] in the police or fire department may petition the board of trustees for retirement, and if his petition is granted the board may order paid to him monthly fifty per cent (50%) of his monthly salary at the time of retirement.

Section 4. KRS 95.624 is amended to read as follows:

(1) In cities of the third class, any member of the police or fire department having served twenty (20) years or longer [~~consecutively~~] in the police or fire department may petition the board of trustees for retirement, and if his petition is granted the board may order paid to him monthly fifty per cent (50%) of his monthly salary at the time of retirement. If this petition for retirement is denied, any policeman or fire fighter has the right of appeal in accordance with the Rules of Civil Procedure.

(2) The pension payable for periods of service between twenty (20) and twenty-five (25) years shall be fifty per cent (50%) of salary plus two per cent (2%) of salary for each year in excess of twenty (20). The pension payable for twenty-five (25) years of service shall be sixty per cent (60%) of salary. The pension payable for periods of service between twenty-five (25) and thirty (30) years shall be sixty per cent (60%) of salary plus three per cent (3%) of salary for each year in excess of twenty-five (25). The pension payable for thirty (30) years of service shall be seventy-five per cent (75%) of salary.

(3) The pensions or benefits paid for disability or death from the policemen's and fire fighter's pension fund in cities of the third class shall be as follows:

(a) If any member of the police and fire department becomes temporarily totally disabled, physically or mentally, the board of trustees of the pension fund shall order paid to him monthly, during his disability, until he has recovered and returned to active duty a sum of not more than one-half (½) his salary per month, the amount to be determined by the board. This provision shall not apply if a salary is paid during the same period.

(b) If any member of the police or fire department becomes permanently disabled, physically or mentally, so as to render necessary his retirement from service in the department, the board of trustees shall retire him from service and order paid to him monthly fifty per cent (50%) of his monthly salary at the time of his retirement.

(c) If any member of the police or fire department is killed or dies as the result of an injury received in the performance of duty, or dies of any disease contracted by reason of his occupation, or dies while in the service from any cause as a result of his service in the department, or dies in service or while on the retired list from any cause after one (1) year of service in the department and leaves a widow or a child under eighteen (18) years of age the board of trustees shall order a pension paid to the widow, while unmarried, of one-half (½) of salary per month and for each child until it reaches the age of eighteen (18) years, twenty-four dollars ($24.00) per month. If the deceased member was unmarried and childless, a pension shall be paid to his dependent father and mother of one-fourth (¼) of salary per month. If one (1) parent is dead, the other shall receive the entire one-fourth (¼) salary.

SB 13, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 67C IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) A drafting commission may be established in any county containing a city of the first class pursuant to Section 2 of this Act. The drafting commission shall undertake the study of the existing units of

local government within the county in order to facilitate the operation of local government, to prevent the duplication of services, to promote efficient and economical management of the affairs of local government, and to provide for the efficient delivery of public services.

(2) Upon the completion of its study the drafting commission shall issue a report detailing its findings.

(3) The commission may find that there is a need for change in the function of local government in the county, but that there is no need to change the form of local government. In such case, it shall present proposals for action to the legislative bodies of the appropriate local governments for implementation. Such proposals may include annexation pursuant to KRS Chapter 81A, incorporation of unincorporated areas pursuant to KRS 81.050, dissolution of municipalities pursuant to KRS 81.094, alteration in form of municipal government pursuant to KRS 83A.160, interlocal cooperation pursuant to KRS 65.210 to 65.300, merger of contiguous cities pursuant to KRS 81.410 to 81.440, joint contracting pursuant to KRS Chapter 79 or any other action authorized by statute.

(4) The commission may find there is a need for consolidation of the county government and the city of the first class, in which case it shall develop a plan for such consolidation and present it to the voters of the county for approval pursuant to the provisions of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) The process for developing a new form of local government in accordance with this Act shall be initiated by one (1) of the following means:

(1) (a) By the concurrent action of the county judge/executive of the county and the mayor of the city of the first class delivered to the county clerk; or

(b) By the concurrent action of the fiscal court of the county and the city council of the city of the first class delivered to the county clerk; or

(c) By the filing with the county clerk of the county of a petition signed by a number of registered voters equal to five percent (5%) of the voters of the county voting in the immediate past election of the county judge/executive.

(2) Any initiation of the process specified in subsection (1) of this section shall request that a commission be appointed to draft a comprehensive plan for a new form of local government in accordance with this Act.

(3) Upon the initiation of the process required by subsection (1) of this section, the county judge/executive of the county and the mayor of the city of the first class shall, after consulting with the senators and representatives whose districts lie within the county, appoint a representative drafting commission composed of one (1) registered voter residing within each of the house of representative districts lying wholly or substantially within the county plus one (1) registered voter residing within each of the senate districts lying wholly or substantially within the county. Appointments shall be divided between the two (2) political parties having the largest registration within the county, so that the make-up of the commission reflects as nearly as possible the proportionate registration each party bears to the total voter registration of the county, provided that fair representation be given to voters registered as independents and that the commission reflect the racial makeup of the senatorial and house of representative districts involved. No more than six (6) of those appointed may be elected officials. There shall be representatives from the second class through sixth class cities in a number generally proportionate to their combined population as compared to the total county population. The county judge/executive and the mayor shall jointly appoint the chair.

(4) If the drafting commission appointed in accordance with this section determines that consolidation of the city of the first class and the county government is in the best interests of the county and city of the first class, it shall devise a comprehensive plan for a new form of local government. The plan shall include a description of the form and structure of the proposed new form of local government, the officers and their functions and such other provisions as the commission shall determine. The new form of local government established under the comprehensive plan may exercise the existing constitutional and statutory powers of the county government and the city of the first class, including but not limited to those in KRS 67.650 and 82.085. The new form of local government established under the comprehensive plan shall exercise all constitutional duties imposed before any adoption of the comprehensive plan upon the county government and the city of the first class. All cities other than of the first class located within the county shall remain incorporated until dissolved in accordance with KRS 81.094 and shall continue to exercise the powers and perform the functions permitted by the general laws applicable to cities of the class to which they have been assigned. This plan shall be advertised in accordance with KRS Chapter 424 at least ninety (90) days before the general election at which the voters will be asked to approve or disapprove the adoption of the plan. The ballots shall be counted, returns made and canvassed as in other elections, and the results shall be certified by the county board of elections to the county clerk. If it appears that the majority or majorities required by the plan are in favor of adopting the plan, the drafting commissioners shall enter

such fact of record and shall organize the new form of local government in accordance with the provisions of the plan. The initial election of the county and local officials created or retained by the comprehensive plan shall be held at the end of the term of a county judge/executive. Upon the election and qualification of these officials, the new form of local government shall immediately become the effective government.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

In case a drafting commission is appointed in accordance with Section 2 of this Act, the fiscal court of the county and the legislative body of the city of the first class shall appropriate for the use of the commission sufficient funds, in equal amounts, to carry out the purposes of this Act upon such terms as the fiscal court and the legislative body may provide. Within the appropriations authorized, the commission may hire staff and contract for necessary services. Nothing in this Act shall prohibit the commission from accepting gifts from other governmental units or from private foundations or individuals for administrative purposes.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

The commission shall be required to conduct two (2) public hearings prior to the actual drafting of the comprehensive plan for a new form of local government and two (2) public hearings prior to the submission of the final comprehensive plan to the voters.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

In accordance with KRS 446.090, if any portion of this Act or application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applicability of the Act which can be given effect without the invalid portion or applicability.

SB 14, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.171 is amended to read as follows:

(1) A simple majority of the total membership of a planning commission as established by regulation or agreement shall constitute a quorum, *except that a planning unit created pursuant to KRS 100.137 may specify in its planning agreement that five (5) members of the planning commission shall constitute a quorum.* Any member of a planning commission who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from voting on the question, and he shall not be counted for the purpose of a quorum. A simple majority vote of all members present where there is a properly constituted quorum shall be necessary to transact any official business, except that a vote of a simple majority of the total membership shall be necessary for the adoption or amendment of the commission's bylaws, or for elements of the comprehensive plan or regulations.

(2) A planning commission may appoint one or more of its members to act as a hearing examiner or examiners to preside over a public hearing and make recommendations to the commission based upon a transcript of record of the hearing.

Section 2. KRS 100.212 is amended to read as follows:

When in any planning unit containing any portion of a county *except for a planning unit containing any portion of a county containing a city of the first class,* a hearing is scheduled on a proposal *by a property owner* to amend any zoning map [~~plat, plan, text or regulation~~], the following notice shall be given in addition to any other notice required by statute by local regulation or ordinance to be given:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed for fourteen (14) consecutive days immediately prior to the hearing. Posting shall be as follows:

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of hearing shall be in letters at least one (1) inch in height.

(b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission.

(2) Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by *first class mail, with certification by the commission secretary or other officer of the planning commission that the notice was mailed* [~~certified mail, return receipt requested~~] to *an owner* [~~the owners~~] of *every parcel of* [~~all~~] property adjoining the property the classification of which is proposed to be changed. It shall be the duty of the person or persons proposing the amendment to furnish to the planning commission the names and addresses of the owners of all adjoining property. *Records maintained by the property valuation administrator may be relied upon to determine the identity and address of said owner.*

Section 3. KRS 100.214 is amended to read as follows:

When in any planning unit containing any portion of a county containing a city of the first class a hearing is scheduled on a proposal *by a property owner* to amend any zoning map [~~plat, plan, text or regulation,~~] the following notice shall be given in addition to any other notice required by statute by local regulation or ordinance to be given:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed [~~for~~] thirty (30) [~~consecutive~~] days immediately prior to the hearing. Posting shall be as follows:

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of hearing shall be in letters at least one (1) inch in height.

(b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission.

(2) Notice of the hearing shall be given at least thirty (30) days in advance of the hearing by *first class mail, with certification by the commission secretary or other officer of the planning commission that the notice was mailed,* [~~certified mail, return receipt requested~~] to *an* [~~the~~] owner[~~s~~] of *every parcel of* [~~all~~] property adjoining at any point the property the classification of which is proposed to be changed, to *an* [~~all~~] owner[~~s~~] of *every parcel of* property directly across the street from said property, and to *an* [~~all~~] owner[~~s~~] of *every parcel of* property which adjoins at any point the adjoining property or the property directly across the street *from said property.* It shall be the duty of the person or persons proposing the amendment to furnish to the planning commission the names and addresses of the owners of all property as described in this subsection. *Records maintained by the property valuation administrator may be relied upon to determine the identity and address of said owner.* In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners.

(3) If the hearing has been scheduled for a time during normal working hours, and if, within fifteen (15) days of the scheduled date of the hearing the planning commission shall receive a petition from two hundred (200) property owners living within the planning unit requesting that the hearing be rescheduled for a time after normal working hours, then the planning commission shall reschedule the hearing for a time after normal working hours on a date no earlier than the date of the original hearing. The planning commission shall then publish notice of the new hearing time and date according to the provisions of KRS 100.211, except that notice shall occur at least seven (7) days prior to the public hearing. The sign required by subsection (1) of this section shall be changed to reflect the new hearing time and date at least seven (7) days prior to the public hearing. The persons who receive mail notice according to the provisions of subsection (2) of this section shall again be notified *in the same manner* [~~by certified mail, return receipt requested,~~] of the new hearing time and date at least seven (7) days prior to the hearing. The hearing time shall not be changed more than once by the procedures of this section except in the event of intervening emergency which requires the cancellation of a hearing.

(4) Notice by mail shall include a list of the names and addresses of each person so notified, and a description of the procedure by which those notified can petition for a change in the hearing time.

The Committee on Energy reported **SR 1** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SJR 1, A JOINT RESOLUTION directing the Public Service Commission to study the feasibility of implementing the Residential Conservation Service Plan and Section 210 of the Public Utilities Regulatory Policies Act and methods to assure non-discrimination in utility rate structures for users of renewable energy.

WHEREAS, rising energy costs affect all Kentuckians; and

WHEREAS, the use of solar and other renewable energy can contribute to a more secure future; and

WHEREAS, federal laws regarding utility companies and solar energy have been implemented by several states and are being considered by other states;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Public Service Commission shall study the feasibility of implementing the Residential Conservation Service Plan and Section 210 of the Public Utilities Regulatory Policies Act in the Commonwealth.

Section 2. That the Public Service Commission shall study methods which assure non-discriminating utility rate structures for solar/renewable energy users.

Section 3. That the Public Service Commission shall report its findings and recommendations to the 1984 General Assembly and shall submit a report to the Legislative Research Commission on or before January 1983.

The Committee on Health and Welfare reported **HB 401** and **SB 25** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 401, AN ACT relating to the prevention of lead poisoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.901 is amended to read as follows:

(1) The secretary shall establish, *as funds are available,* a statewide program for the prevention, screening, diagnosis, and treatment of lead poisoning, including identification of the sources of such poisoning through such research, educational, epidemiological, and clinical activities as may be necessary.

(2) *Upon the availability of funds,* the Secretary shall also initiate activities which:

(a) Will either provide for or support the monitoring of all medical laboratories, private and public hospitals which perform lead determination tests on human blood or other tissues, so as to insure the accuracy of such tests;

(b) Will provide laboratory testing of blood specimens for lead content, to any physician, hospital, clinic, free clinic, municipality or private organizations which cannot secure or provide such services through other sources. The department shall not assume responsibility for blood lead analysis required for programs in operation on June 21, 1974;

(c) Will develop or encourage the development of appropriate programs and studies to identify sources of lead intoxication and assist other entities in the identification of lead in children's blood and the sources of that intoxication; and

(d) Will provide for or support the development of outreach programs to identify, screen, and diagnose for elevated lead blood levels, at risk persons not otherwise utilizing existing screening and diagnostic programs.

(3) The secretary may contract with any agencies, individuals, or groups for the provision of services necessary to administer KRS 211.900 to 211.905 and 211.994.

(4) The secretary may provide financial and technical assistance and consultation to local, county, or district governmental or private agencies for the promotion, establishment and maintenance of lead poisoning prevention, screening, diagnostic, and treatment programs.

(5) The secretary shall have the power to adopt, amend, or rescind such rules and regulations as deemed necessary or suitable for the proper administration of KRS 211.900 to 211.905 and 211.994. The regulation shall include, but not be limited to, those which govern permissible limits of lead based substances in and about dwellings and dwelling units.

Section 2. KRS 211.904 is amended to read as follows:

Upon the availability of funds, the secretary shall establish an educational program to inform parents, teachers, personnel of human resource agencies, owners of dwellings and dwelling units, health service personnel and the general public, of the dangers, frequency, and sources of lead poisoning and the methods of preventing such poisoning.

SB 25, AN ACT relating to physical therapy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 327.050 is amended to read as follows:

(1) *Before applying* [~~To be eligible~~] for licensure by the board as a physical therapist, *a person* [~~an applicant~~] shall have successfully completed an accredited program of physical therapy and be a graduate of an accredited school of physical therapy approved by the board. No school shall be approved unless it has been accredited or approved by the committee on allied health education and accreditation of the American Medical Association, or the American Physical Therapy Association.

(2) Any person who possesses the aforementioned qualifications and who desires to *apply* [~~be examined~~] for licensure as a physical therapist in Kentucky shall make written application therefor to the board, on forms to be provided by the board, which shall be accompanied by an application fee determined by the

board but not to exceed one hundred twenty-five dollars ($125), no part of which shall be returned. *A licensure applicant shall successfully complete a board-approved examination.*

(3) If it appears from said application that the applicant possesses the qualifications required by this chapter *and has not yet taken the board-approved examination,* such applicant shall be admitted to the next scheduled examination and tested in such subjects as the board may determine to be necessary.

(4) Examinations shall be held within the state at least once a year at such time and place as the board shall determine.

(5) *An* applicant[~~s~~] who *is* [~~are~~] admitted to the examination may be granted *a* temporary license[~~s~~] which shall be valid until *his* [~~said applicants'~~] examination[~~s~~] *is* [~~are~~] graded and *he is* [~~they are~~] notified by the board of *his* [~~their~~] score [~~thereon~~].

(6) *An* [~~All~~] applicant[~~s~~] who receive*s* a passing score as determined by the board *and who meets the other qualifications required by this chapter* shall be licensed as *a* physical therapist[~~s and furnished with a certificate attesting thereto~~].

(7) *An* applicant[~~s~~] who fail*s* to receive a passing score on *his* [~~their~~] examination shall not be licensed; but the board may, by regulation, permit applicants to take the examination more than once.

(8) All licenses shall be renewed annually, without further examination, upon payment on or before January 31 of each year of a renewal fee to be fixed by the board in an amount not to exceed forty dollars ($40).

(9) Licenses which are not renewed by January 31 of each year shall lapse.

(10) This chapter shall not be construed to affect or prevent:

(a) A student of physical therapy from engaging in clinical practice under the supervision of a licensed physical therapist, as part of the student's educational program;

(b) A physical therapist who is licensed to practice in another state or country from conducting or participating in a clinical residency under the supervision of a physical therapist licensed in Kentucky and for a period of not more than ninety (90) days;

(c) A physical therapist who is licensed to practice in another state or country from conducting or participating in the teaching of physical therapy in connection with an educational program and for a period of not more than ninety (90) days.

Section 2. KRS 327.060 is amended to read as follows:

The board shall issue a license to:

(1) An individual who holds a valid license from another state, who meets requirements specified in KRS 327.050 and who has no imposed or pending disciplinary actions.

(2) An individual who has been trained in a foreign country, subject to the following requirements:

(a) Graduation from a physical therapy program.

(b) Evaluation of the individual's educational credentials [~~which is approved~~] by a *credentials evaluation service* [~~reputable accrediting agency~~] acceptable to the board.

(c)[~~(b)~~] *Approval by the board of the individual's educational credentials.*

(d) Successful completion of the examination provided for in KRS 327.050.

(e)[~~(c)~~] Demonstration of proficiency in the English language.

(f)[~~(d)~~] Successful completion of one (1) year of supervised practice under a physical therapist licensed under this chapter. This requirement may be satisfied by one (1) year of *supervised* practice as a licensed physical therapist in a state with license requirements comparable to or more stringent than those of Kentucky.

Section 3. KRS 327.080 is amended to read as follows:

(1) All fees collected by the board shall be paid into the state treasury and credited to an account for the payment of all lawful expenses of the board.

(2) Each member of the board shall be entitled to a per diem to be established by the board but not to exceed sixty dollars ($60) and his reasonable expenses for attending each meeting of the board *or for representing the board in an official, board-approved capacity.*

(3) [~~, and~~] The board may employ such personnel and purchase such materials and supplies as it may deem necessary for the proper discharge of its duties, all of which shall be paid for out of *its* [~~the~~] account [~~hereby created,~~] on vouchers certified by the chairman *or, when authorized in writing by the chairman, on vouchers certified by the executive secretary.*

The Committee on Transportation reported **HB 315** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 315, AN ACT relating to billboard advertising.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.860 is amended to read as follows:

The commissioner of highways shall prescribe by regulations reasonable standards for the advertising devices hereinafter enumerated, designed to protect the safety of *and to guide* the users of the highways and otherwise to achieve the objectives set forth in KRS 177.850, and the erection and maintenance of any of the following advertising devices, if they comply with such regulations, shall not be deemed a violation of KRS 177.830 to 177.890:

(1) An advertising device which is to be erected or maintained on property for the purpose of setting forth or indicating:

(a) The name and address of the owner, lessee or occupant of such property; or

(b) The name or type of business or profession conducted on such property; or

(c) Information required or authorized by law to be posted or displayed thereon.

(2) An advertising device which is not visible from any traveled portion of the highway;

(3) An advertising device indicating the sale or leasing of the property upon which it is placed;

(4) Advertising devices which otherwise comply with the applicable zoning ordinances and regulations of any county or city, and which are to be located in a commercially or industrially developed area, in which the commissioner of highways determines, in exercise of his sound discretion, that the location of such advertising devices is compatible with the safety and convenience of the traveling public;

(5) Advertising devices within highway rights-of-way to provide directional information for business establishments offering goods and services in the interest of the traveling public.

SECTION 2. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

The commissioner of highways shall prescribe by regulation a state signing policy on installation of advertising services defined in Section 5 of KRS 177.860. This policy shall conform to the federal highway administration's standards for specific information signs and shall, as a minimum, include criteria for:

(1) Distances to eligible services;

(2) Selection of eligible businesses;

(3) Use of business signs and legends conforming to federal highway administration size provisions at intersections on expressways;

(4) Removing or covering business signs during off seasons for businesses operated on a seasonal basis;

(5) Defining the circumstances in which specific information signs may be used outside rural areas; and

(6) Determining the costs to businesses for initial installation, annual maintenance, and removal of business signs.

The Committee on Health and Welfare reported **HB 97,** with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 97, AN ACT relating to mental health and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 210.040 is amended to read as follows:

The department for human resources shall:

(1) Exercise all functions of the state in relation to the administration and operation of the state institutions for the care and treatment of the mentally ill;

(2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550, other or additional facilities for psychiatric care and treatment of persons who are or may become state charges;

(3) Cooperate [~~with the department for human resources and~~] with other state agencies for the development of a statewide mental health program looking toward the prevention of mental disease and the post-institutional care of persons released from public or private mental hospitals;

(4) Provide for the custody, maintenance, care and medical and psychiatric treatment of the patients of the institutions operated by the department;

(5) Provide psychiatric consultation for the state penal and correctional institutions, and for the state institutions operated for children or for the mentally defective;

(6) Administer and supervise programs for the [~~noninstitutional~~] care of *chronically* mentally ill persons *including but not limited to provision of the following:*

(a) Identification of chronically mentally ill persons residing in the area to be served;

(b) Assistance to chronically mentally ill persons in gaining access to essential mental health services; medical and dental care and rehabilitation services; and employment; housing; and other support services designed to enable chronically mentally ill persons to function outside inpatient institutions to the maximum extent of their capabilities;

(c) Establishment of community-based transitional living facilities with twenty-four (24) hour supervision and community-based cooperative facilities with part-time supervision;

(d) Assurance of the availability of a case manager for each chronically mentally ill person to determine what services are needed and to be responsible for their provision; and

(e) Coordination of provision of mental health and related support services with the provision of other support services to chronically mentally ill persons;

(7) Supervise private mental hospitals receiving patients committed by order of a court.

Section 2. (1) No more than one (1) transitional facility and one (1) cooperative facility may be established in a county containing a city of the first class with funds herein appropriated during the 1982-84 biennium.

(2) To carry out the purposes of this Act, there is appropriated to the department for human resources out of the general fund in the state treasury the sum of four hundred thousand dollars ($400,000) for each fiscal year of the biennium.

Committee Substitute to **HB 97** is as follows:

HB 97, AN ACT relating to mental health and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 210.005 is amended to read as follows:

As used in this chapter, *unless the context otherwise requires:*

(1) "Mentally retarded" and "mentally defective" have the same meaning. They apply to one or more "mentally retarded persons," as the singular of that term is defined in KRS Chapter 202B.

(2) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association.

(3) "Chronic" means that clinically significant symptoms of mental illness have persisted in the individual for a continuous period of at least two (2) years, or that the individual has been hospitalized for mental illness more than once in the last two (2) years, and that the individual is presently significantly impaired in his ability to function socially or occupationally, or both.

Section 2. KRS 210.040 is amended to read as follows:

The department for human resources shall:

(1) Exercise all functions of the state in relation to the administration and operation of the state institutions for the care and treatment of *persons with mental illness* [~~the mentally ill~~];

(2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550, other or additional facilities for psychiatric care and treatment of persons who are or may become state charges;

(3) Cooperate [~~with the department for human resources and~~] with other state agencies for the development of a statewide mental health program looking toward the prevention of mental *illness* [~~disease~~] and the post-institutional care of persons released from public or private mental hospitals;

(4) Provide for the custody, maintenance, care and medical and psychiatric treatment of the patients of the institutions operated by the department;

(5) Provide psychiatric consultation for the state penal and correctional institutions, and for the state institutions operated for children or for *persons with mental retardation* [~~the mentally defective~~];

(6) Administer and supervise programs for the noninstitutional care of *persons with mental illness* [~~mentally ill persons~~];

(7) Administer and supervise programs for the care of persons with chronic mental illness, including but not limited to provision of the following:

(a) Identification of persons with chronic mental illness residing in the area to be served;

(b) Assistance to persons with chronic mental illness in gaining access to essential mental health services, medical and rehabilitation services, employment, housing and other support services designed to enable persons with chronic mental illness to function outside inpatient institutions to the maximum extent of their capabilities;

(c) Establishment of community-based transitional living facilities with twenty-four (24) hour supervision and community-based cooperative facilities with part-time supervision; Provided That, no more than either one (1) transitional facility or one (1) cooperative facility may be established in a county containing a city of the first class with any funds available to the department;

(d) Assurance of the availability of a case manager for each person with chronic mental illness to determine what services are needed and to be responsible for their provision; and

(e) Coordination of the provision of mental health and related support services with the provision of other support services to persons with chronic mental illness;

(8) Supervise private mental hospitals receiving patients committed by order of a court.

Section 3. KRS 210.710 is amended to read as follows:

(1) "Department" means the department for human resources.

(2) "Facility" means a hospital or other institution operated or utilized by the department for the mentally ill, mentally retarded or respiratory disease patients.

(3) "Homestead" means a place where a family makes its home including the land, house and furnishings, outbuildings, vehicles and tools of the trade formerly occupied by the patient which is exempted by KRS 210.710 to 210.760 from liability to meet patient charges for services rendered in a facility.

(4) "Means test" means a uniform method adopted by the secretary for determining the ability to pay of the patient or person responsible for the patient for board, maintenance and treatment at a facility operated or utilized by the department.

(5) *"Patient" means a resident of a facility operated or utilized by the department for persons with mental illness, mental retardation, or respiratory disease.*

(6) "Person responsible for the patient" includes parents, spouses, guardians and committees within the scope of their fiduciary duties.

(7)[~~(6)~~] "Secretary" means the secretary for the department for human resources.

Committee Amendment No. 1 to the Committee Substitute to **HB 97** is as follows:

Amend printed copy of Committee Substitute to **HB 97,** on page 5, line 11, by adding a new Section 4 as follows:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) The department for human resources may provide, to the extent funds are available under Section 2 of this Act and under conditions and standards established by the department, funds to any nonprofit agency recognized as operating in the field of mental health and whose objectives are to carry out the purposes of Section 2 of this Act.

(2) The funds, if provided, shall be matched on a fifty-fifty basis by the nonprofit agency receiving such funds. The department shall determine whether the match may be in money or in kind services or the match."

Committee Title Amendment No. 1 to the Committee Substitute to **HB 97** is as follows:

Amend printed copy of Committee Substitute to **HB 97,** on page 1, Title, by deleting the following: "and making an appropriation therefor"

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 259, SJR 15, HR 30, HB 106.**

Agriculture and Small Business: **HB 451.**

Labor and Industry: **HB 330, HB 331.**

Calendar

HB 260, HB 280, HB 357, HR 23, HB 375, HB 50, HB 98, HB 257, HB 308, HB 426, and **SB 32** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 179, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved the adoption of the Committee Amendment No. 1 to **HB 179.** Agreed.

Representative F. Smith moved that **HB 179,** as amended, be passed.

Representative Heleringer moved the adoption of the Floor Amendment No. 1 to **HB 179.**

On the roll call the vote was yeas 38-Allen, Arnold, Brown, Caldwell, Cline, Curd, Dawahare, Ellington, Endicott, Ford, Freibert, Fryman, Guenthner, Haering, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Layman, Lile, Maggard, Moore, Noland, Overstreet, Patrick, Pearman, Rattliff, Robinson, Schmidt, Seum, Stumbo, Todd, Turner, Van Horn, White, Worthington. Nays 45-Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Burch, Clapp, Clark, Cowan, Craddock, Crupper, Cyrus, Deskins, Donnermeyer, Dunn, Foster, Hancock, Head, Johnson, R. Jones, T. Jones, Kenton, LeMaster, List, Long, Mann, McBee, McNutt, Meyer, Moberly, Noe, Perkins, Priddy, Rapier, Richards, B. Richardson, B. Richardson, F. Smith, Stone, Thomason, Tobin, Williams, Yates.

Floor Amendment No. 1 to **HB 179** was rejected.

On the roll call the vote was yeas 83-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Caldwell, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, T. Jones, Kidd, Layman, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4-Barrows, Hancock, Kenton, Meyer

HB 179, as amended, was passed and the title agreed to.

Representative F. Smith moved that the vote by which **HB 179,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Brown moved that he be recorded as voting "yea" on **HB 179.** Agreed.

HB 215 with Committee Amendment attached thereto, taken from Orders of the day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lundergan moved the adoption of the Committee Amendment No. 1 to **HB 215.** Agreed.

Representative Lundergan moved that **HB 215,** as amended, be passed.

On the roll call the vote was yeas 77-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Freibert, Gray, Haering, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, T. Jones, Kidd, Layman, Lile, List, Little, Long, Lundergan, Maggard, McBee, McNutt, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 5-Allen, Barrows, Caldwell, Hancock, Meyer.

HB 215, as amended, was passed and the title agreed to.

Representative Lundergan moved that the vote by which **HB 215**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 41, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Boswell moved the adoption of the Committee Amendment No. 1 to **SB 41.** Agreed.

Representative Boswell moved that **SB 41,** as amended, be passed.

On the roll call the vote was yeas 84-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, R. Jones, T. Jones, Kenton, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 3-Fryman, Moore, Turner.

SB 41, as amended, was passed and the title agreed to.

Representative Boswell moved that the vote by which **SB 41,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 175 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Head moved that **HB 175** be passed.

On the roll call the vote was yeas 78-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Maggard, Mann, McBee, Meyer, Moore, Morris, Nett, Noe, Noland, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Ford, T. Jones.

HB 175 was passed and the title agreed to.

Representative Head moved that the vote by which **HB 175** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 212 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Guenthner moved that **HB 212** be passed.

On the roll call the vote was yeas 85-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 2-Caldwell, Todd.

HB 212 was passed and the title agreed to.

Representative Guenthner moved that the vote by which **HB 212** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 350 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Foster moved that **HB 350** be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Johnson, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0.

HB 350 was passed and the title agreed to.

Representative Foster moved that the vote by which **HB 350** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 27 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **SB 27** be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SB 27 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **SB 27** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

Representative Thomas moved that **HB 433** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative O'Brien moved that **HB 436** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blandford, **HB 451;** Representative Brown, **HB 388;** Representative Caldwell, **HCR 2;** Representative Donnermeyer, **HB 166, HB 179, HB 215, HB 336;** Representative Long, **HB 441, HB 440;** Representative Meyer, **HB 411, HB 443;** Representative Yates, **HB 423.**

Representative Yates filed a request to have his name withdrawn as a co-sponsor of **HB 356.**

Representative Ford moved the adoption of the following Legislative Citation No. 9:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Brodhead Fire Department of Rockcastle County for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training including EMT, all a demonstration of your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Ford)

Agreed.

Representative Ford moved the adoption of the following Legislative Citation No. 10:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Livingston Fire Department of Rockcastle County, for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training including EMT, all a demonstration of your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Ford)

Agreed.

Representative Ford moved the adoption of the following Legislative Citation No. 11:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Mt. Vernon Fire Department of Rockcastle County, for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training including EMT, all a demonstration of your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Ford)

Agreed.

Representative Ford moved the adoption of the following Legislative Citation No. 12:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Woodstock Fire Department of Pulaski County, for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training including EMT, all a demonstration of your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Ford)

Agreed.

The following meetings were announced:

Committee on Rules: On adjournment, Room 316.

Committee Chairmen: Fifteen minutes after adjournment, Wednesday.

Majority Caucus: Thirty minutes after adjournment, Wednesday, Room 109.

Business Organizations and Professions: Wednesday, 8:30 a.m., Room 109.

Judiciary-Civil: Wednesday, 8:15 a.m.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 496, by Representative Holbrook: AN ACT relating to alcoholic beverage control.

HB 497, by Representatives Brinkley and Stone: AN ACT relating to sick leave retirement credit.

HB 498, by Representatives LeMaster and Arnold: AN ACT relating to recorded instruments.

HB 499, by Representatives LeMaster and Arnold: AN ACT relating to work release for misdemeanants and providing for the reimbursement of the state treasury for the costs of their room and board while in jail.

HB 500, by Representative Farrow: AN ACT relating to revenue and taxation.

HB 501, by Representative Farrow: AN ACT relating to driver's licenses.

HB 502, by Representative List: AN ACT relating to revenue and taxation.

HB 503, by Representative LeMaster: AN ACT relating to court of justice.

HB 504, by Representative Hancock: AN ACT relating to state personnel.

HB 505, by Representatives Holloway, Cyrus, Burch, and Holbrook: AN ACT relating to enterprise zones.

HB 506, by Representative Rapier: AN ACT relating to juries.

HB 507, by Representatives Barrows and LeMaster: AN ACT relating to wine.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: **HB 148, HB 125, HB 466.**

Labor and Industry: **HB 462.**

Business Organizations and Professions: **HB 393.**

Appropriations and Revenue: **HB 411, HB 455.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Judiciary-Criminal: **HB 208, HB 270, HB 371, HB 278.**

Announcements

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 129,** by Representative Brinkley:

Amend printed copy of **HB 129,** page 4, line 11, by inserting the following:

Section 3. KRS 151.420 is amended to read as follows:

(1) The authority is hereby authorized to provide, at one (1) time or from time to time, for the issuance of its revenue bonds for the purpose of paying all or any part of the cost of any one or more projects undertaken pursuant to KRS 151.100 to 151.460 and 151.990. The principal of and the interest on such bonds shall in each instance be payable solely from a special fund provided for such payment, and from identified revenues pledged to be set aside and deposited in such special fund. The bonds of any issue may be in one or more series and any one or more such series may enjoy equal or subordinate status with respect to the pledge of funds from which they are payable, shall be dated, shall bear interest [~~at such rate or rates not exceeding six per cent (6%) per annum~~], shall mature at such time or times not exceeding the fortieth anniversary of their respective dates, all as may be provided by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of bonds including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places for payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. The bonds shall be signed by the facsimile signature of the chairman of the authority, and the seal of the authority or a facsimile thereof shall be affixed thereto and attested by the manual signature of the treasurer of the authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of KRS 151.100 to 151.460 and 151.990 shall have and are hereby declared to have all qualities and incidents of negotiable instruments under the Uniform Commercial Code of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds at public sale, and for such price as it may determine will best effect the purposes of KRS 151.100 to 151.460 and 151.990.[~~, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six per cent (6%) per annum computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding, however, from such computations the amount of any premium to be paid on redemption of any bonds prior to maturity.~~]

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects for which such bonds shall have been issued, and shall be disbursed in such a manner and under such restrictions, if any, as the authority may provide in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund or funds for such bonds or any account or accounts therein as the authority shall have provided in the proceedings or trust indenture authorizing and securing such bonds.

(3) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(4) Such bonds are held to be interest-exempt from federal and Kentucky income taxes and principal exempt from Kentucky ad valorem taxes under existing statutes, regulations and court decisions.

Floor Amendment No. 1 to **HB 147,** by Representative Patrick:

Amend printed copy of **HB 147,** page 1, line 11, by inserting after the word "*finance*" and before the "." the following: ", *and, if the negotiated agreement will involve the expenditure of state funds, the General Assembly must appropriate funds to fulfill the terms of the negotiated agreement before the negotiated agreement may become effective*"

Floor Amendment No. 1 to **HB 304,** by Representative Stumbo:

Amend printed copy of **HB 304,** page 1, line 11, following line 11 add the following:

"The discount rate referred to above shall be deemed for the purpose of this act to be 45 days after the insured has filed his claim with the insured. This act shall relate to any judgment rendered by any Court in this Commonwealth and be computed to commence 45 days after the insured or any person adjudged protected or a beneficiary under the contract of insurance has notified the insurer of the claim.

Floor Amendment No. 1 to Committee Substitute to **HB 342,** by Representative Schmidt:

Amend printed copy of Committee Substitute to **HB 342,** page 6, line 2, by adding after the "period" the following:

Effective for tax years beginning on and after July 1, 1984, the total of the deductions allowed for any taxable year under Section 168 of the Internal Revenue Code shall be the total allowed for Kentucky tax purposes.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, February 17, 1982.

On the roll call the vote was yeas 49-Allen, Arnold, Bendl, Bennett, Blandford, Boswell, Bruce, Clapp, Clark, Cline, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Foster, Fryman, Hancock, Harper, Head, Hines, Johnson, T. Jones, Kenton, Kidd, Layman, Little, Long, McBee, Nett, Noe, Noland, O'Brien, Pearman, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, Thomason, Todd, Van Horn, Williams. Nays 17-Cowan, Endicott, Ford, Guenthner, Handy, Holbrook, R. Jones, Lile, Maggard, Mann, Meyer, Moore, Perkins, Priddy, Schmidt, Stone, Thomas.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 17, 1982

TWENTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Father Thomas Farrell, Associate Pastor, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Lefevers and B. Smith.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 16, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 35, SB 48, SB 180, SB 202, HCR 1, HB 40, HB 44, HB 158,** and **HB 258** with Senate Amendment.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 57** had been examined and found correctly enrolled. **SB 57** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Introduction of Bills and Resolutions

HB 508, by Representative Farrow: AN ACT relating to insurance.

HB 509, by Representatives Barrows, Blandford, Boswell, and Bronger: AN ACT relating to livestock.

HB 510, by Representatives Long and Foster: AN ACT relating to libraries and archives.

HB 511, by Representatives Harper, Schmidt, Clarke, and Richards: AN ACT relating to revenue and taxation and declaring an emergency.

HB 512, by Representative Tobin: AN ACT relating to insurance agents.

HB 513, by Representative Clarke: AN ACT relating to the department of revenue.

HB 514, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 515, by Representative Clarke: AN ACT relating to revenue and taxation.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 200.**

Appropriations and Revenue: **HB 491, HB 493, HB 500, HB 502.**

Business Organizations and Professions: **HB 496, HB 507, SB 224.**

Counties and Special Districts: **HB 498, HB 499, HB 505.**

Education: **HB 494.**

Energy: **HB 492, SB 171.**

Judiciary-Civil: **HB 495, HB 503, HB 506.**

Labor and Industry: **HB 490.**

State Government: **HB 497, HB 504, HR 35, SB 208.**

Transportation: **HB 501.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

Counties and Special Districts: **HB 324, HR 34, HB 160.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

State Government: **HB 354.**

Report of Committees

The Committee on Rules reported **HB 119, HB 219, HB 247, HB 308, HB 329, HB 340, HB 357, HB 375, HB 426, HR 24, SB 32,** and **SB 47** have been posted for passage in Orders of the Day, February 18, 1982.

The Committee on Rules reported the following Bills and Resolutions have been recommitted.

Appropriations and Revenue: **HB 50, HB 98, HB 257, HB 269.**

Judiciary-Civil: **HB 283.**

The Committee on Banking and Insurance reported **HB 385,** with Committee Amendment attached thereto, and **HB 445** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 385, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.9-030 is amended to read as follows:

(1) A "general lines" agent is an agent who transacts any one or more of the following kinds of insurance:

(a) Property insurance.
(b) Casualty insurance.
(c) Surety insurance.
(d) Marine and transportation insurance.
(e) Health insurance, when transacted for an insurer also represented by the same agent as to property or casualty insurance.
(f) Mortgage guaranty insurance.

(2) A "life" agent is an agent who transacts life insurance or annuity business[~~, and includes also the transaction of health insurance on behalf of an insurer for whom the agent is also licensed as to life insurance~~].

(3) A "health" agent is an agent who transacts health insurance only, whether licensed by a life insurer or other than life insurer.

(4) A "life and health" agent is an agent who transacts life insurance or annuity business, and includes also the transaction of health insurance on behalf of an insurer for whom the agent is also licensed as to life insurance.

Section 2. KRS 304.9-270 is amended to read as follows:

(1) Each insurer appointing an agent in this state shall file with the commissioner the appointment in writing, specifying the kinds of insurance or classifications thereof to be transacted by the agent for the insurer, and pay the appointment fee, or license fee in the case of limited licenses, as specified in KRS 304.4-010.

(2) Subject to [~~annual~~] continuation by the insurer as provided in subsection (3) of this section, each appointment shall remain in effect until the agent's license is revoked or otherwise terminated, unless the insurer earlier terminates the appointment as provided in KRS 304.9-280.

(3) *Biennially* [~~Annually~~] on or before March 31 each insurer shall file with the commissioner an alphabetical list of the names and addresses of all its agents in this state whose appointments or licenses in the case of limited licenses *were in effect during the preceding calendar year and* [~~,~~] are to remain in effect as to the kinds of insurance or classifications thereof for which the respective agents are currently so appointed, accompanied by payment of the [~~annual~~] continuation of appointment fee, or license fee in the case of limited licenses, as specified in KRS 304.4-010. At the same time, the insurer shall also file with the commissioner an alphabetical list of the names and addresses of all its agents whose appointments in this state are not to remain in effect, or whose appointment as to certain kinds or classifications of insurance are not to remain in effect as designated in such list. Any appointment or license not so continued and not otherwise expressly terminated shall be deemed to have expired at midnight on March 31, *except that any request for continuation received by the commissioner after such March 31 and prior to the next following June 30 may be accepted and effectuated by the commissioner, in his discretion, if accompanied by a penalty as provided in subtitle 99.*

Section 3. KRS 304.10-050 is amended to read as follows:

At the time of effecting any such surplus lines insurance the broker shall execute an affidavit in form prescribed or accepted by the commissioner setting forth facts from which it can be determined whether such insurance was eligible for export under KRS 304.10-040. The broker shall file this affidavit with the commissioner within *sixty (60)* [~~thirty (30)~~] days after the insurance was so effected, *except where an alien insurer was used, in which case the broker shall file such affidavit within ninety (90) days.*

Section 4. KRS 304.10-070 is amended to read as follows:

(1) A broker shall not place surplus lines insurance with an insurer that he knows, or in the exercise of reasonable diligence could know *has a surplus in regard to policyholder of less than three million dollars ($3,000,000)*, is unsound financially, or that is ineligible under *the Kentucky insurance code* [~~this section~~].

(2) *A broker shall not place insurance with an alien insurer that is not recognized by the national association of insurance commissioners and does not maintain in the United States a trust fund for the benefit of United States policyholders of at least one million five hundred thousand dollars ($1,500,000)* [~~The commissioner shall from time to time publish a list of all surplus lines insurers deemed by him to be eligible currently, and shall mail a copy of such list to each broker at his office last of record with the commissioner. This subsection shall not be deemed to cast upon the commissioner the duty of determining the actual financial condition or claims practices of any unauthorized insurer; and the status of eligibility, if granted by the commissioner, shall indicate only that the insurer appears to be sound financially and to have satisfactory claims practices and that the commissioner has no credible evidence to the contrary. While any such list is in effect the broker shall restrict to the insurers so listed all surplus lines business placed by him~~].

(3) A broker shall not place insurance with an insurer that has engaged in the insurance business less than three (3) years unless such insurer has deposited with the custodian of insurance securities publicly-traded securities with a market value of at least three hundred thousand dollars ($300,000).

(4) This section shall not apply to surplus lines insurers eligible to do business in Kentucky as of the effective date of this Act, except that the commissioner may revoke such eligibility, or may order such insurer to comply with this section or may suspend the operation of the insurer in Kentucky.

Section 5. KRS 304.10-090 is amended to read as follows:

Every insurance contract procured and delivered as a surplus lines coverage pursuant to this subtitle shall have *conspicuously* stamped upon *the face page* [~~it~~], initialed by or bearing the name of the surplus lines broker who procured it, the following:

"This insurance has been placed with an insurer not licensed to transact business in the Commonwealth of Kentucky but eligible as a surplus lines insurer." [~~"This contract is registered and delivered as a surplus lines coverage under the insurance code of the State of Kentucky."~~]

Section 6. KRS 304.10-120 is amended to read as follows:

(1) Any person while licensed in this state as a resident general lines agent [~~and~~] who:

(a) Has been continuously licensed for at least three (3) years;

(b) Is deemed by the commissioner to be competent and trustworthy with respect to the handling of surplus lines*;*

(c) Represents at least five (5) insurers admitted to transact property or casualty insurance in Kentucky; [~~,~~] and

(d) Maintains [~~while maintaining~~] an office at a designated location in this state*;* [~~,~~]
may be licensed as a surplus lines broker.

(2) Application for the license shall be made to the commissioner on forms as designated and furnished by the commissioner.

(3) The license fee shall be as specified in KRS 304.4-010.

(4) The license and licensee shall be subject to the applicable provisions of subtitle 9.

(5) In order for a surplus lines broker's license to be renewed, the licensee must have at least five (5) current appointments with property or casualty insurers admitted to do business in Kentucky.

Section 7. KRS 304.10-140 is amended to read as follows:

Prior to issuance of a license as a surplus lines broker, the applicant shall file with the commissioner, and thereafter for as long as the license remains in effect shall keep in force*:*

(1) Evidence of financial responsibility in the sum of not less than five hundred thousand dollars ($500,000) per occurrence, and the sum of one million five hundred thousand dollars ($1,500,000) in the aggregate, for all such occurrences within one (1) year, either in the form of an errors and omissions insurance policy, a bond issued by an authorized corporate surety, a deposit, or any combination of these evidences of financial responsibility. Such policy, bond, deposit, or combination thereof shall not be terminated unless at least thirty (30) days' prior written notice is given to the licensee and the commissioner; and

(2) A bond in favor of the state of Kentucky in the penal sum of *twenty thousand dollars ($20,000)* [~~$2,000~~], with an authorized corporate surety *guaranteeing* [~~approved by the commissioner, conditioned~~] that he will conduct business under the license in accordance with the provisions of this subtitle and that he will promptly remit the taxes required by KRS 304.10-180. The aggregate liability of the surety for any and all claims on any such bond shall in no event exceed the penal sum thereof. No such bond shall be terminated unless not less than thirty (30) days prior written notice thereof is given to the licensee and filed with the commissioner.

Section 8. KRS 304.10-180 is amended to read as follows:

(1) On or before the first day of *April* [~~March~~] of each year each broker shall remit to the state treasurer through the commissioner a tax at the rate of 3 per cent on the premiums, exclusive of sums collected to cover federal and state taxes and examination fees, on surplus lines insurance subject to tax transacted by him with unauthorized insurers during the preceding calendar year as shown by his annual statement filed with the commissioner. When collected the tax shall be credited to the general fund.

(2) If a surplus lines policy covers risks or exposures only partially in this state the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

SECTION 9. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If any broker fails to file his annual statement, he shall be liable for a fine of ten dollars ($10) for each day of delinquency commencing with the first day of April.

(2) If any broker fails to remit the tax provided by KRS 304.10-180, unless it is shown to the satisfaction of the commissioner that the failure is due to reasonable cause, five percent (5%) of the tax found to be due by the commissioner shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it was filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax; provided, however, that in no case shall a penalty be less than twenty-five dollars ($25).

Section 10. KRS 304.10-190, Failure to file statement or remit tax — Penalty, is repealed.

Section 11. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to surety bonds, or to specially rated inland marine risks, or to policies, riders, indorsements or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for

use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than *sixty (60)* [~~thirty (30)~~] days in advance of any such delivery. At the expiration of such *sixty (60)* [~~thirty (30)~~] days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than *a* [~~an additional~~] thirty-day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial thirty-day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in subtitle 2.

Section 12. KRS 304.36-030 is amended to read as follows:

(1) This subtitle shall apply to all kinds of direct insurance, except life, health, title, credit, mortgage guaranty, and ocean marine insurance.

(2) Notwithstanding subsection (1) of this section, this subtitle shall apply to health insurance where such insurance is written by a member of the Kentucky insurance guaranty association.

Section 13. KRS 304.42-030 is amended to read as follows:

(1) This subtitle shall apply to direct life insurance policies, health insurance policies, annuity contracts, and contracts supplemental to life and health insurance policies and annuity contracts issued by persons licensed to transact insurance in this state at the time such policies or contracts were sold.

(2) This subtitle shall not apply to:

(a) That portion or part of a variable life insurance or variable annuity contract not guaranteed by an insurer;

(b) That portion or part of any policy or contract under which the risk is borne by the policyholder;

(c) Any policy or contract or part thereof assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued; [~~or~~]

(d) Any policy or contract issued by a licensed nonprofit hospital, medical-surgical, dental and health service corporation, as defined by subtitle 32 of KRS Chapter 304 and any policy or contract issued by a licensed nonprofit health maintenance organization as defined by subtitle 38 of KRS Chapter 304*; or*

(e) Health insurance where such insurance is written by a member of the Kentucky insurance guaranty association.

SECTION 14. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All health maintenance organization contracts issued by health maintenance organizations which provide coverage for a family member of a subscriber shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the subscribed from the moment of birth.

(2) The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

(3) If payment of a specific premium or fee is required to provide coverage for a child, the policy or contract may require that the notification of birth of a newly born child and payment of the required premium or fees must be furnished to the health maintenance organization within thirty-one (31) days after the date of birth in order to have the coverage continued beyond such thirty-one (31) days.

(4) The requirements of this section shall apply to all contracts delivered or issued for delivery in this state on and after the effective date of this statute.

Section 15. KRS 304.39-120 is amended to read as follows:

(1) All benefits or advantages a person receives or is entitled to receive because of the injury from [~~social security and~~] workmen's compensation are subtracted in calculating net loss.

(2) If a benefit or advantage received to compensate for loss of income because of injury, whether from basic reparation benefits or from any source of benefits or advantages subtracted under subsection (1), is not taxable income, the income tax saving that is attributable to his loss of income because of injury is subtracted in calculating net loss. Subtraction may not exceed fifteen percent (15%) of the loss of income and shall be in a lesser amount if the claimant furnishes to the insurer reasonable proof of a lower value of the income tax advantage.

Committee Amendment No. 1 to **HB 385** is as follows:

Amend printed copy of **HB 385**, page 2, after line 4, by inserting the words:

"Section 2. KRS 304.9-130 is amended to read as follows:
(1) A firm or corporation may be licensed as an agent. If a firm, each general partner and each other individual to act for the firm under the license, and if a corporation each individual to act for the corporation under the license, shall be named in or registered with the commissioner as to the license, and shall qualify as though an individual licensee. [~~The commissioner shall charge and the insurer or licensee shall pay a full additional license fee as to each respective individual in excess of one named in or registered as to such license.~~]

(2) An individual who does not meet the residence requirements as provided in KRS 304.9-120 shall not be so named in or registered as to such a license and shall not have the right to exercise the license powers.

(3) A license shall not be issued to a firm or corporation unless it maintains a place of business in this state, and the transaction of business under the license is within the purposes stated in the firm's partnership agreement or the corporation's articles.

(4) The licensee shall promptly notify the commissioner of all changes among its members, directors, officers and other individuals designated in or registered as to the license.

Section 3. KRS 304.9-170 is amended to read as follows:

KRS 304.9-160 shall not apply and no such examination shall be required of:

(1) Any applicant for license covering the same kind or kinds of insurance as to which the applicant was licensed under a similar license in this state, other than a temporary license, within the twelve (12) months next preceding date of application, unless such previous license was revoked, suspended, or continuation thereof refused by the commissioner.

(2) In the commissioner's discretion, any applicant who has been licensed under a similar license in another state within twelve (12) months prior to his application for license in this state, and who files with the commissioner the certificate of the public official having supervision of insurance in such other state as to applicant's license and good conduct in such state.

(3) Persons representing public carriers who, in the course of such representation, solicit or sell insurance incidental to the transportation of persons or to the storage or transportation of property.

(4) Persons soliciting or negotiating credit life and credit health and accident insurance contracts.

(5) An applicant for an agent's license who is currently licensed as a solicitor or as a consultant as to the same kind or kinds of insurance, or has been so licensed within twelve (12) months next preceding date of application for the license, unless such previous license was revoked or suspended or continuation thereof refused by the commissioner.

(6) Any applicant for license covering the same kind or kinds of insurance as to which that applicant shall have held a valid license issued pursuant to Subtitle 9 of KRS Chapter 304 or other applicable Kentucky law which was surrendered, pursuant to KRS 304.2-080 or other applicable law, in order to accept employment with the department of insurance, provided, however, that such applicant shall apply for re-licensing within one (1) year of the date of termination of his employment with the department of insurance.

(7) Persons soliciting or negotiating mechanical breakdown insurance contracts.

Section 4. KRS 304.9-230 is amended to read as follows:

(1) The commissioner may issue to an applicant qualified therefor under this code a limited agent's license as follows:

(a) Covering motor vehicle insurance only, if the licensee is not concurrently licensed as agent, or solicitor as to any other kind of insurance or class of insurance business.

(b) To persons representing common carriers, as provided in KRS 304.9-170.

(c) Covering only insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured.

(d) Covering only credit life and credit health insurance.

(e) Covering agents writing mortgage guaranty insurance only.

(f) Covering agents (1) writing industrial life insurance only or (2) licensed by an insurer issuing policies having a face amount not in excess of five thousand dollars ($5,000.00) on the debit plan, if such agent actually collects and services a debit for such insurer.

(g) Covering agents writing only policies commonly referred to as mortgage redemption insurance, which consist of reducing term life insurance and accident and health insurance, if any, contained therein or sold in conjunction therewith.

(h) Covering agents writing crop-hail insurance only.

(i) Covering agents writing mechanical breakdown insurance only.
(2) The fee for licenses is as specified in KRS 304.4-010."

and on page 2, line 5, after the word "Section" by deleting "2" and inserting in lieu thereof "5"

and on page 3, after line 16 by inserting the words:

"Section 6. KRS 304.9-440 is amended to read as follows:

(1) The commissioner may suspend or may impose conditions upon the continuance of a license for not more than twelve (12) months, or may revoke or refuse to continue any license issued under this subtitle or any surplus lines broker license if, after notice to the licensee and to the insurer represented (as to an agent) or to the employer (as to a solicitor) and a hearing, the commissioner finds that as to the licensee any one (1) or more of the following causes exist:

(a) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner.

(b) Wilful violation of or noncompliance with any applicable provision of this code, or wilful violation of any lawful rule, regulation, or order of the commissioner.

(c) Obtaining or attempting to obtain any such license through misrepresentation or fraud.

(d) Misappropriation or conversion to his own use, or illegal withholding, of moneys belonging to policyholders, insurers, beneficiaries, or others and received in the conduct of business under the license.

(e) Wilful material misrepresentation of the terms of any actual or proposed insurance contract.

(f) Conviction, by final judgment, of a felony involving moral turpitude.

(g) In the conduct of his affairs under the license the licensee has used fraudulent, coercive, or dishonest practices, or has shown himself to be incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public.

(2) The license of a firm or corporation may be suspended, revoked, or refused:

(a) for any of such causes as relate to an individual designated in or registered as to the license to exercise its powers*; or*

(b) If an individual licensee's violation was known or should have been been known by one or more of the partners, officers, or managers acting on behalf of the firm or corporation and such violation was not reported to the insurance department nor corrective action taken thereon".

and on page 3, line 17, after the word "Section" by deleting "3" and inserting in lieu thereof "7"

and on page 4, line 3, after the word "Section" by deleting "4" and inserting in lieu thereof "8"

and on page 5, line 17, after the word "Section" by deleting "5" and inserting in lieu thereof "9"

and on page 6, line 4, after the word "Section" by deleting "6" and inserting in lieu thereof "10"

and on page 6, line 13, by deleting "*five (5)* and inserting in lieu thereof "*three (3)*"

and on page 7, line 4, after the word "Section" by deleting "7" and inserting in lieu thereof "11"

and on page 8, line 8, after the word "Section" by deleting "8" and inserting in lieu thereof "12"

and on page 8, line 25, after the word "Section" by deleting "9" and inserting in lieu thereof "13"

and on page 9, line 16, after the word "Section" by deleting "10" and inserting in lieu thereof "14"

and on page 9, line 18, after the word "Section" by deleting "11" and inserting in lieu thereof "15"

and on page 11, line 9, by placing brackets and strike through around the word "thirty" and by inserting after the word "initial" the word "*sixty*"

and on page 12, line 8, after the word "Section" by deleting "12" and inserting in lieu thereof "16"

and on page 12, line 17 after the word "Section" by deleting "13" and inserting in lieu thereof "17"

and on page 13, line 18, after the word "Section" by deleting "14" and inserting in lieu thereof "18"

and on page 14, line 16, after the word "Section" by deleting "15" and inserting in lieu thereof "19"

HB 445, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Foreign insurers currently admitted to do the business of life and health insurance in Kentucky and foreign insurers hereafter admitted to do the business of life and health insurance in Kentucky which are domiciled in states which have no life and health insurance guaranty association or similar guaranty fund in operation may be required by the commissioner, in order to protect Kentucky policyholders, to deposit with the custodian of insurance securities publicly-traded securities having a market value of not less than one hundred thousand dollars ($100,000) nor more than one million dollars ($1,000,000).

(2) In establishing the amount of the deposit required by subsection (1) of this section for a particular insurer, the commissioner shall consider the following factors:

(a) The amount of Kentucky writings;

(b) The amount of policy reserves and claim reserves pertaining to Kentucky risks;

(c) The kind of insurance written in Kentucky;

(d) The current financial and operating test results of the insurer provided by the national association of insurance commissioners under its insurance regulatory information system; and

(e) Any other relevant financial data.

Section 2. KRS 304.3-120 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, to qualify for authority to transact [~~any one kind of~~] insurance (as defined in subtitle 5), [~~or combination of kinds of insurance as shown on the following table,~~] an insurer shall possess and thereafter maintain unimpaired paid-in capital stock (if a stock insurer) or unimpaired basic surplus (if a foreign mutual, reciprocal or Lloyd's insurer), and when first so authorized shall possess initial free surplus, all in amounts not less than as determined from the following table:

Foreign Mutual, Reciprocal
Stock Insurers and Lloyd's Insurers

[~~Kind or~~] [~~Kinds of~~] [~~Insurance~~]	Minimum Required Capital Stock	Initial Free Surplus	Minimum Required Basic Surplus	Initial Free Surplus
	$1,000,000	*$2,000,000*	*$1,000,000*	*$2,000,000*
[~~Life~~]	~~$500,000~~	~~$750,000~~	~~$500,000~~	~~$750,000~~
~~Health~~	~~250,000~~	~~375,000~~	~~250,000~~	~~375,000~~
~~Life & Health~~	~~500,000~~	~~750,000~~	~~500,000*~~	~~750,000*~~
~~Casualty~~	~~450,000~~	~~675,000~~	~~450,000~~	~~675,000~~
~~Marine & Transportation~~	~~500,000~~	~~750,000~~	~~500,000~~	~~750,000~~
~~Property~~	~~300,000~~	~~450,000~~	~~300,000~~	~~450,000~~
~~Surety~~	~~300,000~~	~~450,000~~	~~300,000~~	~~450,000~~
~~Mortgage Guaranty~~	~~600,000~~	~~900,000~~	~~Not applicable~~	~~Not applicable~~
~~Title~~	~~150,000~~	~~225,000~~	~~Not applicable~~	~~Not applicable~~
~~Multiple line (all lines other than life & title)~~	~~600,000~~	~~900,000~~	~~600,000~~	~~900,000~~

~~*Does not apply as to a reciprocal insurer or Lloyd's insurer.~~]

(2) An insurer holding a valid certificate of authority to transact insurance in this state immediately prior to *the effective date of this Act* [~~June 18, 1970~~], may, if otherwise qualified therefor, continue to be so authorized while possessing paid-in capital stock (if a stock insurer) or surplus (if a mutual, reciprocal or Lloyd's insurer) as required for such authority immediately prior to *the effective date of this Act* [~~June 18, 1970~~]. The commissioner shall not authorize such an insurer to transact any other kinds of insurance unless it then complies with the requirements as to capital and surplus[~~, as applied to all kinds of insurance it then proposes to transact, as provided by this code as to foreign insurers applying for original certificates of authority under this code~~]. Notwithstanding the other provisions hereof, the exception provided in this subsection (2) shall cease to apply to any such insurer from and after the date upon which it has accumulated surplus in an amount equal to 200 per cent of the initial free surplus (if a stock or foreign mutual, reciprocal or Lloyd's insurer) or the surplus (if a domestic mutual insurer) required under other provisions of this code to qualify for authority to transact the kind or kinds of insurance being transacted by it.

(3) Each insurer shall at all times maintain bona fide additional surplus in the amount of at least 30 per cent of the minimum capital or surplus requirement applicable to it or one hundred thousand dollars ($100,000), whichever is the lesser.

(4) [~~Capital and surplus requirements are based upon all the kinds of insurance transacted by the insurer in any and all areas in which it operates or proposes to operate, whether or not only a portion of such kinds are to be transacted in this state.~~

~~(5)~~] As to surplus required for authority to transact one or more kinds of insurance and thereafter to be maintained, domestic mutual legal reserve insurers hereafter formed shall be governed by subtitle 24.

Section 3. KRS 304.24-100 is amended to read as follows:

(1) When newly organized, a domestic mutual insurer may be authorized to transact any one of the kinds of insurance listed in the schedule contained in subsection (2) of this section.

(2) When applying for an original certificate of authority, the insurer must be otherwise qualified therefor under this code, and must have received and accepted bona fide applications as to substantial insurable subjects for insurance coverage of a substantial character of the kind of insurance proposed to be transacted, must have collected in cash the full premium therefor at a rate not less than that usually charged by other insurers for comparable coverages, *and* must have surplus funds on hand and deposited as of the date such insurance coverages are to become effective, [~~or, in lieu of such applications, premiums, and surplus, may deposit and thereafter maintain surplus,~~] all in accordance with that part of the following schedule which applies to the [~~one~~] kind of insurance the insurer proposes to transact:

(a) Kind of Insurance	(b) Min. No. of Apps. Accepted	(c) Min. No. Subjects Covered	(d) Minimum Premium Collected	(e) Min. Amt. Ins. ea. Subject
Life (i)	500	500	Annual	$1,000
Disability (ii)	500	500	Quarterly	$ 15
Life & Health	500	500	Quarterly	(weekly indem.)
Property (iii)	100	250	Annual	$1,000
Casualty (iv) excluding surety and workmen's compensation	250	500	Annual	$1,000
Casualty with workmen's compensation	250	1,500	Quarterly	$1,000

(a) Kind of Insurance	(f) Max. Amt. Ins. ea. Subject (v)	(g) Deposit of Min. Surplus Funds (vi)	[~~(h)~~] [~~Deposit~~] [~~Surplus~~] [~~in lieu~~] (vi)
Life (i)	$ 2,500	$*500,000* [~~50,000~~]	[~~$150,000~~]
Disability (ii)	$ 30	$*500,000* [~~50,000~~]	[~~$150,000~~]
Life & Health	(weekly indem.)	$*500,000* [~~50,000~~]	[~~$150,000~~]
Property (iii)	$ 3,000	$*500,000* [~~50,000~~]	[~~$200,000~~]
Casualty (iv) excluding surety and workmen's compensation	$10,000	$*1,000,000* [~~100,000~~]	[~~$200,000~~]
Casualty with workmen's compensation	$10,000	$*1,500,000* [~~$150,000~~]	[~~$250,000~~]

Expendable Surplus: In addition to surplus deposited and thereafter to be maintained as shown in *column* [~~columns~~] (g) [~~or (h)~~] above, the insurer when first authorized must have on hand surplus funds, which it can thereafter expend in the conduct of its business, in amount not less than *$500,000* [~~$50,000~~] or 50 per cent of the deposited surplus required of it under the above schedule, whichever is the larger amount.

The following provisions are respectively applicable to the foregoing schedule and provisions as indicated by like Roman numerals appearing in such schedule:

(i) No group insurance or term policies for terms of less than ten (10) years shall be included.

(ii) No group, blanket or family plans of insurance shall be included. In lieu of weekly indemnity a like premium value in medical, surgical, and hospital benefits may be provided. Any accidental death or dismemberment benefit provided shall not exceed $2,500.

(iii) Only insurance of the owner's interest in real property may be included.

(iv) Must include insurance of legal liability for bodily injury and property damage, to which the maximum and minimum insured amounts apply.

(v) The maximums provided for in this column (f) are net of applicable re-insurance.

(vi) The deposit of surplus in the amount specified in *column* [~~columns~~] (g) [~~and (h)~~] must thereafter be maintained unimpaired. The deposit is subject to the provisions of subtitle 8.

Section 4. KRS 304.24-110 is amended to read as follows:

(1) Before soliciting any applications for insurance required under KRS 304.24-100 as qualification for the original certificate of authority, the incorporators of the proposed insurer shall file with the commissioner a corporate surety bond in the *penal sum of $100,000* [~~penalty of $15,000~~], in favor of the state and for the use and benefit of the state and of applicant members and creditors of the corporation. The bond shall be conditioned as follows:

(a) For the prompt return to applicant members of all premiums collected in advance,

(b) For payment of all indebtedness of the corporation, [~~and~~]

(c) For payment of costs incurred by the state in event of any legal proceedings for liquidation or dissolution of the corporation, all in the event the corporation fails to complete its organization and secure a certificate of authority within one (1) year after the date of its certificate of incorporation, *and*

(d) That it is not subject to cancellation unless thirty (30) days' advance notice in writing of cancellation is given both the incorporators and the commissioner.

(2) In lieu of such bond, the incorporators may deposit with the commissioner *$100,000* [~~$15,000~~] in cash or United States government bonds negotiable and payable to the bearer, with a market value [~~at~~

~~all times~~] of not less than *$100,000* [~~$15,000~~], to be held in trust upon the same conditions as required for the bond.

(3) Any such bond filed or deposit or remaining portion thereof held under this section shall be released and discharged upon settlement and termination of all liabilities against it.

(4) In addition to the bond the proposed insurer shall file with the commissioner copies of any proposed form or policy to be offered and schedule of premium rates therefor, copies of all advertising and sales literature proposed to be used in such solicitation, and such other information relative to the solicitation of such insurance or procuring of such funds as the commissioner may reasonably require, all of which must comply with the law.

Section 5. KRS 304.27-100 is amended to read as follows:

(1) Concurrently with the filing of the declaration provided for in KRS 304.27-060, the attorney of a domestic reciprocal insurer shall file with the commissioner a bond in favor of this state for the benefit of all persons damaged as a result of breach by the attorney of the conditions of his bond as set forth in subsection (2) of this section. The bond shall be executed by the attorney and by an authorized corporate surety, and shall be subject to the commissioner's approval.

(2) The bond shall be in the penal sum of *$100,000* [~~$25,000~~], aggregate in form, conditioned that the attorney will faithfully account for all moneys and other property of the insurer coming into his hands, and that he will not withdraw or appropriate to his own use from the funds of the insurer, any moneys or property to which he is not entitled under the power of attorney.

(3) The bond shall provide that it is not subject to cancellation unless thirty (30) days' advance notice in writing of cancellation is given both the attorney and the commissioner.

Section 6. KRS 304.32-140 is amended to read as follows:

(1) No corporation subject to provisions of this subtitle shall be permitted to do any business in this state unless, in addition to the other requirements of law, it shall have and maintain liquid reserves in an amount not less than 5 per cent of the corporation's subscription income collected in the preceding year not exceeding $2,000,000, plus 2 ½ per cent of income exceeding $2,000,000 but not exceeding $10,000,000, plus 1 per cent of income exceeding $10,000,000; but in no event shall reserves be less than *$500,000* [~~$50,000~~]. All corporations subject to the provisions of this subtitle shall place on deposit with the custodian of insurance securities a guarantee fund of cash or approved securities in an amount determined by this formula, but not less than *$500,000* [~~$50,000~~] nor more than *$1,500,000* [~~$150,000~~]. Any amount of liquid reserves required by this subsection in excess of *$1,500,000* [~~$150,000~~] shall be maintained by the corporation at all times, but shall not be required to be placed on deposit, provided that such a corporation shall be allowed a period of five (5) years after *the effective date of this Act* [~~June 18, 1970~~], to establish the liquid reserves and deposit the guarantee fund with the commissioner [~~as required by KRS 304.32-130~~].

(2) The cash or securities representing the guarantee fund required by this section shall be acceptable to the custodian of insurance securities and such securities shall be negotiable securities.

(3) The investments of a corporation subject to the provisions of this subtitle shall be the same kind of investments which life insurance companies are authorized to have.

Section 7. KRS 304.38-070 is amended to read as follows:

Each health maintenance organization shall furnish a surety bond [~~in an amount~~] satisfactory to the Commissioner, or deposit with the Commissioner cash or securities acceptable to him in an amount not [~~less than $40,000 nor~~] more than *$500,000* [~~$140,000~~], so that the obligations to the enrollees will be performed. The Commissioner may waive this requirement whenever satisfied that the assets of the organization are sufficient to reasonably assure the performance of its obligations.

Section 8. KRS 304.3-130, Insuring combinations without additional capital funds, is repealed.

The Committee on Business Organizations and Professions reported **HB 13** with Committee Substitute attached thereto, **HB 143** with Committee Substitute attached thereto, **HB 326**, and **SB 73** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 13, AN ACT relating to dealers in gold, silver or platinum.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 226 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act, "dealer" means any person who conducts any business within the Commonwealth of Kentucky which involves the buying and selling of gold, silver or platinum or any property containing gold, silver or platinum, whether such buying and selling is the sole reason for or incidental to the

business licensed. "Dealer" shall include but not be limited to antique dealers, coin dealers and pawnbrokers.

(2) All dealers shall be required to secure a permit before they may conduct business. Such permit shall be secured through the circuit court clerk's office in the county in which the dealer resides or intends to conduct business and shall be valid for a period of one (1) year from the date of issuance unless revoked. An applicant for a dealer's permit shall state on the application his name, address, phone number and such other information as the circuit court clerk may require. In addition, an applicant shall submit a recent photograph no larger than three (3) inches by five (5) inches and of such quality that the applicant is readily identifiable.

(3) The circuit court clerk shall devise and have printed an application form and a permit form. The circuit court clerk may charge a fee not to exceed twenty dollars ($20.00) to cover the cost of printing and processing the forms.

(4) The circuit court clerk shall submit to the secretary of state on the first of each month a list of all permitted dealers.

SECTION 2. A NEW SECTION OF KRS CHAPTER 226 IS CREATED TO READ AS FOLLOWS:

(1) A dealer shall keep a record of transactions conducted by him involving the purchase of property made from gold, silver or platinum. Such record shall include:

(a) The name and address of the seller, the date of the transaction and an accurate description of the property purchased; and

(b) A statement signed by the seller attesting that the seller is the legal owner of the property.

(2) A dealer shall be responsible for verifying the identification of the seller and may require the seller to produce two (2) valid forms of identification.

(3) All records maintained by a dealer in accordance with this section shall be open to inspection at reasonable times by any law enforcement officer or any other public official in the discharge of his official duty.

(4) All property purchased by a dealer shall be held for a period of not less than thirty (30) days before it may be resold or altered.

Section 3. KRS 226.990 is amended to read as follows:

(1) Any pawnbroker who violates any of the provisions of KRS 226.020 to 226.050 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500), and his license may be forfeited to the use of the city or county in which the prosecution takes place.

(2) Any pawnbroker or pawnbroker's clerk who violates any of the provisions of KRS 226.060 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500).

(3) Any pawnbroker who violates any of the provisions of KRS 226.070 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100).

(4) Any pawnbroker who violates any of the provisions of KRS 226.080 or 226.090 shall be subject to the penalties provided in subsection (1) of this section.

(5) Any dealer who violates any provision of this Act shall have his permit revoked and shall not have another permit issued for at least one (1) year from the date of revocation.

Committee Substitute to **HB 13** is as follows:

HB 13, AN ACT relating to dealers in gold, silver or platinum.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 226 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act, "dealer" means any person who conducts any business within the Commonwealth of Kentucky which involves the buying and selling of gold, silver or platinum or any property containing gold, silver or platinum, whether such buying and selling is the sole reason for or incidental to the business licensed. "Dealer" shall include but not be limited to antique dealers, coin dealers and pawnbrokers.

(2) All dealers shall be required to secure a permit before they may conduct business. Such permit shall be secured through the circuit court clerk's office in the county in which the dealer resides or intends to conduct business and shall be valid for a period of one (1) year from the date of issuance unless revoked. An applicant for a dealer's permit shall state on the application his name, address, phone number and such other information as the circuit court clerk may require.

(3) The circuit court clerk shall devise and have printed an application form and a permit form. The circuit court clerk may charge a fee not to exceed twenty dollars ($20.00) to cover the cost of printing and processing the forms.

(4) The circuit court clerk shall submit to the secretary of state on the first of each month a list of all permitted dealers.

(5) Local jurisdictions can promulgate reasonable ordinances or regulations regarding precious metals transactions as described in subsection (1), if there is documented need for such ordinances and regulations.

HB 143, AN ACT relating to thoroughbred racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.220 is amended to read as follows:

(1) There is hereby created the Kentucky state racing commission which shall be an independent agency of state government. The commission shall consist of five (5) members all of whom shall be appointed by the governor. *One (1) member shall be appointed from a list of three (3) names submitted by the Kentucky division of the horsemen's benevolent and protective association. One (1) member shall be appointed from a list of three (3) names submitted by the Kentucky thoroughbred owners' and breeders' association. One (1) member shall be appointed from a list of three (3) names submitted by the racing associations.* [~~Not less than three (3) of the members shall be breeders of thoroughbred horses in Kentucky, no two (2) of the members shall be directors of the same racing association and~~] At least one (1) of the members shall have no financial interest in the business or industry regulated. Commissioners shall be appointed for a term of four (4) years and until their successors are appointed and qualified, *with the exception of the racing association membership which shall be for a term of one (1) year with membership rotating among associations in alphabetical order.* Any vacancy on the commission shall be filled by the governor for the unexpired term *pursuant to the requirements and procedures for original appointments.* Each commissioner shall be eligible for reappointment in the discretion of the governor. Commissioners shall receive fifty dollars ($50) per day for each meeting attended and shall be reimbursed for all expenses paid or incurred in the discharge of official business. The *governor* [~~commission~~] shall designate one (1) of their number as chairman and another as vice chairman. Before entering upon the discharge of their duties, each commissioner shall take the constitutional oath of office.

(2) The commission shall establish and maintain a general office for the transaction of its business and may in its discretion establish a branch office or offices. The commission may hold meetings at any of such offices or at any other place when the convenience of the commission requires. All meetings of the commission shall be open and public, and all persons shall be permitted to attend any meetings. A majority of the commission shall constitute a quorum for the transaction of its business or exercise of any of its powers.

Section 2. KRS 230.240 is amended to read as follows:

(1) In addition to the employes referred to in KRS 230.230, the commission may employ, at reasonable compensation, stewards, supervisors of mutuels, veterinarians, inspectors, accountants, guards and other employes deemed by the commission to be essential at or in connection with any thoroughbred race meeting and to the best interest of racing. The commission for the purpose of maintaining integrity and honesty in racing shall prescribe by rule the powers and duties of the persons employed under this section *and qualifications necessary to competently perform their duties. In addition, the commission shall be responsible for seeing that racing officials employed under the provisions of this section shall have adequate training to perform their duties in a competent manner.*

(2) The commission shall promulgate rules and regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate, and in connection therewith the commission is authorized to acquire, operate and maintain, or to provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urinal or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under KRS 230.210 to 230.360 in such manner and in such proportions as the commission may by rule provide.

(3)[~~(2)~~] The compensation of the employes referred to in this section shall be paid by the licensee conducting the thoroughbred race meeting in connection with which said employes are utilized or employed. The salary of the secretary to the commission shall be prorated among and paid by the various associations

licensed under KRS 230.210 to 230.360 in the manner as the commission may, by rule, provide. The employes referred to in this section shall be deemed employes of the commission, and are paid by the licensee or association for convenience only.

(4)[~~(3)~~] Each person, as a condition precedent to the privilege of receiving a license under KRS 230.210 to 230.360 to conduct a thoroughbred race meeting, shall be deemed to have agreed that it will pay such expenses and compensation as provided in this section and as may be actually and reasonably incurred.

Section 3. KRS 230.260 is amended to read as follows:

The commission, in the interest of breeding or the improvement of the breed of thoroughbred horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of KRS 230.210 to 230.360 including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all thoroughbred race meetings in this commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of thoroughbred racing or appaloosa racing or interfere with the orderly conduct of thoroughbred racing or appaloosa racing at thoroughbred race meetings; Provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employes, may visit, investigate and have free access to the office, track, facilities or other places of business of any licensee for the purpose of satisfying itself that KRS 230.210 to 230.360 and its rules and regulations are strictly complied with;

(3) The commission shall have full authority to prescribe *necessary and reasonable* rules, regulations and conditions under which thoroughbred horse racing and appaloosa racing at a thoroughbred race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes or awards to be offered for the conduct of any thoroughbred race meeting, *except that the days of the week racing is conducted, number of races per day, number of exotic wagers per day and labor relations shall not be within the regulatory purview of the commission*;

(4) Applications for licenses shall be made in the form, in the manner and contain information as the commission may, by rule, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the commission;

(5) Any of the foregoing rules, regulations and conditions may be altered, amended, repealed and published from time to time. All rules, regulations and conditions shall become effective thirty (30) days after the filing thereof with the Legislative Research Commission unless the governor finds an emergency to exist in which event the same shall become effective immediately upon filing with the Legislative Research Commission. The commission may, but shall not be required to, advertise any of its regulations either before or after filing;

(6) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties. Any person failing to appear before the commission at the time and place specified in said summons, or refusing to testify, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both. False swearing on the part of any witness shall be deemed perjury and punished as such.

(7) The commission shall have authority to compel any racing association licensed under KRS 230.210 to 230.360 to file with the commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association.

Section 4. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct thoroughbred racing and Appaloosa racing at a thoroughbred race meeting within the Commonwealth of Kentucky [~~during any calendar year~~] shall first apply to the commission for a license to do so. The application shall be filed at the commission's general office on or before a day fixed by the commission. The application shall specify the location of the track [~~and the days on which racing is desired to be conducted or held~~] and shall be in the form and contain such other information and data as the commission may, by rule require.

(2) The commission shall as soon as practicable, but in no event later than March 1, *1983,* [~~in any calendar year~~] award dates for racing in the Commonwealth [~~during the year~~]. *Dates awarded and the license to conduct a thoroughbred race meeting shall be valid for a period of not less than two (2) years nor more than five (5) years, as prescribed by rule of the commission, KRS 230.290 notwithstanding. Racing dates shall not be amended nor shall a license to conduct a thoroughbred race meeting be suspended or revoked during its period of validity, except for just cause or as hereinafter provided.* In the event scheduled racing is canceled by reason of flood, fire, or inclement weather, the commission may award after March 1 additional

racing dates to make up for those dates canceled by such flood, fire, or inclement weather. The commission may issue such license to conduct a thoroughbred race meeting to any association making the aforesaid application if the commission finds that the proposed conduct of racing by such association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employes, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposes to conduct a race meeting, and capability to comply with the rules and rulings of the commission, the licensing of such association would serve to nurture, promote, develop, or improve the thoroughbred industry in the Commonwealth. As a condition precedent to the issuance of such license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

(3) Every license issued under KRS 230.210 to 230.360 shall specify among other things the name of the person to whom issued, the address and location of the track where the thoroughbred race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be *conducted* [~~permitted~~].

(4) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a thoroughbred race meeting at any track not specified therein. However, if the track specified becomes unsuitable for thoroughbred racing or Appaloosa racing because of flood, fire or other catastrophe, the commission may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of such track willingly consents to the use thereof.

(5) Thoroughbred racing dates may be awarded and licenses issued authorizing thoroughbred racing and Appaloosa racing at a thoroughbred race meeting on any day of the year. Thoroughbred racing or Appaloosa racing at thoroughbred race meetings shall be held or conducted only between sunrise and midnight.

(6) The commission may at any time require the removal of any official or employe of any association in those instances where it has reason to believe that the official or employe has been guilty of any dishonest practice in connection with thoroughbred racing or Appaloosa racing at a thoroughbred race meeting or has failed to comply with any condition of his license or has violated any law or any rule or regulation of this commission.

(7) Every thoroughbred race not licensed under this section or Appaloosa race not licensed by this section or KRS 230.410 to 230.447 is hereby declared to be a public nuisance and the commission may obtain an injunction against the same in the circuit court of the county where the unlicensed race is proposed to take place.

Section 5. KRS 230.320 is amended to read as follows:

(1) Every license granted under KRS 230.210 to 230.360 is subject to revocation or suspension by the commission in any case where it has reason to believe that any provision of KRS 230.210 to 230.360 or rule, regulation or condition of the commission affecting it has not been complied with or has been broken or violated. The commission in the interest of honesty and integrity of thoroughbred horse racing and appaloosa horse racing may prescribe rules and regulations under which any license may be denied, suspended or revoked.

(2) *Any person alleged to have committed a violation under subsection (1) of this section shall be afforded a hearing before the commission within forty-eight (48) hours of the receipt of the request for hearing by the commission. In the event the commission is not able to hold a hearing within the prescribed time, any penalty imposed shall be delayed until such time as the commission is able to hold the hearing and issue a decision.* If any license is denied, suspended or revoked the commission shall state publicly its reasons for the suspension or revocation and shall cause an entry of such reasons to be made on its record book. The action of the commission in denying, suspending or revoking any license issued under KRS 230.210 to 230.360 is final except that such action is subject to review by any court of competent jurisdiction. The action of the commission shall remain in full force and effect until reversed or modified by a valid order of such court.

SECTION 6. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a panel, to be known as the Kentucky equine drug research council, to oversee the conduct of equine drug research and testing commissioned by the state racing commission. The council shall consist of seven (7) members: a veterinarian appointed by the Kentucky association of equine veterinarians, a horseman appointed by the Kentucky division of the horsemen's benevolent and protective association, a pharmacologist appointed by the University of Kentucky, a thoroughbred breeder appointed by the Kentucky thoroughbred owners and breeders, a legislator appointed by the legislative research commission, a representative of a licensed racing association and a member of the state racing commission,

appointed by the chairman of the state racing commission, to serve as chairman. The council shall meet at the call of the chairman, a majority of the council or at the request of the commission. Members shall serve at the pleasure of their respective sponsoring organizations and shall receive no compensation for serving.

(2) The Kentucky equine drug research council shall review equine drug research being conducted at the University of Kentucky or with state funds and shall review and report to the commission on drug research being conducted elsewhere. The council shall advise the commission and make recommendations for establishing an effective drug regulatory policy for Kentucky racing. In addition, the council shall report to the 1984 general assembly any needed changes regarding the regulation of drugs in thoroughbred racing in the Commonwealth of Kentucky.

(3) The commission shall receive one-tenth of one percent (.1%) of the total amount wagered at Kentucky tracks to be used in financing drug research in Kentucky, which shall be in addition to any funds appropriated to the commission for such purposes in the executive budget.

Section 7. KRS 230.400 is amended to read as follows:

(1) There is hereby created a trust and revolving fund for the Kentucky state racing commission, designated as the Kentucky thoroughbred development fund, consisting of money allocated to the fund under the provisions of KRS 138.510, together with such other money as may be contributed to or allocated to the fund from all other sources. Money to the credit of the Kentucky thoroughbred development fund shall be distributed by the treasurer for the purposes herein provided upon authorization of the Kentucky state racing commission and upon approval of the secretary of the executive department for finance and administration. *Money from the Kentucky thoroughbred development fund shall be allocated to each licensed association in an amount equal to the amount the association contributed to the fund.* Money to the credit of the Kentucky thoroughbred development fund at the end of each fiscal year shall not lapse, but shall be carried forward in such fund to the succeeding fiscal year.

(2) There is hereby established, under the general jurisdiction of the Kentucky state racing commission, a Kentucky thoroughbred development fund advisory committee. The advisory committee shall consist of five (5) members, all of whom shall be residents of Kentucky, to be appointed by the chairman of the Kentucky state racing commission by July 1 of each year. The committee shall consist of two (2) thoroughbred breeders recommended by Thoroughbred Breeders of Kentucky, Inc.; one (1) thoroughbred owner recommended by the Kentucky division of the horsemen's benevolent and protective association; one (1) officer or director of a licensed association conducting thoroughbred racing in Kentucky, recommended by action of all of the licensed associations conducting thoroughbred racing in Kentucky; and one (1) member of the Kentucky state racing commission. If any member other than the commission member has not been recommended for appointment by July 1 of each year, the chairman of the Kentucky state racing commission shall make an appointment for the organization or organizations failing to so recommend a member of the committee. The members of the advisory committee shall serve without compensation, but shall be entitled to reimbursement for all expenses incurred in the discharge of official business. The advisory committee shall select from its membership annually a chairman and a vice chairman.

(3) (a) The Kentucky thoroughbred development fund committee shall advise and assist the Kentucky state racing commission in the development of the supplemental purse program provided herein for Kentucky bred thoroughbreds, shall make recommendations to the commission from time to time with respect to the establishment of guidelines, rules and regulations for the provision of such supplemental purses, the amount thereof, the races for which such purses are to be provided and the conditions thereof, manner and method of payment of such supplemental purses, registry of thoroughbred stallions standing within the Commonwealth of Kentucky, registry of Kentucky bred thoroughbreds for purposes of this section, nature and type of forms and reports to be employed and required in connection with the establishment, provision for, award and payment of such supplemental purses and with respect to all other matters necessary in connection with the carrying out of the intent and purposes of this section.

(b) The Kentucky state racing commission shall employ such qualified personnel as may be required to assist the commission and the advisory committee in carrying out the provisions of this section. Such persons shall serve at the pleasure of the commission and compensation for such personnel shall be fixed by the commission. The compensation of such personnel and the necessary expenses incurred by the commission or by the committee in carrying out the provisions of this section shall be paid out of the Kentucky thoroughbred development fund.

(4) The Kentucky state racing commission, with the advice and assistance of the Kentucky thoroughbred development fund advisory committee, shall use the Kentucky thoroughbred development fund to promote, enhance, improve and encourage the further and continued development of the thoroughbred breeding industry in Kentucky by providing, out of the Kentucky thoroughbred development fund, supplemental purses for designated stakes, handicap, allowance and non-claiming maiden races contested at licensed thoroughbred race meetings in Kentucky, the awarding and payment of which supplemental purses shall be conditioned upon the winning or placing in such races by Kentucky bred thoroughbred horses. Any supplemental purse provided for a designated race shall be apportioned among the winning and placing horses in

the same proportion as the stake or purse provided for such race by the racing association. Winning or placing as used in this section shall include those horses finishing first, second, third and fourth in such races. That portion of the supplemental purse provided for any such designated race for a winning or placing finish shall be awarded and paid to the owner of the horse so finishing only if such horse is a Kentucky bred thoroughbred duly registered as such with the official registrar. Any portion of the supplemental purse which is not awarded and paid over shall be returned to the Kentucky thoroughbred development fund.

(5) (a) For purposes of this section, the term Kentucky thoroughbred stallion shall mean and include only a thoroughbred stallion standing the entire breeding season in Kentucky and registered as a Kentucky thoroughbred stallion with the official registrar of the Kentucky thoroughbred development fund.

(b) Except for thoroughbred horses foaled prior to January 1, 1980, the term Kentucky bred thoroughbreds for purposes of this section, shall mean and include only thoroughbred horses sired by Kentucky thoroughbred stallions foaled in Kentucky and registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund.

(c) Any thoroughbred horse foaled prior to January 1, 1980, may qualify as a Kentucky bred thoroughbred for purposes of this section if such horse was foaled in Kentucky and if the sire of such thoroughbred was standing at stud within Kentucky at the time of conception of such thoroughbred, provided such thoroughbred is duly registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund.

(d) In order for an owner of a Kentucky sired thoroughbred to be eligible to demand, claim and receive a portion of a supplemental purse provided by the Kentucky thoroughbred development fund, the thoroughbred horse winning or placing in a designated race for which a supplemental purse has been provided by the Kentucky thoroughbred development fund must have been duly registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund prior to entry in such race.

(6) (a) Thoroughbred Breeders of Kentucky, Inc., is hereby recognized and designated as the sole official registrar of the Kentucky thoroughbred development fund for the purposes of registering Kentucky thoroughbred stallions and Kentucky bred thoroughbreds in accord with the terms of this section and such rules and regulations as may be promulgated by the Kentucky state racing commission. When a Kentucky bred thoroughbred is registered with the official registrar, the registrar shall be authorized to stamp the Jockey Club certificate issued for such thoroughbred with the seal of the registrar, certifying that the said thoroughbred is a duly qualified and registered Kentucky bred thoroughbred for purposes of this section. The registrar may establish and charge, with the approval of the commission, reasonable registration fees for its services in the registration of Kentucky thoroughbred stallions and in the registration of Kentucky bred thoroughbreds. Registration records of the registrar shall be public records and open to public inspection at all normal business hours and times.

(b) Any interested party aggrieved by the failure or refusal of the official registrar to register a stallion or thoroughbred as a Kentucky stallion or as a Kentucky bred thoroughbred shall have the right to file with the commission, within thirty (30) days of such failure or refusal of the registrar, petition seeking registration of such thoroughbred. The commission shall promptly hear the matter de novo and issue its order directing the official registrar to register or not to register as it may be determined by the commission.

(7) The Kentucky state racing commission shall adopt such rules and regulations as may be necessary to carry out the provisions and purposes of this section, including the adoption of such rules and forms as may be appropriate for the proper registration of Kentucky stallions and Kentucky bred thoroughbreds with the official registrar, and shall administer the Kentucky thoroughbred program created hereby in a manner best designed to promote and aid in the further development of the thoroughbred breeding industry in Kentucky, to upgrade the quality of thoroughbred racing in Kentucky and to improve the quality of thoroughbred horses bred in Kentucky.

Section 8. KRS 138.510 is amended to read as follows:

(1) An excise tax is imposed on every person, corporation or association which operates a running horse race track at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to four and three-fourths percent (4 ¾%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. *From the effective date of this Act until June 30, 1985, tracks with a daily average handle of less than $900,000 shall receive a tax credit amounting to three percent (3%) of money wagered, to be allocated by contractual agreement between the qualified tracks and the horsemen's benevolent and protective association.* Until July 1, 1979, one-nineteenth (1/19) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400. From July 1, 1979, until June 30, 1980, two-nineteenths (2/19) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400. From and after June 30, 1980, three-nineteenths (3/19) of all amounts received by reason of such tax shall be set aside by the department of

revenue and shall be deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400.

(2) An excise tax is imposed on every person, corporation or association which operates a trotting horse race track at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to five percent (5%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. One-fifth (1/5) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky standardbred development fund created and described in KRS 230.770.

Section 9. KRS 230.215, Policy of thoroughbred and appaloosa racing law — Commission's power to exclude undesirables, is repealed.

Committee Substitute to **HB 143** is as follows:

HB 143, AN ACT relating to thoroughbred racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.210 is amended to read as follows:

As used in KRS 230.210 to 230.360 unless the context requires otherwise:

(1) "Association" means any person licensed by the Kentucky state racing commission under KRS 230.300 and engaged in the conduct of a recognized thoroughbred race meeting *in the Commonwealth*;

(2) "Commission" means the Kentucky state racing commission;

(3) "Commissioner" means a member of the Kentucky state racing commission;

(4) "Secretary" means the secretary of the Kentucky state racing commission;

(5) "Thoroughbred race or thoroughbred racing" shall include that form of horse racing in which each horse participating in such race is a thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey.

(6) "Appaloosa race or Appaloosa racing" means that form of horse racing in which each horse participating in such a race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey.

(7) "Thoroughbred race meeting" means horse racing run [~~on the flat~~] at an association licensed and regulated by the State Racing Commission, and may include both thoroughbred racing and appaloosa racing.

(8) "Satellite" or "satellite wagering facility" means a place which has been licensed by the Kentucky state racing commission under this Act to accept pari-mutuel wagers on a thoroughbred race conducted by that association or another association.

(9) "Special event race" or "special event racing" means an individual thoroughbred race held at and conducted by a racing association located in and licensed by another state or a foreign country designated by the Commission under KRS 230.260(9) to be of sufficient national or international significance and interest to warrant interstate off-track wagering.

Section 2. KRS 230.220 is amended to read as follows:

(1) There is hereby created the Kentucky state racing commission which shall be an independent agency of state government. The commission shall consist of *nine (9)* [~~five (5)~~] members *seven (7)* [~~all~~] of whom shall be appointed by the governor. *One (1) member shall be appointed by the president pro tempore of the senate and one (1) member shall be appointed by the speaker of the house of representatives. In making appointments, the governor shall secure broad representation within the thoroughbred industry, to include appointment of no fewer than two (2) breeders, no fewer than two (2) horsemen, and the geographic areas in which licensed racing associations are located shall be considered. Recommendations for said appointments shall be sought from various industry groups, to include the Kentucky thoroughbred owners and breeders, the Kentucky division of the horsemen's benevolent and protective association, and other interested organizations.* [~~Not less than three (3) of the members shall be breeders of thoroughbred horses in Kentucky, no two (2) of the members shall be directors of the same racing association and~~] At least one (1) of the members shall have no financial interest in the business or industry regulated. Commissioners shall be appointed for a term of four (4) years and until their successors are appointed and qualified. Any vacancy on the commission shall be filled by the governor for the unexpired term *pursuant to the requirements and procedures for original appointments*. Each commissioner shall be eligible for reappointment in the discretion of the governor. Commissioners shall receive fifty dollars ($50) per day for each meeting attended and shall be reimbursed for all expenses paid or incurred in the discharge of official business. The commission shall designate one (1) of their number as chairman and another as vice chairman. Before entering upon the discharge of their duties, each commissioner shall take the constitutional oath of office.

(2) The commission shall establish and maintain a general office for the transaction of its business and may in its discretion establish a branch office or offices. The commission may hold meetings at any of such offices or at any other place when the convenience of the commission requires. All meetings of the commission shall be open and public, and all persons shall be permitted to attend any meetings. A majority of the commission shall constitute a quorum for the transaction of its business or exercise of any of its powers.

Section 3. KRS 230.240 is amended to read as follows:

(1) In addition to the employes referred to in KRS 230.230, the commission may employ, at reasonable compensation, stewards, supervisors of mutuels, veterinarians, inspectors, accountants, guards and other employes deemed by the commission to be essential at or in connection with any thoroughbred race meeting and to the best interest of racing. The commission for the purpose of maintaining integrity and honesty in racing shall prescribe by rule the powers and duties of the persons employed under this section *and qualifications necessary to competently perform their duties. In addition, the commission shall be responsible for seeing that racing officials employed under the provisions of this section shall have adequate training to perform their duties in a competent manner.*

(2) The commission shall promulgate rules and regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate, and in connection therewith the commission is authorized to acquire, operate and maintain, or to provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, *urine* [~~urinal~~] or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under KRS 230.210 to 230.360 in such manner and in such proportions as the commission may by rule provide.

(3)[~~(2)~~] The compensation of the employes referred to in this section shall be paid by the *association or satellite wagering facility* [~~licensee conducting the thoroughbred race meeting~~] in connection with which said employes are utilized or employed. The salary of the secretary to the commission shall be prorated among and paid by the various associations licensed under KRS 230.210 to 230.360 in the manner as the commission may, by rule, provide. The employes referred to in this section shall be deemed employes of the commission, and are paid by the [~~licensee or~~] association *or satellite wagering facility* for convenience only.

(4)[~~(3)~~] Each person, as a condition precedent to the privilege of receiving a license under KRS 230.210 to 230.360 to conduct a thoroughbred race meeting, shall be deemed to have agreed that it will pay such expenses and compensation as provided in this section and as may be actually and reasonably incurred.

Section 4. KRS 230.260 is amended to read as follows:

The commission, in the interest of breeding or the improvement of the breed of thoroughbred horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of KRS 230.210 to 230.360 including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all thoroughbred race meetings *and satellite wagering facilities* in this commonwealth and over all associations and all persons on association *or satellite* grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on *the* [~~association~~] grounds may, in the opinion of the commission, reflect on the honesty and integrity of thoroughbred racing or appaloosa racing or interfere with the orderly conduct of thoroughbred racing or appaloosa racing [~~at thoroughbred race meetings~~]; Provided, however, no persons shall be excluded or ejected from association *or satellite* grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employes, may visit, investigate and have free access to the office, track, facilities or other places of business of any licensee for the purpose of satisfying itself that KRS 230.210 to 230.360 and its rules and regulations are strictly complied with;

(3) The commission shall have full authority to prescribe *necessary and reasonable* rules, regulations and conditions under which thoroughbred horse racing and appaloosa racing at a thoroughbred race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes or awards to be offered for the conduct of any thoroughbred race meeting, *except that the commission shall not prefer by regulation or otherwise any licensees in their contractual relations with one another*;

(4) Applications for licenses shall be made in the form, in the manner and contain information as the commission may, by rule, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the commission;

(5) Any of the foregoing rules, regulations and conditions may be altered, amended, repealed and published from time to time. All rules, regulations and conditions shall become effective thirty (30) days after the filing thereof with the Legislative Research Commission unless the governor finds an emergency to exist in which event the same shall become effective immediately upon filing with the Legislative Research Commission[~~. The commission may, but shall not be required to, advertise any of its regulations either before or after filing~~];

(6) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties. Any person failing to appear before the commission at the time and place specified in said summons, or refusing to testify, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both. False swearing on the part of any witness shall be deemed perjury and punished as such.

(7) The commission shall have authority to compel any racing association licensed under KRS 230.210 to 230.360 to file with the commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association.

(8) The commission shall have full authority to license satellite wagering facilities and to prescribe rules, regulations and conditions under which satellite wagering facilities are located, owned and operated.

(9) The commission shall have full authority to designate special event races and to prescribe rules, regulations and conditions under which pari-mutuel wagering may be conducted on such races.

Section 5. KRS 230.280 is amended to read as follows:

No person shall hold or conduct any thoroughbred race meeting for any stake, purse, or reward within the commonwealth of Kentucky *or conduct pari-mutuel wagering at a satellite wagering facility* without securing the required license from the commission.

Section 6. KRS 230.310 is amended to read as follows:

Every person not required to be licensed under KRS 230.300 who desires to participate in thoroughbred racing or appaloosa racing at a thoroughbred race meeting *or satellite wagering facility* in the commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employe, racing official, association employe, or employe of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association *or satellite* grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, shall first apply to the commission for a license to participate in such activity on association grounds during a race meeting *or during the conduct of pari-mutuel wagering at a satellite wagering facility*. No person required to be licensed by this section may participate in any activity required to be licensed on association *or satellite* grounds during a race meeting without a valid license therefor. The commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof. Such license shall be issued for the calendar year in which it is issued and may be renewed by the commission. The license shall be valid at all thoroughbred race meetings in the commonwealth during the period for which it is issued unless suspended or revoked under the rules and regulations prescribed by the commission under this chapter.

Section 7. KRS 230.320 is amended to read as follows:

(1) Every license granted under KRS 230.210 to 230.360 is subject to revocation or suspension by the commission in any case where it has reason to believe that any provision of KRS 230.210 to 230.360 or rule, regulation or condition of the commission affecting it has not been complied with or has been broken or violated. The commission in the interest of honesty and integrity of thoroughbred horse racing and appaloosa horse racing may prescribe rules and regulations under which any license may be denied, suspended or revoked.

(2) *Any person alleged to have committed a violation under subsection (1) of this section may request a stay of imposition of the stewards' sanction. Pending appeal, a hearing on such request for stay shall be held within forty-eight (48) hours of the receipt of the request for a stay by the commission. In the event the commission is not able to hold a hearing within forty-eight (48) hours, the stay shall be automatically granted. It shall be the policy of the commission to grant stays, unless:*

(a) In any case where a licensee is alleged to have committed a flagrant violation of the prescribed rules and regulations of racing which presents a clear and present danger to the immediate integrity of racing, and

(b) Wherein it is impossible for the commission to secure necessary scientific evidence or indispensable witnesses within forty-eight (48) hours, then the commission or its designated hearing officer may refuse a request for the stay of any penalty imposed, as long as a hearing is held no later than thirty (30) days from the initial stewards' determination of a violation.

(3) If any license is denied, suspended or revoked the commission shall state publicly its reasons for the suspension or revocation and shall cause an entry of such reasons to be made on its record book. The action of the commission in denying, suspending or revoking any license issued under KRS 230.210 to 230.360 is final except that such action is subject to review by any court of competent jurisdiction. The action of the commission shall remain in full force and effect until reversed or modified by a valid order of such court.

Section 8. KRS 230.350 is amended to read as follows:

Any person licensed by this commission under KRS 230.300 *or under Section 18 of this Act* may be issued by the alcoholic beverage control board and may hold a distilled spirits and wine special temporary license as provided in KRS 243.260 and 243.290. The licenses and each of them when issued shall be valid and effective only upon premises licensed by this commission and upon the dates and hours for which racing *or pari-mutuel wagering* has been authorized by this commission.

Section 9. KRS 230.360 is amended to read as follows:

(1) KRS 230.210 to 230.360 are not applicable to trotting or pacing meets or races conducted in this state nor to Appaloosa racing and quarter horse racing licensed under KRS 230.410 to 230.447.

(2) The provisions of KRS 230.210 to 230.360 are intended to be statewide and exclusive in their effect and no city, county or other political subdivision of state government shall have the power or authority to make or enforce any local laws, ordinances or regulations on the subject of thoroughbred race meetings *or pari-mutuel wagering*. Any person licensed under KRS 230.300 shall continue to pay, or be responsible for the payment of, all state taxes presently imposed by law, including but without limitation, license taxes imposed under KRS 137.170 to 137.190, and KRS 137.990 together with admission taxes imposed by KRS 138.480 to 138.490, and the pari-mutuel taxes imposed by KRS 138.510 to 138.550, and all state, as well as local, ad valorem taxes; Provided, however, no tax shall be imposed by the state or any subdivision thereof upon, or measured by, that portion of the excise tax imposed upon pari-mutuel betting at running and trotting horse race tracks which is collected and retained by the operators thereof under the provisions of KRS 138.510 to 138.550, both inclusive.

Section 10. KRS 230.361 is amended to read as follows:

(1) The commission shall adopt rules governing and regulating mutuel wagering on thoroughbred races and Appaloosa races at a thoroughbred race meeting *and at a satellite wagering facility* under what is known as the pari-mutuel system of wagering. Such wagering shall be conducted only by a person licensed under KRS 230.210 to 230.360 [~~to conduct a thoroughbred race meeting~~] and only upon the licensed premises and on the dates and hours for which *the activity* [~~racing~~] has been authorized by the commission. The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the commission. The commission shall not require any particular make of equipment.

(2) In no event shall the operation of a pari-mutuel system for betting where authorized by law constitute grounds for the revocation or suspension of any license issued and held under KRS 230.350.

(3) All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at thoroughbred race meetings *or a satellite wagering facility* shall be presumed abandoned if not claimed by the person entitled thereto within two (2) years from the time the ticket became payable.

Section 11. KRS 230.3611 is amended to read as follows:

A thoroughbred racing association which operates a running horse race track *or owns and operates a satellite wagering facility* at which betting is conducted through a pari-mutuel or other similar system shall not be allowed to conduct any pool where it is required to select more than two (2) horses.

SECTION 12. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a panel, to be known as the Kentucky equine drug research council, to advise the commission on the conduct of equine drug research and testing commissioned by the state racing commission. The council shall consist of seven (7) members: a veterinarian appointed by the Kentucky association of equine veterinarians, a horseman appointed by the Kentucky division of the horsemen's benevolent and protective association, a pharmacologist appointed by the University of Kentucky, a thoroughbred breeder appointed by the Kentucky thoroughbred owners and breeders, a legislator appointed by the legislative research commission, a representative of a licensed racing association and a member of the state racing commission, appointed by the chairman of the state racing commission, to serve as chairman. The council shall meet at the call of the chairman, a majority of the council or at the request of the commission. Members shall serve at the pleasure of their respective sponsoring organizations and shall receive no compensation for serving.

(2) The Kentucky equine drug research council shall review equine drug research and testing research being conducted at the University of Kentucky or with state funds and shall review and report to the commission on drug research and testing research being conducted elsewhere. The council shall advise the commission and make recommendations for establishing an effective drug regulatory policy for Kentucky racing. In addition, the council shall report to the 1984 general assembly any needed changes regarding the regulation of drugs in thoroughbred racing in the Commonwealth of Kentucky.

(3) The commission shall receive one-tenth of one percent (.1%) of the total amount wagered in Kentucky deducted from the pari-mutuel tax levied in KRS 138.510 to be used in financing drug research and testing research in Kentucky, which shall be in addition to any funds appropriated to the commission for such purposes in the executive budget.

Section 13. KRS 230.400 is amended to read as follows:

(1) There is hereby created a trust and revolving fund for the Kentucky state racing commission, designated as the Kentucky thoroughbred development fund, consisting of money allocated to the fund under the provisions of KRS 138.510, together with such other money as may be contributed to or allocated to the fund from all other sources. Money to the credit of the Kentucky thoroughbred development fund shall be distributed by the treasurer for the purposes herein provided upon authorization of the Kentucky state racing commission and upon approval of the secretary of the executive department for finance and administration. *Money from the Kentucky thoroughbred development fund shall be allocated to each licensed association in an amount equal to the amount the association contributed to the fund.* Money to the credit of the Kentucky thoroughbred development fund at the end of each fiscal year shall not lapse, but shall be carried forward in such fund to the succeeding fiscal year.

(2) There is hereby established, under the general jurisdiction of the Kentucky state racing commission, a Kentucky thoroughbred development fund advisory committee. The advisory committee shall consist of five (5) members, all of whom shall be residents of Kentucky, to be appointed by the chairman of the Kentucky state racing commission by July 1 of each year. The committee shall consist of two (2) thoroughbred breeders recommended by *the Kentucky* Thoroughbred *Owners and* Breeders [~~of Kentucky~~], Inc.; one (1) thoroughbred owner recommended by the Kentucky division of the horsemen's benevolent and protective association; one (1) officer or director of a licensed association conducting thoroughbred racing in Kentucky, recommended by action of all of the licensed associations conducting thoroughbred racing in Kentucky; and one (1) member of the Kentucky state racing commission. If any member other than the commission member has not been recommended for appointment by July 1 of each year, the chairman of the Kentucky state racing commission shall make an appointment for the organization or organizations failing to so recommend a member of the committee. The members of the advisory committee shall serve without compensation, but shall be entitled to reimbursement for all expenses incurred in the discharge of official business. The advisory committee shall select from its membership annually a chairman and a vice chairman.

(3) (a) The Kentucky thoroughbred development fund committee shall advise and assist the Kentucky state racing commission in the development of the supplemental purse program provided herein for Kentucky bred thoroughbreds, shall make recommendations to the commission from time to time with respect to the establishment of guidelines, rules and regulations for the provision of such supplemental purses, the amount thereof, the races for which such purses are to be provided and the conditions thereof, manner and method of payment of such supplemental purses, registry of thoroughbred stallions standing within the Commonwealth of Kentucky, registry of Kentucky bred thoroughbreds for purposes of this section, nature and type of forms and reports to be employed and required in connection with the establishment, provision for, award and payment of such supplemental purses and with respect to all other matters necessary in connection with the carrying out of the intent and purposes of this section.

(b) The Kentucky state racing commission shall employ such qualified personnel as may be required to assist the commission and the advisory committee in carrying out the provisions of this section. Such persons shall serve at the pleasure of the commission and compensation for such personnel shall be fixed by the commission. The compensation of such personnel and the necessary expenses incurred by the commission or by the committee in carrying out the provisions of this section shall be paid out of the Kentucky thoroughbred development fund.

(4) The Kentucky state racing commission, with the advice and assistance of the Kentucky thoroughbred development fund advisory committee, shall use the Kentucky thoroughbred development fund to promote, enhance, improve and encourage the further and continued development of the thoroughbred breeding industry in Kentucky by providing, out of the Kentucky thoroughbred development fund, supplemental purses for designated stakes, handicap, allowance and non-claiming maiden races contested at licensed thoroughbred race meetings in Kentucky, the awarding and payment of which supplemental purses shall be conditioned upon the winning or placing in such races by Kentucky bred thoroughbred horses. Any supplemental purse provided for a designated race shall be apportioned among the winning and placing horses in the same proportion as the stake or purse provided for such race by the racing association. Winning or placing as used in this section shall include those horses finishing first, second, third and fourth in such races. That portion of the supplemental purse provided for any such designated race for a winning or placing finish shall be awarded and paid to the owner of the horse so finishing only if such horse is a Kentucky bred thoroughbred duly registered as such with the official registrar. Any portion of the supplemental purse which is not awarded and paid over shall be returned to the Kentucky thoroughbred development fund.

(5) (a) For purposes of this section, the term Kentucky thoroughbred stallion shall mean and include only a thoroughbred stallion standing the entire breeding season in Kentucky and registered as a Kentucky thoroughbred stallion with the official registrar of the Kentucky thoroughbred development fund.

(b) Except for thoroughbred horses foaled prior to January 1, 1980, the term Kentucky bred thoroughbreds for purposes of this section, shall mean and include only thoroughbred horses sired by Kentucky thoroughbred stallions foaled in Kentucky and registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund.

(c) Any thoroughbred horse foaled prior to January 1, 1980, may qualify as a Kentucky bred thoroughbred for purposes of this section if such horse was foaled in Kentucky and if the sire of such thoroughbred was standing at stud within Kentucky at the time of conception of such thoroughbred, provided such thoroughbred is duly registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund.

(d) In order for an owner of a Kentucky sired thoroughbred to be eligible to demand, claim and receive a portion of a supplemental purse provided by the Kentucky thoroughbred development fund, the thoroughbred horse winning or placing in a designated race for which a supplemental purse has been provided by the Kentucky thoroughbred development fund must have been duly registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund prior to entry in such race.

(6) (a) *Kentucky* Thoroughbred *Owners and* Breeders [~~of Kentucky~~], Inc., is hereby recognized and designated as the sole official registrar of the Kentucky thoroughbred development fund for the purposes of registering Kentucky thoroughbred stallions and Kentucky bred thoroughbreds in accord with the terms of this section and such rules and regulations as may be promulgated by the Kentucky state racing commission. When a Kentucky bred thoroughbred is registered with the official registrar, the registrar shall be authorized to stamp the Jockey Club certificate issued for such thoroughbred with the seal of the registrar, certifying that the said thoroughbred is a duly qualified and registered Kentucky bred thoroughbred for purposes of this section. The registrar may establish and charge, with the approval of the commission, reasonable registration fees for its services in the registration of Kentucky thoroughbred stallions and in the registration of Kentucky bred thoroughbreds. Registration records of the registrar shall be public records and open to public inspection at all normal business hours and times.

(b) Any interested party aggrieved by the failure or refusal of the official registrar to register a stallion or thoroughbred as a Kentucky stallion or as a Kentucky bred thoroughbred shall have the right to file with the commission, within thirty (30) days of such failure or refusal of the registrar, petition seeking registration of such thoroughbred. The commission shall promptly hear the matter de novo and issue its order directing the official registrar to register or not to register as it may be determined by the commission.

(7) The Kentucky state racing commission shall adopt such rules and regulations as may be necessary to carry out the provisions and purposes of this section, including the adoption of such rules and forms as may be appropriate for the proper registration of Kentucky stallions and Kentucky bred thoroughbreds with the official registrar, and shall administer the Kentucky thoroughbred program created hereby in a manner best designed to promote and aid in the further development of the thoroughbred breeding industry in Kentucky, to upgrade the quality of thoroughbred racing in Kentucky and to improve the quality of thoroughbred horses bred in Kentucky.

Section 14. KRS 138.480 is amended to read as follows:

Each person entering the grounds or inclosure of any race track *or any satellite wagering facility as defined under KRS 230.210* at which a race meeting *or pari-mutuel wagering* is being conducted under the jurisdiction of the state racing commission, for the purpose of attending the races, *engaging in pari-mutuel wagering* or for any other purpose connected therewith, shall pay a tax of fifteen cents (15¢) to the state, except as otherwise provided in this section. If tickets good for more than one (1) day are issued, the sum of fifteen cents (15¢) shall be paid by each person using such ticket on each day that it is used. No admission tax shall be collected from any of the employes of the race track, *or satellite wagering facility,* or any of the owners or trainers of horses, or jockeys, or their employes. The admission tax provided for in this section shall be collected by the race track *or satellite wagering facility* from each person on entering the race track *or satellite wagering facility* [~~or inclosure~~] on a paid or free admission. The race track *or satellite wagering facility* shall account to and pay to the state the money so collected.

Section 15. KRS 138.490 is amended to read as follows:

(1) Each person engaged in the business of conducting a race track shall furnish the department of revenue, within thirty (30) days after the end of each race meeting, a verified report of the number of persons subject to the tax levied in KRS 138.480 who enter the grounds or inclosure during the race meeting. At the same time, the person shall pay to the state the correct amount due by reason of the collection of the tax from persons entering the grounds or inclosure of the race track.

(2) *Each association engaged in the business of conducting pari-mutuel wagering at a satellite wagering facility shall furnish the department of revenue, within thirty (30) days after the end of each calendar quarter, a verified report of the number of persons subject to the tax levied in KRS 138.480 who enter the satellite wagering facility during the preceding quarter.*

(3) Any person who fails to pay the tax due in the time specified in this section shall pay a penalty equal to twenty per cent (20%) of the amount of tax due and delinquent, together with interest at six per cent (6%) per annum on both the original tax and the penalty.

Section 16. KRS 138.510 is amended to read as follows:

(1) An excise tax is imposed on every person, corporation or association which operates a running horse race track *or satellite wagering facility* at which betting is conducted through a pari-mutuel or other

similar system. The tax shall be an amount equal to four and three-fourths percent (4 ¾%) of all money wagered *at a race track or at a satellite wagering facility owned and operated by the association conducting the race upon which wagers are taken* during the year *and three and three-eighths percent (3.375%) of all money wagered at all other satellite wagering facilities.* A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. *From the effective date of this Act until June 30, 1985, tracks with a daily average handle of less than $900,000 shall receive a tax credit amounting to three percent (3%) of money wagered, to be allocated by contractual agreement between the qualified tracks and the horsemen's benevolent and protective association. The tax credit shall not apply to money wagered at a satellite wagering facility except when the satellite owned by the association conducting the race meet is operating during the meet.* [~~Until July 1, 1979, one-nineteenth (1/19) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400. From July 1, 1979, until June 30, 1980, two-nineteenths (2/19) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400. From and after June 30, 1980,~~] Three-nineteenths (3/19) of all amounts received by reason of such tax *from wagers made at a race track or at a satellite wagering facility* shall be set aside by the department of revenue and shall be deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400.

(2) An excise tax is imposed on every person, corporation or association which operates a *standardbred* [~~trotting~~] horse race track at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to five percent (5%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. One-fifth (1/5) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky standardbred development fund created and described in KRS 230.770. *From July 15, 1982, until June 30, 1985, tracks with a daily average of less than three hundred thousand dollars ($300,000) shall receive a tax credit of two percent (2%) of all money wagered, to be allocated to the tracks for capital improvements. Said capital improvements shall be approved by the harness racing commission.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that the thoroughbred racing industry is vital to the economic growth of the Commonwealth; that pari-mutuel wagering at locations other than those where a race meeting is conducted will help stimulate greater interest in the thoroughbred industry; that racing associations have the expertise, personnel and ability to best operate pari-mutuel wagering at multiple track locations; that multiple track wagering or satellite facility wagering should be strictly controlled and that multiple track wagering or satellite facility wagering will not adversely affect the public health or welfare if such is controlled as set forth under this chapter.

SECTION 18. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) Any association desiring to conduct pari-mutuel wagering at a satellite wagering facility on thoroughbred races and licensed under KRS 230.300 shall first apply to the commission for a license to do so. The application shall be filed at the commission's general office on or before a day fixed by the commission. The application shall specify the location of the satellite and the days of proposed operation and shall be in the form and contain such other information and data as the commission may require by rule or regulation.

(2) The commission may issue such license to conduct pari-mutuel wagering at a satellite to any association making the aforesaid application, other provisions of the Kentucky Revised Statutes notwithstanding, if the commission finds that the proposed wagering would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, location, traffic flow, facilities for the public, character and reputation for honesty of all persons identified with the satellite, competence of proposed racing officials and employes, absence of conflict with other satellites in patronage area, sentiment of the community in which such satellite is proposed to be located, and the association's capability to comply with the rules and rulings of the commission, the licensing of such association would serve to nurture, promote, develop, or improve the thoroughbred industry in the Commonwealth. As a condition precedent to the issuance of such license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

(3) An association may not own and operate more than one satellite wagering facility. A satellite facility owned and operated by an association may be located on the grounds where the association conducts race meetings or on association grounds not more than fifteen (15) miles from the location where the association conducts race meetings.

(4) In addition to licenses issued in subsection (2), the commission may issue licenses for other satellite wagering facilities, but the total for such licenses shall not exceed two (2), absent further action by

the General Assembly. Any satellite proposed for a license under this subsection, shall meet the following criteria:

(a) The proposed satellite will not be within seventy (70) miles of a licensed racing association or another licensed satellite wagering facility.

(b) The proposed satellite will have a minimum seating capacity of two thousand (2,000) persons.

(c) Plans for the proposed satellite have been reviewed and meet design standards prescribed by the commission.

(d) Financing has been secured and the method of financing has been approved by the commission.

(e) A market survey conducted by a reputable marketing firm and submitted to the commission shows that the market of the proposed satellite is sufficient to support the satellite.

(f) No person or principle involved in a business enterprise seeking a license under this subsection, shall have been convicted of a felony or any offense involving moral turpitude. An applicant shall be subject to investigation by the secretary of justice to secure information necessary to determine the applicant's suitability for a license.

(5) Every license issued hereunder shall specify among other things the name of the association or person to whom issued, the address and location of the satellite and the days and hours of operation.

(6) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of pari-mutuel wagering at a location not specified therein.

(7) The commission may at any time require the removal of any official or employe of any association or satellite in those instances where it has reason to believe that the official or employe has been guilty of any dishonest practice or has failed to comply with any condition of his license or has violated any law or any rule or regulation of this commission.

(8) Every satellite not licensed under this section is hereby declared to be a public nuisance and the commission may obtain an injunction against the same in the circuit court of the county where the unlicensed facility is located.

SECTION 19. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) The pari-mutuel system of wagering at a satellite wagering facility shall be operated only by a totalizator or other mechanical equipment approved by the commission and all wagers accepted at a satellite shall be accounted for and recorded on the equipment operated by the association conducting the thoroughbred race meet.

(2) All wagers made on a race track or at a satellite on a race conducted by an association licensed under KRS 230.300 shall form a common pool. The pool shall be accounted for by the association conducting the thoroughbred race and disbursed under KRS 138.510 and 138.515.

(3) Gross revenues retained from pari-mutuel wagering conducted at a satellite after payment of the pari-mutuel tax only, shall be applied to purses in the same percent ratio as gross revenues from on track pari-mutuel wagering after payment of the pari-mutuel tax only are applied to purses.

SECTION 20. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) The commission may authorize an association to accept pari-mutuel wagers on special event races if the commission finds that the association has complied with applicable state and federal law and that such wagering would serve to nurture, promote, develop, or improve the thoroughbred industry in the Commonwealth. No pari-mutuel wagers on a thoroughbred race held outside the Commonwealth shall be taken unless such race has been designated as a special event race.

(2) All pari-mutuel wagers accepted in the Commonwealth on a special event race shall form a common pool and be disbursed under KRS 138.510 and 138.515.

HB 326, AN ACT relating to taxation of property in foreign trade zones.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents (31-½¢) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents (1-½¢) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, and one and one-half cents (1-½¢) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents (25¢) upon each one hundred dollars ($100) of

value of all money in hand, shares of stock, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents (1-½¢) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowls, *one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81,* fifteen cents (15¢) upon machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture, fifteen cents (15¢) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents (15¢) upon property which has been certified as a pollution control facility as defined in KRS 224.850, one-tenth of one cent ($.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, and forty-five cents (45¢) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.270, 136.300, 136.320 and other sections providing a different tax rate for particular property.

(2) An annual ad valorem tax for state purposes of one and one-half cents (1 ½¢) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when such intangible personal properties have not acquired a taxable situs without this state:

(a) Accounts receivable, notes, bonds, credits, nondomestic bank deposits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state.

(b) Patents, trademarks, copyrights and licensing or royalty agreements, relating thereto.

(c) Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable and all other intercompany intangible personal property due from such company.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten per cent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school or other taxing district on such intangible properties, or directly or indirectly against the owner with respect thereto.

(5) Unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests shall be taxed at the rate of one-tenth of one cent ($.001) per one hundred dollars of assessed value.

(6) Thirty cents (30¢) of the thirty-one and one-half cents (31 ½¢) state tax rate on real property and thirty cents (30¢) of the forty-five cents (45¢) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents (30¢), as certified by the department of education, the direct payments shall be reduced proportionately.

(7) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that such increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(8) By July 1 each year, the department of revenue shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of KRS 132.020(6) and certify the rate to the county clerks for their use in preparing the tax bills. In the event the assessments for all counties have not been certified by July 1, the department shall, when real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been certified, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(9) In the event that the tax rate set by the department as provided in subsection (8) of this section produces more than a four percent (4%) increase in real property tax revenues, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(10) An ad valorem tax for state purposes on distilled spirits shall be levied according to the following rate schedule:

Calender Year	Rate per $100 of Assessed Value
1982	$.225
1983	$.1125
1984 and after	$.001

Section 2. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation;

(2) Livestock and domestic fowls;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products (except that the same shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof), and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (1 ½¢) on each $100 of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (4 ½¢) on each $100 of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, and shares of stock, except that nothing in this section shall forbid local taxation of franchises of corporations or of the shares of banks, trust companies or combined banks and trust companies doing business in this state, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.850;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests;

(12) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(2) in determining the amount of county appropriation to the office of the property valuation administrator*;*

(13) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81.

SB 73, AN ACT relating to barbers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317.450 is amended to read as follows:

(1) The barber board shall issue a license to practice barbering to any person who:

(a) Is at least eighteen (18) years of age;

(b) Is of good moral character and temperate habit;

(c) Has acted as a licensed apprentice for at least eighteen (18) months under the immediate supervision of a licensed barber;

(d) Has satisfactorily passed the examination prescribed by the barber board;

(e) Has paid a fee of twenty dollars ($20).

(f) The board may reciprocate with other states and issue a barber license upon payment of a fee of fifty dollar ($50.00) and upon submission of satisfactory evidence that the requirements for licensure in the other state are substantially equivalent to the requirements of this state at the time of application. The board may require an applicant under this section to pass an examination to establish equivalency.

(2) The barber board shall issue a license to act as apprentice to a barber to any person who:

(a) Is at least sixteen and one-half (16 ½) years of age;

(b) Is of good moral character and temperate habit;

(c) Has at least four (4) years of high school education;

(d) Has graduated from an accredited or licensed school of barbering;

(e) Has satisfactorily passed the examination prescribed by the barber board; and

(f) Has paid a fee of twenty dollars ($20).

(3) The barber board shall issue a license to operate a barber shop to any barber licensed under the provisions of this chapter upon application of such barber accompanied by a fee of twenty dollars ($20) provided that the barber board shall refuse to issue such a license upon a failure to comply with the provisions of this chapter or the rules and regulations of the board adopted pursuant thereto.

(4) The barber board shall issue a license to operate a school of barbering to any person, firm or corporation who or which:

(a) Applies therefor upon forms furnished by the board;

(b) Has the equipment and facilities which may be required by rules and regulations of the board adopted pursuant to this chapter;

(c) Furnished any evidence deemed necessary by the board in the exercise of a sound discretion that it is the purpose of the applicant to establish a bona fide school for the education and training of competent barbers and can and will employ a sufficient number of licensed teachers of barbering to conduct such school;

(d) Has furnished evidence of having at least twenty-four (24) months experience teaching in a barber school including administrative experience in such school;

(e) Pays a fee of one hundred dollars ($100).

(5) The barber board shall issue a license to teach barbering to any person who:

(a) Is of good moral character and temperate habit;

(b) Has a high school education;

(c) Has been a licensed and practicing barber for at least thirty-six (36) months;

(d) Has satisfactorily passed the examination prescribed by the board; and

(e) Has paid a fee of twenty-five dollars ($25).

(6) Applications for examination required in this section shall be accompanied by an examining fee as follows:

(a) Barber — $20.00;

(b) Apprentice to a barber — $20.00;

(c) Teaching barbering — $25.00.

(7) Licenses issued pursuant to this section shall expire on the first day of July next following the date of their issuance but the board shall renew any license so expiring at no increased renewal fee if the required annual renewal license fee is paid within thirty-one (31) days after the expiration of such license, provided that the applicant for a renewal is otherwise in compliance with this chapter and the rules and regulations of the board adopted pursuant thereto. Any license shall automatically be renewed by the board upon receipt of the required annual license fee prior to the expiration date of such license, provided the applicant for renewal is in compliance with the provisions of this chapter and the rules and regulations of the board adopted pursuant thereto.

(8) The annual renewal license fee for each type of license renewal shall be as follows:

(a) Barber — $20.00;

(b) Apprentice to barber — $20.00;

(c) Teacher of barbering — $20.00;

(d) Barber shop — $20.00;

(e) Barber school — $75.00.

(9) Except as provided in subsection (7) of this section, the fee for the renewal of an expired license, where the period of expiration does not exceed five (5) years, shall be as follows:

(a) Barber — $15.00 plus lapse fees;

(b) Apprentice — $15.00 plus lapse fees;

(c) Barber shop — $20.00;

(d) Barber school — $75.00;

(e) Teacher of barbering — $15.00 plus lapse fees.

The Committee on Education reported **HB 313** with Committee Amendment attached thereto, **HB 372, HB 373** with Committee Amendment attached thereto, **HB 374** with Committee Amendments attached thereto, **HB 425, HB 439** with Committee Amendment attached thereto, **SB 8,** and **SB 61** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 313, AN ACT relating to teachers' tenure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.720 is amended to read as follows:

(1) The term "teacher" for the purpose of KRS 161.720 to 161.810 shall mean any person for whom certification is required as a basis of employment in the public schools of the state with the exception of the superintendent.

(2) The term "year" as applied to terms of service means actual service of not less than *one hundred forty (140) of the one hundred eighty-five (185) days, established by KRS 157.350(1), for which teachers are compensated, or at least one-half (½) of each one hundred forty (140) days* [~~seven (7) school months within a school year~~]; provided, however, that any board of education may grant a leave of absence for professional advancement with full credit for service.

(3) The term "limited contract" shall mean a contract for the employment of a teacher for a term of one (1) year only or for that portion of the school year that remains at the time of employment.

(4) The term "continuing service contract" shall mean a contract for the employment of a teacher which shall remain in full force and effect until the teacher resigns or retires, or reaches the age of 65, or until it is terminated or suspended as provided in KRS 161.790 and 161.800.

(5) The term "continuing status" means employment of a teacher under a continuing contract.

(6) The term "standard" or "college" certificate for the purpose of KRS 161.720 to 161.810 shall mean any certificate issued upon the basis of graduation from a standard four (4) year college.

(7) The term "superintendent" for the purpose of KRS 161.765 shall mean the school officer appointed by a board of education under the authority of KRS 160.350 or any person authorized by law to perform the duties of that officer.

(8) The term "administrator" for the purpose of KRS 161.765 shall mean a certified employe, below the rank of superintendent, who devotes the majority of his employed time to service as a principal, assistant principal, supervisor, coordinator, director, assistant director, administrative assistant, finance officer, pupil personnel worker, guidance counselor, or school business administrator, or who holds a position in which he evaluates or supervises board employes or recommends personnel for employment or discharge. The term "administrator" shall also include those assistant, associate or deputy superintendents who do not fall within the definition of "superintendent" as set forth in subsection (7) of this section.

(9) The terms "demote" or "demotion" for the purpose of KRS 161.765 shall mean a reduction in rank from one position on the school district salary schedule to a different position on that schedule for which a lower salary is paid. The terms shall not include lateral transfers to positions of similar rank and pay or minor alterations in pay increments required by the salary schedule.

Committee Amendment No. 1 to **HB 313** is as follows:

Amend printed copy of **HB 313,** on page 1, lines 12 and 13 by deleting "*one-half (½) of each one hundred forty (140) days*" and inserting "*three hours per school day*" in lieu thereof

and on page 1, lines 13 and 14 by inserting a bracket [] after the word "months" and removing the bracket after the word "year" and removing the strike throughs in "within a school year"

HB 372, AN ACT relating to school districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.270 is amended to read as follows:

(1) Each board of education shall hold at least one (1) regular meeting each month, at a time and place fixed by the board. Special meetings may be called by the chairman. On request of three (3) members of the board the secretary shall call a special meeting. Each member of the board shall have timely notice of each meeting and the nature, object and purpose for which it is called. Any board member failing to attend three (3) consecutive regular meetings, unless excused by the board for reason satisfactory to it, shall be

removed from office pursuant to KRS 415.050 and 415.060. A majority of the board shall constitute a quorum for the transaction of business, *but a concurring vote by a majority of the board, the number of board members in the quorum notwithstanding, shall be necessary to take any particular action unless otherwise specified by statute.*

(2) The secretary shall be present at the meetings of the board except when his own tenure, salary or the administration of his office is under consideration and shall record in a book provided for that purpose all its official proceedings, which shall be a public record open to inspection.

HB 373, AN ACT relating to school districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.550 is amended to read as follows:

(1) No superintendent shall recommend and no board member shall *knowingly* vote for an expenditure in excess of the income and revenue of any year, as shown by the budget adopted by the board and approved by the state board for elementary and secondary education, except for a purpose for which bonds have been voted or in case of an emergency declared by the state board for elementary and secondary education.

(2) Any school district having authorized an expenditure in violation of subsection (1) of this section may be so certified at any time by the state board for elementary and secondary education. A district so certified shall thereafter, any contrary statutory provisions notwithstanding, make no expenditure of money, give no authorization involving the expenditure of money, and make no employment, purchase, or contract, unless the superintendent of public instruction has approved in writing, as fiscally sound and necessary, the expenditure, authorization, employment, purchase, or contract. Any expenditure, authorization, employment, purchase, or contract made in violation of this subsection shall be void.

(3) Any school district subject to the provisions of subsection (2) of this section shall so remain until such time as the state board for elementary and secondary education has approved, in conformity with KRS 160.470, a budget for the district for a succeeding fiscal year.

(4) In addition to the penalties set forth in KRS 160.990, any person who knowingly expends or authorizes the expenditure of school district funds or who knowingly authorizes or executes any employment purchase, or contract, in violation of this section, shall be jointly and severably liable in person and upon any official bond he has given to such district to the extent of any payments on the void claim.

Committee Amendment No. 1 to **HB 373** is as follows:

Amend printed copy of **HB 373,** on page 2, line 16, by adding the following after the word "claim.":

"*For purposes of this section, "knowingly" shall mean a person acts with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of that nature or that the circumstance exists.*"

HB 374, AN ACT relating to insurance coverage on school district buildings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

The state board of education may by regulation require each school district to provide for fire and extended insurance coverage on each building owned by the board which is not surplus to its needs as shown by the approved facilities plan. The requirement for such coverage shall not exceed replacement cost and shall allow for the feature of eighty percent (80%) co-insurance and one thousand dollars ($1,000) deductible.

Committee Amendment No. 1 to **HB 374** is as follows:

Amend printed copy of **HB 374,** on page 1, line 9, by deleting the word "*feature*" and inserting "*features*" in lieu thereof and by deleting "*eighty percent (80%)*"

and on page 1, lines 10 and 11, by deleting "*one thousand dollars ($1,000) deductible*" and inserting the word "*deductibles*" in lieu thereof

Committee Amendment No. 2 to **HB 374** is as follows:

Amend printed copy of **HB 374,** on page 1, line 3 by deleting the word "*may*" and inserting the word "*shall*" in lieu thereof

HB 425, AN ACT relating to educational employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

An employe of a local school district who transfers to become an employe of the department of education shall be allowed to transfer accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(3). The employe shall be allowed credit for each year of experience in the local school system for the purposes of determining pay grade steps, and the rate of accumulation of annual and sick leave in the department of education.

SECTION 2. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

An employe of the department of education who transfers to become an employe of the local school district shall be allowed credit for accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(3) and shall be allowed credit for each full year of employment with the department of education for the determination of pay under the school districts' single salary schedule.

HB 439, AN ACT relating to the establishment of child learning centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.230 is amended to read as follows:

As used in KRS 65.210 to 65.300, unless the context otherwise requires, "public agency" means any political subdivision of this state, any agency of the state government or of the United States, and any political subdivision of another state. *It also means a state-supported institution of higher education and a county or independent public school district for the purpose of entering into a joint agreement to establish and operate a center for child learning and study.*

Section 2. KRS 65.240 is amended to read as follows:

(1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state, and jointly with any public agency of any other state or of the United States to the extent that the laws of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by KRS 65.210 to 65.300 upon a public agency.

(2) Any two (2) or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of KRS 65.210 to 65.300. Appropriate action by ordinance, resolution or otherwise pursuant to law, of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(3) A state-supported institution of higher education and one (1) or more county or independent public school districts may enter into agreements under this Act for the purpose specified in KRS 65.230, notwithstanding any other provision of the statutes restricting, qualifying or limiting their authority to do so.

Section 3. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for kindergarten, classroom units for gifted and talented children when units are included in the executive budget, classroom units for

superintendents, administrative and special instructional services, classroom units for supervisors of instruction, and classroom units for directors of pupil personnel; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2)*(a)* In allotting classroom units for elementary and secondary schools, one (1) classroom unit shall be included for each twenty-seven (27) pupils in average daily attendance in grades one (1) through twelve (12); provided, however, that one (1) classroom unit shall be included for each isolated one-teacher school with twelve (12) or more pupils in average daily attendance and one (1) unit shall be included for each twenty-five (25) pupils in average daily attendance at all other isolated schools. The allotments of classroom units in this subsection shall be made on the average daily attendance for the end of the previous school year in public school grades one (1) through twelve (12) after the following deductions:

1.[~~(a)~~] an average daily attendance of *nine and six-tenths (9.6)* [~~six and nine-tenths (6.9) in 1978-79 and eight and four-tenths (8.4) in 1979-80~~] shall be deducted for each vocational unit allotted and

2.[~~(b)~~] an average daily attendance of *seven and two-tenths (7.2)* [~~five and one-tenth (5.1) in 1978-79 and six and three-tenths (6.3) in 1979-80~~] shall be deducted for each exceptional children's unit allotted.

(b) If a local school district through its admission and release committee determines that the most appropriate and least restrictive individual educational program for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency, then the school district shall count this as average daily attendance in a public school the time that such child is in attendance at such private school or agency.

(c) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 through 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement.

(3) Allotments of classroom units except those allotted in accordance with subsection (4) of this section, shall be increased when the average daily attendance in grades one (1) through twelve (12) in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district in grades one (1) through twelve (12) for the first two (2) months of the previous school year. The total number of classroom units allotted the district shall be increased by the percent of increase.

(4) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the number of classroom units allotted the district, except those allotted in accordance with subsection (3) of this section, for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(5) In allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board for occupational education; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board for occupational education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(6) In allotting classroom units for exceptional children, one (1) classroom unit shall be included upon the employment of each teacher approved to teach such children in accordance with the provisions of law and Kentucky administrative regulations of the state board for elementary and secondary education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(7) (a) In allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2) and (10) plus subsections (5) and (6) before July 1, 1976 shall be divided by eight (8) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(b) The total number of units allotted under subsection (5) beyond those allotted in the school year 1975-76 times *nine and six-tenths (9.6)* [~~six and nine-tenths (6.9) in 1978-79 and eight and four-tenths (8.4) in 1979-80~~] average daily attendance plus the total number of units allotted under subsection (6) beyond those allotted in the school year 1975-76 times *seven and two-tenths (7.2)* [~~five and one-tenth (5.1) in 1978-79 and six and three-tenths (6.3) in 1979-80~~] average daily attendance shall be divided by two hundred and sixteen (216) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(c) The total of subsection (a) plus subsection (b) shall be the number of classroom units allotted the district for administrative and special instructional services as authorized by Kentucky administrative regulations of the state board for elementary and secondary education.

(8) In allotting classroom units for supervisors of instruction, one-half (½) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom

units under subsections (2), (5), (6) and (10); one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.

(9) In allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred and sixty-five and nine-tenths (165.9) classroom units under subsection (2) and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2). For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.

(10) In allotting classroom units for the kindergarten, the superintendent of public instruction, under Kentucky administrative regulations of the state board for elementary and secondary education, may allot units for kindergarten. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(11) In allotting classroom units for superintendent, one unit shall be allotted each school district.

Committee Amendment No. 1 to **HB 439** is as follows:

Amend printed copy of **HB 439,** on page 3, lines 22 and 23, by deleting "*nine and six-tenths (9.6)*"

and on page 3, lines 23 and 24, by removing the brackets and strike throughs

and on page 3, line 26, by deleting "*seven and*"

and on page 4, lines 1 and 2 by deleting "*two-tenths (7.2)*" and removing the brackets and strike throughs

and on page 4, line 18 by adding the following after the word "*agreement.*": "*For purposes of KRS 157.360(1), teachers employed in such a center shall be considered as employes of each school district which is a party to the agreement.*"

and on page 6, lines 19, 20 and 21 by deleting "*nine and six-tenths (9.6)*" and removing the brackets and strike throughs

and on page 6, lines 23, 24 and 25 by deleting "*seven and two-tenths (7.2)*" and removing the brackets and strike throughs

SB 8, AN ACT relating to student fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

No child shall be denied full participation in any educational program due to an inability to pay for necessary school supplies.

Section 2. KRS 158.107, Fee, rental or purchase of instructional materials prohibited — Exceptions — Annual report on funds expended by public school district, is repealed.

Section 3. Whereas, during this school year the local school districts of the Commonwealth are having difficulty providing instructional materials for students due to reduced appropriations, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

SB 61, AN ACT relating to educational television.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18.140 is amended to read as follows:

(1) The classified service to which KRS 18.110 to 18.360 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employes of the general assembly including the employes of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employes on the staff of the governor, the lieutenant governor, the office of the secretary of the governor's cabinet, and the office of program administration;

(e) Cabinet secretaries, commissioners, department heads, bureau commissioners and the administrative heads of all boards and commissions, including the executive director of Kentucky educational television;

(f) Employes of Kentucky educational television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employes for employment, dismissal and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h)[~~(g)~~] One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the commissioner of personnel approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the personnel board may approve such an addition or additions on petition of the department head approved by the commissioner of personnel;

(i)[~~(h)~~] Division directors subject to the provisions of KRS 18.150;

(j)[~~(i)~~] Physicians employed as such;

(k)[~~(j)~~] One (1) private secretary for each person exempted under subsections (1)(e), (1)*(g)*[~~(f)~~] and (1)*(h)*[~~(g)~~] of this section;

(l)[~~(k)~~] The judicial department, referees, receivers, jurors, and notaries public;

(m)[~~(l)~~] Officers and members of the staffs of state universities and colleges and student employes of such institutions; and officers, teachers, and employes of local boards of education;

(n)[~~(m)~~] Patients or inmates employed in state institutions;

(o)[~~(n)~~] Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services who are retained pursuant to application procedures, lists of eligibles, and classification and compensation systems developed by the commissioner of personnel and approved by the professional employment commission under the provisions of KRS 45.535;

(p)[~~(o)~~] Seasonal, temporary, and emergency employes;

(q)[~~(p)~~] Federally funded time-limited employes;

(r)[~~(q)~~] Officers and members of the state militia;

(s)[~~(r)~~] State police troopers and sworn officers in the bureau of state police, department of justice;

(t)[~~(s)~~] University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u)[~~(t)~~] Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v)[~~(u)~~] Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w)[~~(v)~~] County and commonwealth's attorneys and their respective appointees.

(2) Nothing in KRS 18.110 to 18.360 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and KRS 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Classified employes with status promoted to positions exempted from classified service may, upon termination of their employment in the exempted service, revert to their classified status, but not necessarily to a particular position in the classified service.

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 2. KRS 18.220 is amended to read as follows:

(1) The commissioner of personnel shall prepare and submit proposed rules to the governor for employes in non-merit system positions enumerated in paragraphs [~~(f),~~] (g), (h), (i), (j), *(k), (p), (u),* [~~(o), (t),~~] and *(v)* [~~(u)~~] of KRS 18.140(1). Such rules shall become effective after approval by the governor and promulgation in accordance with KRS Chapters 12 and 13. The rules shall provide:

(a) For the preparation, maintenance and revision of a position classification plan for all aforementioned positions in the unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the governor, the commissioner shall allocate the positions of every employe in the unclassified service to one (1) of the classes of the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner of personnel a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(b) For a pay plan for all aforementioned employes in the unclassified service, after consultation with appointing authorities and the commissioner of the executive department for finance and administration, and taking into account such factors as 1. the relative levels of duties and responsibilities of various classes of positions; 2. rates paid for comparable positions elsewhere; and 3. the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the commissioner of personnel through the secretary of the executive department for finance and administration. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;

(c) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(d) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in KRS 18.170(2);

(e) For the development and operation of programs to improve the work effectiveness and morale of employes in the unclassified service, including training, safety, health, welfare, counseling, recreation, and employe relations;

(f) For such other rules and administrative regulations, not inconsistent with KRS 18.110 to 18.360, as may be proper and necessary for its enforcement.

(2) Nothing herein shall be construed to preclude the optional use of rules promulgated under this section on behalf of employes enumerated in paragraphs (a), (d), (e) and *(q)* [~~(p)~~] of subsection (1) of KRS 18.140 and on behalf of members of state boards and commissions who work on a full-time, salaried basis.

Section 3. KRS 278.115 is amended to read as follows:

The commissions by regulation shall organize their offices for administration and management under the executive director to reflect their functions. The organization may be changed from time to time and may include division directors subject to the exemption from the classified service as provided in KRS 18.140(1)*(i)*[~~(h)~~].

Section 4. KRS 168.080 is amended to read as follows:

Subject only to availability of funds from any source, the authority may employ and prescribe the qualifications and duties of such persons as it may deem necessary to the proper performance of its purposes and functions; including an executive director to serve as the principal executive of the authority, and a chief engineer to supervise its engineering staff. Compensation shall be such as may be fixed in accordance with the standards established by the state commissioner of personnel, except that the compensation for those officers and employes exempt from classified services as provided in KRS 18.140 shall be determined by the authority not to exceed the *maximum established by KRS 64.640(2)* [~~amount paid to a majority of all of the commissioners of state government~~].

The Committee on Judiciary-Civil reported **HB 99** with Committee Substitute attached thereto, **HB 392, SB 21, SB 67** with Committee Amendment attached thereto, and **HB 358,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 99, AN ACT relating to eminent domain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 416.350 is amended to read as follows:

[~~(1)~~] The owner of any tract or parcel of land [~~on which his residence is located,~~] who has no means of ingress or egress to any public road or highway, may acquire by condemnation pursuant to the Eminent

Domain Act of Kentucky a convenient right of way [~~in order to attend courts and elections and discharge other duties required of him by law~~]; such right of way shall not exceed in width thirty (30) feet over the lands intervening and lying between such tract or parcel of land and the public road nearest or most convenient thereto.

[~~(2) The right of condemnation conferred in subsection (1) of this section shall not exist in any of the following situations:~~

~~(a) Where the current owner or any of his predecessors in title purchased a tract or parcel of land having no means of ingress or egress to a public road or highway;~~

~~(b) Where the current owner or any of his predecessors in title sold a part of a tract or parcel of land, leaving the part retained without any means of ingress or egress to a public road or highway; or~~

~~(c) Where the current owner or any of his predecessors in title has had a part of his land taken by condemnation, the part not taken has no means of ingress or egress to a public road or highway, and the current owner or any of his predecessors in title has been compensated, by reason of the condemnation, for such loss of ingress or egress to a public road or highway.~~]

Committee Substitute to **HB 99** is as follows:

HB 99, AN ACT relating to eminent domain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 416.350 is amended to read as follows:

(1) The owner of any tract or parcel of land [~~on which his residence is located,~~] who has no means of ingress or egress to any public road or highway, may acquire by condemnation pursuant to the Eminent Domain Act of Kentucky a convenient right of way [~~in order to attend courts and elections and discharge other duties required of him by law~~]; such right of way shall not exceed in width thirty (30) feet over the lands intervening and lying between such tract or parcel of land and the public road nearest or most convenient thereto *and shall not be acquired over land owned by any other entity or any other person who possesses the power of eminent domain.*

(2) The right of condemnation conferred in subsection (1) of this section shall not exist in any of the following situations:

(a) Where the current owner or any of his predecessors in title purchased a tract or parcel of land having no means of ingress or egress to a public road or highway;

(b) Where the current owner or any of his predecessors in title sold a part of a tract or parcel of land, leaving the part retained without any means of ingress or egress to a public road or highway; or

(c) Where the current owner or any of his predecessors in title has had a part of his land taken by condemnation, the part not taken has no means of ingress or egress to a public road or highway, and the current owner or any of his predecessors in title has been compensated, by reason of the condemnation, for such loss of ingress or egress to a public road or highway.

HB 392, AN ACT relating to district courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.260 is amended to read as follows:

(1) The plaintiff shall commence an action in the small claims division by filing a claim on a form provided by the clerk.

(2) The plaintiff may bring an action in the small claims division in the judicial district where the party defendant or his agent resides or is doing business.

(3) Nothing in this section shall limit the exercise of jurisdiction on any other basis authorized in the Kentucky Revised Statutes or in the Rules of Civil Procedure.

Section 2. KRS 24A.280 is amended to read as follows:

(1) The court shall set a time for hearing. The hearing time set shall be not less than twenty (20) days nor more than forty (40) days after service of process.

(2) The clerk shall notify the defendant of the claim and his right to appear by sending the defendant a copy of the claim and a summons directing the defendant to appear at the time set for hearing and informing the defendant that if he fails to appear, judgment may be entered against him. The mode of service shall

be *as authorized in the Kentucky Revised Statutes or in the Rules of Civil Procedure* [~~by certified mail with return receipt requested. The receipt signed by the defendant shall be prima facie evidence that the defendant was served with notice of any action instituted pursuant KRS 24A.200 to 24A.360. Should the receipt not be returned signed by the defendant, the defendant shall be personally served with process~~].

(3) To promote quick settlement of small claims, the division shall grant continuances only where reasons of fairness and justice so require.

SB 21, AN ACT relating to descent and distribution.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 391.030 is amended to read as follows:

(1) Except as otherwise provided in this chapter, where any person dies intestate as to his personal estate, or any part thereof, or such person's surviving spouse has renounced the decedent's will, the surplus, after payment of funeral expenses, charges of administration and debts, shall pass and be distributed among the same persons, and in the proportions, to whom and in which real estate is directed to descend, except as follows:

(a) The personal estate of an infant shall be distributed as if he had died after full age.

(b) An alien may be distributee as though he were a citizen.

(c) Personal property or money on hand or in bank to the amount of *seven* [~~five~~] thousand *five hundred* dollars *($7,500)* [~~($5,000)~~] shall be exempt from distribution and sale and shall be set apart by the district court having jurisdiction over the estate on application to the surviving spouse, or, if there is no surviving spouse, to the [~~infant~~] children surviving.

(2) The surviving spouse of any deceased person may, at any time before the property or money is set apart by the court, procure on petition from the judge of the district court having jurisdiction over administration of his estate, an order authorizing him to withdraw from any bank or other depository not exceeding one thousand dollars ($1000) belonging to the estate of the deceased. Upon presentation of the order, the bank or depository shall permit him to withdraw the sum and shall lodge the order, endorsing thereon the amount withdrawn, with the circuit clerk and he shall retain it in his files to be considered in connection with further proceedings in the estate and the withdrawal shall be treated as a charge against the property of the estate exempt from distribution.

(3) In the application for the setting apart of property or money under this section the surviving spouse, *or, if there is no surviving spouse, the children* may make *their* [~~his~~] selection out of the personal property of the estate to the extent that the value of the property selected does not exceed the amount of *seven* [~~five~~] thousand *five hundred* dollars *($7,500)* [~~($5,000)~~].

(4) This section applies to cases where the husband or wife dies testate and the surviving spouse renounces the provisions of the will as provided in KRS 392.080 and also under circumstances set out in KRS 395.455.

SB 67, AN ACT relating to self-proved wills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 394.225 is amended to read as follows:

(1) Any will may be simultaneously executed, attested, and made self-proved, by acknowledgment thereof by the testator and affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state where execution occurs and evidenced by the officer's certificate, in substantially the following form:

I, ..., the testator, sign my name to this instrument this .... day of ......, 19...., and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

....
(Testator)

We, ..., ..., the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testator signs and executes this instrument as his last will *and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the testator and in the presence of the other subscribing witness, hereby signs this will as witness to the testator's signing, and that to the best of our knowledge the testator is eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.*

....
(Witness)

....
(Witness)

THE STATE OF ....
COUNTY OF ....

Subscribed, sworn to and acknowledged before me by ...., the testator and subscribed and sworn to before me by ...., and ...., witnesses, this .... day of ....

(Signed) ....

....
(OFFICIAL CAPACITY OF OFFICER)

(2) An attested will may, at *any* [~~the~~] time *subsequent to its* [~~of its~~] execution [~~or at any subsequent date~~], be made self-proved, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of this state, and evidenced by the officer's certificate, attached or annexed to the will in form and content substantially as follows:

THE STATE OF ....
COUNTY OF ....

Before me, the undersigned authority, on this day personally appeared .... and .... known to me to be the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument and, all of these persons being by me first duly sworn. .... the testator, declared to me and to the witnesses in my presence that the instrument is his last will and that he had willingly signed or directed another to sign for him, and that he executed it as his free and voluntary act for the purposes therein expressed; and each of the witnesses stated to me, in the presence and hearing of the testator, that he signed the will as witness *in the presence of the testator and of the other subscribing witness,* and that to the best of his knowledge the testator was eighteen years of age or over, of sound mind and under no constraint or undue influence.

....
(Testator)

....
(Witness)

....
(Witness)

....
(Witness)

Subscribed, sworn and acknowledged before me by ...., the testator, subscribed and sworn before me by .... and ...., witnesses, this .... day of ......, A.D., ...

....
(OFFICIAL CAPACITY OF OFFICER)

(3) The execution of an acknowledgment of a will by a testator, and of the affidavits of witnesses, made before an officer authorized to administer oaths under the laws of this state and evidenced by the officer's certificate substantially in the form set out in this section during the period between June 21, 1974 and the effective date of the 1982 amendments to this section shall be considered to be a valid execution and attestation of a written will even though the will was not signed and attested separately from the execution of the acknowledgment by the testator and the affidavits of the witnesses.

(4) A self-proved will may be admitted to probate without the testimony of any subscribing witness, but otherwise treated no differently from a will not self-proved.

Committee Amendment No. 1 to **SB 67** is as follows:

Amend printed copy of **SB 67,** on page 1, line 7, by deleting "*the*" before "*state*" and inserting in lieu thereof "*this*" and on page 1, line 7, by deleting "*where execution occurs.*"

HB 358, AN ACT relating to bankruptcy cases involving grain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 427 IS CREATED TO READ AS FOLLOWS:

A claimant's production to a bankruptcy court of a grain storage receipt as evidence of ownership of a quantity of grain held by the trustee shall be sufficient to establish a prima facie claim of right to possession in such claimant of the quantity, quality, and type of grain specified in such document. In any case where a claimant has placed the original of such document on deposit with any party as collateral for a loan, an affidavit from such party verifying ownership of such receipt by the claimant shall be sufficient to establish a prima facie claim of right to possession in such claimant.

Committee Amendment No. 1 to **HB 358** is as follows:

Amend printed copy of **HB 358,** on page 1, line 4, by inserting after "*receipt*" the words "*or scale ticket*";

and on page 1, line 11, by inserting after "*receipt*" the words "*or scale ticket*".

Calendar

HB 332, SB 13, SB 14, SR 1, HB 401, SB 25, HB 315, and **HB 97** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 84, HB 85,** and **HB 294** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 84, HB 85, and **HB 294** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day

Representative LeMaster moved that **HB 284,** with Floor Amendment attached thereto, be recommitted to the Committee on Business Organizations and Professions. Agreed.

HB 107, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 107** be passed.

Representative Pearman moved the adoption of the Floor Amendment No. 1 to **HB 107.**

On the roll call the vote was yeas 37-Bennett, Blevins, Brown, Caldwell, Cline, Cowan, Craddock, Crupper, Curd, Dawahare, Ellington, Endicott, Freibert, Handy, Kenton, Kidd, Lile, Lundergan, Maggard, McBee, Moore, Morris, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Rattliff, P. Richardson, Schmidt, Thomas, Tobin, Van Horn, White, Worthington, Yates. Nays 39-Allen, Arnold, Barrows, Bendl, Blandford, Boswell, Bronger, Bruce, Burch, Clarke, Dunn, Farrow, Ford, Foster, Fryman, Gray, Haering, Hancock, Harper, Head, Heleringer, Johnson, T. Jones, Layman, LeMaster, List, Little, Long, Mann, Meyer, Moberly, Petty, Richards, Seum, F. Smith, Stone, Stumbo, Thomason, Turner.

Floor Amendment No. 1 to **HB 107** was rejected.

On the roll call the vote was yeas 78-Allen, Barrows, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, R. Jones, Kenton, Layman, LeMaster, Lile, List, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, Riner, Schmidt, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 8-Arnold, T. Jones, Overstreet, Patrick, Pearman, B. Richardson, Tobin, Turner.

HB 107 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 107** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 147, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 147** be passed.

Representative Patrick moved the adoption of the Floor Amendment No. 1 to **HB 147.** Agreed.

Representative Barrows moved that **HB 147,** as amended, be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0.

HB 147, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 147,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 191, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Committee Substitute to **HB 191.** Agreed.

Representative Johnson moved that **HB 191,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 191, by way of Committee Substitute, was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 191,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 296, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of the Committee Amendment No. 1 to **HB 296.** Agreed.

Representative Meyer moved that **HB 296,** as amended, be passed.

On the roll call the vote was yeas 79-Arnold, Bendl, Bennett, Blevins, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Handy, Harper, Head, Hines, Holbrook, R. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McNutt, Meyer, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Van Horn, White, Williams, Worthington, Yates. Nays 6-Allen, Dunn, Johnson, Layman, Moore, Turner.

HB 296, as amended, was passed and the title agreed to.

Representative Meyer moved that the vote by which **HB 296,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 298, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stone moved the adoption of the Committee Amendment No. 1 to **HB 298.** Agreed.

Representative Yates moved that **HB 298,** as amended, be passed.

On the roll call the vote was yeas 75-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Gray, Guenthner, Haering, Hancock, Handy, Head, Heleringer, Hines, Holloway, R. Jones, Kidd, Layman, LeMaster, List, Little, Long, Lundergan, Maggard, McBee, Meyer, Moore, Morris, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, Stone, Stumbo, Thomas, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 16-Allen, Clarke, Fryman, Holbrook, T. Jones, Lile, McNutt, Moberly, Nett, Noe, Noland, O'Brien, Rattliff, F. Smith, Thomason, Turner.

HB 298, as amended, was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 298,** as amended, was passed be reconsidered and said motion be placed on the table.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 27** had been examined and found correctly enrolled. **SB 27** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

HB 306 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clark moved that **HB 306** be passed.

On the roll call the vote was yeas 80-Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, Little, Long, Maggard, Mann, McBee, Meyer, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4-Allen, Barrows, Heleringer, Moore.

HB 306 was passed and the title agreed to.

Representative Clark moved that the vote by which **HB 306** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 319, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Amendment No. 1 to **HB 319.** Agreed.

Representative Donnermeyer moved that **HB 319,** as amended, be passed.

Representative Donnermeyer moved that **HB 319,** as amended, be laid on the Clerk's desk. Agreed.

HB 322, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved the adoption of the Committee Amendment No. 1 to **HB 322.** Agreed.

Representative Hines moved that **HB 322,** as amended, be passed.

On the roll call the vote was yeas 76-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Caldwell, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Morris, Nett, Noe, Noland, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, Schmidt, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, White, Williams, Yates. Nays 18-Burch, Burnette, Clapp, Dawahare, Deskins, Farrow, Haering, Heleringer, Little, Moore, O'Brien, Overstreet, Rattliff, P. Richardson, Riner, Turner, Van Horn, Worthington.

HB 322, as amended, was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 322,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 328 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Speaker Pro Tempore Thomason presiding.

Representative LeMaster moved that **HB 328** be passed.

On the roll call the vote was yeas 85-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Crupper, Curd, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kidd, Layman, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Worthington, Yates. Nays 2-Hancock, Rattliff.

HB 328 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 328** was passed be reconsidered and said motion be placed on the table.

HB 335 taken from Orders from the Day and ordered read at length for the third time. Representative LeMaster moved that it be ready by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that **HB 335** be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lile, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 335 was passed and the title agreed to.

Representative Holbrook moved that the vote by which **HB 335** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 339, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Amendment No. 1 to **HB 339**. Agreed.

Representative Donnermeyer moved the adoption of the Committee Amendment No. 2 to **HB 339**. Agreed.

Representative Donnermeyer moved that **HB 339** as amended be passed.

Representative Donnermeyer moved that **HB 339**, as amended, be laid on the Clerk's desk.

Representative Williams moved that **HB 339**, as amended, be laid on the table.

On the roll call the vote was yeas 10-Barrows, Cowan, Deskins, Gray, Hines, R. Jones, T. Jones, Moberly, Noe, Williams. Nays 75-Allen, Arnold, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Craddock Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, Layman, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moore, Morris, Nett, O'Brien, Patrick, Pearman, Perkins, Priddy, Rapier, Richards, Riner, Robinson, Schmidt, F. Smith, Stone, Stumbo, Thomas, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates.

The motion that **HB 339**, as amended, be laid on the table was rejected.

Representative Donnermeyer moved that **HB 339**, as amended, be laid on the Clerk's desk. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 95**, by Representative White:

Amend printed copy of Committee Amendment No. 1 to **HB 95,** page 1, by deleting the following appearing on the final five lines of page 1:

"page 2 line 2

by inserting the following after the word "who":

"*retires pursuant to the provisions of subsection (1) (b) of this section*" and by inserting a bracket before the word "has" and striking through "has been a teacher in Kentucky".

and on page 2, by deleting the following appearing on the first five lines of page 2:

"page 2 line 3

by striking through the word "for", deleting the word "*twenty-seven (27)*" and the brackets before and after "thirty (30)", striking through the words "years or more", and inserting a bracket after the word "more".

Floor Amendment No. 1 to Committee Substitute to **HB 97,** by Representative Cowan:

Amend printed copy of Committee Substitute to **HB 97,** on page 5, line 11 by adding a new Section 4 as follows:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) The department for human resources may provide, to the extent funds are available under Section 2 of this Act and under conditions and standards established by the department, funds to any nonprofit agency recognized as operating in the field of mental health and whose objectives are to carry out the purposes of Section 2 of this Act.

(2) The funds, if provided, may be matched on a fifty-fifty basis by the nonprofit agency receiving such funds. The department shall determine whether the match may be in money or in kind services or other match."

Floor Amendment No. 1 to **HB 280,** by Representative Burnette:

Amend printed copy of **HB 280,** on page 3, lines 20-26, by deleting the above lines in their entirety.

Floor Amendment No. 2 to **HB 304,** by Representative Stumbo:

Amend printed copy of **HB 304,** on page 1, following line 11 add the following:

"The discount rate referred to above shall be deemed for the purpose of this Act to be 45 days after the insured has filed his claim with the insurer. This Act shall relate to any judgment rendered by any Court in this Commonwealth and be computed to commence 45 days after the insured or any person adjudged protected or a beneficiary under the contract of insurance has notified the insurer of the claim"

Floor Amendment No. 2 to **HB 334,** by Representative Mann:

Amend printed copy of **HB 334,** on page 5, after line 18, add the following:

Section (2) the provisions of Section (1) of this Act shall not apply to private institutions of Higher Education

Floor Amendment No. 1 to **HB 375,** by Representative Guenthner:

Amend printed copy of **HB 375,** on page 19, after line 12, by inserting the following new Section 10 and by renumbering the remaining section accordingly.

Section 10. KRS 341.470 is amended to read as follows:

(1) No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this chapter shall be valid. No agreement by any worker to pay any portion of a subject employer's

contributions, required under this chapter from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him, or require or accept any waiver by a worker of any right hereunder.

(2) No worker claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission, the secretary or his representatives. Any worker claiming benefits in any proceeding before the commission or a court may be represented by counsel or other duly authorized agent; but no counsel or agent shall either charge or receive for such service more than an amount approved by the commission.

(3) No assignment, pledge or encumbrance of any right to benefits due or payable under this chapter shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy for the collection of debt. Benefits received by any worker, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for the collection of all debts except debts incurred for necessaries furnished to such worker or his spouse or dependents during the time such worker was unemployed. No waiver of any exemption provided for in this subsection shall be valid.

(4) The provisions of this section shall not be applicable to child support deductions made in accordance with Section 1 of this Act.

Floor Amendment No. 2 to **SB 13**, by Representative Hines:

Amend printed copy of **SB 13**, on page 2, line 15, beginning with the word "*The*" delete in their entirety, lines 15 thru 26 and continuing on page 3, delete in their entirety lines 1 thru 8, and insert in lieu thereof the following:

"*(1) In any county containing a city of the first class, the following question shall be placed on the ballot at the first regular election occurring after the enactment of this Act: "Are you in favor of the establishment of a drafting commission to develop a plan for the reorganization of local government within this county, Yes____No____*"; and on page 3, delete in their entirety lines 9 thru 26 and continuing on page 4 delete in their entirety lines 1 thru 8 and insert in lieu thereof the following:

"*(2) Upon approval of the voters of the county as required by subsection (1) of this section, the drafting commission shall be appointed from a list consisting of names of one registered republican, one registered democrat, and one registered independent nominated by each state representative and each state senator from the list of registered voters residing within his district. From this list the county judge/executive of the county and the mayor of the city of the first class shall jointly appoint a representative drafting commission composed of thirty (30) members. Appointments shall be divided equally between the two (2) political parties having the largest registration within the county, and fair representation shall be given to voters registered as independents. There shall also be representatives from the cities other than the first class located within the county. The drafting commission shall select its own chairperson. (3)*[4]

On page 4, line 9 delete "[4]" *and in lieu thereof (3).*

and on page 6, line 4, "*Notwithstanding the method provided in KRS 67A.020 for the establishment of a commission to draft a comprehensive plan for urban-county government, the mayor of the largest city in any county jointly with the county judge/executive of such county may call for an election to be held on the question as provided in section 2, subsection (2) of this Act. If a majority of the votes cast are in the affirmative a representative commission shall be established in accordance with KRS 67A.020.*"

Floor Amendment No. 1 to **HB 339**, by Representative Deskins:

Amend printed copy of **HB 339**, on page 10, line 10, after "and" by inserting the following:

Whereas it is in the best interest of all people to repent and be baptized for the remission of all sins; and

Floor Amendment No. 2 to **HB 339**, by Representative Donnermeyer:

Amend printed copy of **HB 339**, page 11, on line 7, delete the word "*state*" and insert in lieu thereof the word "*circuit*"

Page 13, line 24, delete the word "*state*" and insert in lieu thereof the word "*circuit*"

Page 21, line 26, by inserting a period after the word "*purposes*" and deleting the words "except to the "*extent necessary to*" and on page 22, by deleting lines 1 through 4 in their entirety.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Arnold, **HB 450;** Representative Farrow, **HB 339;** Representative Haering, **HB 339;** Representative McBee, **HB 149;** Representative Patrick, **HB 339;** Representative Williams, **HB 125.**

Representative Bennett filed a request to have his name withdrawn as co-sponsor of **HB 422.**

Representative F. Smith moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative F. Smith moved that he be recorded as voting "yea" on **HB 298**. Agreed.

Representative Arnold moved that **HB 291** be withdrawn. Agreed.

The following meetings were announced.

Committee on Rules: On adjournment, Room 316.

Committee Chairmen: Fifteen minutes after adjournment, Room 105.

Labor and Industry: Thursday, 8:30 a.m., Room 104.

Appropriations and Revenue: Thursday, 10:00 a.m.

Agriculture and Small Business: Cancelled on Thursday.

Counties and Special Districts: Friday, 8:00 a.m.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HJR 36, by Representatives Freibert, McBee, and Kenton: A JOINT RESOLUTION requiring the department of finance to place organizations of the blind, mentally retarded and physcially or mentally handicapped who manufacture and/or sell commodities or services used by the state on the list of acceptable bidders.

HB 516, by Representative Schmidt: AN ACT relating to real estate licenses.

HB 517, by Representative Burnette: AN ACT relating to notaries public.

HB 518, by Representatives Caldwell, Meyer, Harper, Mann, and Petty: AN ACT relating to traffic regulations.

HB 519, by Representative Burnette: AN ACT relating to small claims court.

HB 520, by Representative Dawahare: AN ACT relating to banks and trust companies.

HB 521, by Representatives Deskins and Clapp: AN ACT relating to premium taxes.

HB 522, by Representative Tobin: AN ACT relating to traffic offenses.

HB 523, by Representatives Tobin, Endicott, McNutt, Craddock, Bruce, Todd, Guenthner, Handy, and Perkins: AN ACT relating to crimes and punishments.

HB 524, by Representatives Tobin and McNutt: AN ACT relating to wills.

HB 525, by Representatives Priddy, Guenther, Morris, Bennett, Bronger, Burch, Burnette, Clark, Donnermeyer, Dunn, Foster, Holloway, Kidd, Lundergan, Mann, Meyer, Pearman, Schmidt, Seum, Van Horn, and Williams: AN ACT relating to the funding of law enforcement and professional firefighters foundation programs, and making an appropriation therefor.

HB 526, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 527, by Representative Clarke: AN ACT relating to the allocation of taxes to county governments.

HB 528, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 529, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 530, by Representatives Cowan, Nett, Bendl, Burch, Caldwell, Clark, Donnermeyer, Freibert, Haering, Handy, Hines, Johnson, Layman, Lile, Mann, McNutt, Moberly, Priddy, Richards, Riner, Seum, and Thomason: AN ACT relating to elections.

HB 531, by Representatives LeMaster and Bendl: AN ACT relating to the department for human resources.

HB 532, by Representatives LeMaster and Bendl: AN ACT relating to medical assistance.

HB 533, by Representatives Harper, Stumbo, and Ellington: AN ACT relating to tobacco.

HB 534, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 535, by Representatives B. Richardson, Cyrus, Holloway, and Clapp: AN ACT relating to workers' compensation and insurance ratemaking.

HB 536, by Representative Bendl: AN ACT relating to crimes and punishments.

HB 537, by Representatives Richards, Moberly, Lundergan, Thomas, Mann, Little, Farrow, Rapier, Curd, Meyer, and Layman: AN ACT relating to the teachers' retirement system and declaring an emergency.

Posting of Bills and Resolution for Consideration

The Clerk announcing the following Bills and Resolutions have been posted for Committee consideration:

Energy: **HB 196.**

Counties and Special Districts: **HB 116.**

Transportation: **HB 412.**

Education: **HB 151, HB 449, HB 396, HB 453, SB 65.**

Banking and Insurance: **SB 96.**

Business Organizations and Professions: **HB 338.**

Natural Resources and Environment: **SB 44, HB 434.**

Report of Committees

The Committee on Natural Resources and Environment reported **HB 386,** with Committee Substitute attached thereto, and **HB 140** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 386, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.590 is amended to read as follows:

(1) Any person, seeking a permit required by KRS 353.570, shall submit to the department a written application in such form as may be prescribed by the department.

(2) Each application shall be accompanied by a *permit fee of one hundred dollars ($100) for each well to be drilled, deepened or reopened for any purpose relating to the production, repressuring or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole* [~~specified fee. The fee shall be twenty-five dollars ($25.00) for each well to be drilled, deepened or reopened for the production of oil or gas; ten dollars ($10.00) for each well drilled, deepened or reopened for the injection of water, gas or other fluid therein; ten dollars ($10.00) for each well to be drilled, deepened or reopened as a part of a program for the recovery of oil and gas by secondary recovery methods, except that the fee in no event shall exceed one hundred dollars ($100) for the permits issued in this last case for all wells on each separately leased tract; and ten dollars ($10.00) for each water supply well, and geological or structure test hole to be drilled or deepened~~].

(3) All money paid to the state treasurer for licenses and fees required by KRS 353.500 to 353.720 shall be for the sole use of the department and shall be in addition to any moneys appropriated by the general assembly for the use of the department.

(4) Each application shall be accompanied by a plat, which shows the location and elevation of each well, prepared according to the rules and regulations promulgated under KRS 353.500 to 353.720. The plat shall be certified as accurate and correct by the applicant, a qualified employe of the applicant, a person approved by the department, or an engineer registered in Kentucky, provided that when the location of the well is known to be underlaid by coal-bearing stratum, such plat shall be certified accurate and correct only by an engineer registered in Kentucky. If any plat submitted by an applicant is determined by the department to be materially inaccurate or incomplete, the department may require that a new plat be prepared and submitted either by a person approved by the director or an engineer registered in Kentucky. The department may further require that all future plats submitted by such an applicant be prepared either by a person approved by the director or an engineer registered in Kentucky.

(5) When any person submits to the department of mines and minerals an application for a permit to drill a well, or to reopen, deepen or temporarily abandon any well which is not covered by surety bond, the department shall except as provided in this section, require from the well operator a bond in the sum of $1,000 in favor of the department of mines and minerals, conditioned that the well upon abandonment shall be plugged in accordance with the rules and regulations of the department and that all records required by the department be filed as specified. The bond shall remain in effect until the plugging of the well is approved by the department, or the bond is released by the department. Any well operator in lieu of such bond may file with the department a blanket bond in a sum of $5,000, covering all wells drilled or to be drilled in the commonwealth by the principal in the bond, and the acceptance and approval by the department of such blanket bond shall be in full compliance with the above provision requiring an individual well bond. The bond or bonds referred to in this section shall be executed by the well operator as principal and by a corporate surety authorized to do business in the commonwealth. A deposit in cash shall serve in lieu of either of the above bonds.

(6) Notification in writing to the department by a successor to the well operator with bond as provided in subsection (5) that said successor is assuming the obligations of this chapter as to a particular well or wells, will relieve the original permittee of responsibility under this chapter with respect to such well or wells.

(7) If the requirements of subsection (5) with respect to proper plugging upon abandonment and submission of all required records on all well or wells have not been complied with within the time limits set by the department or by this chapter, the department shall cause a notice of noncompliance to be served upon the operator by certified mail, addressed to the permanent address shown on the application for a permit. The notice shall specify in what respects the operator has failed to comply with this chapter or the regulations or orders of the department. If the operator has not reached an agreement with the department or has not complied with the requirements set forth by it within forty-five (45) days after mailing of the notice, the bond shall then be forfeited to the department.

(8) When a bond is forfeited pursuant to the provisions of this chapter, the director shall give notice to the attorney general, who shall collect the forfeiture.

(9) All sums received through the forfeiture of bonds shall be placed in the state treasury and credited to a special agency account to be designated as the oil and gas well plugging fund. This fund shall be

available to the department and may be expended for the plugging of any abandoned wells coming within the authority of the department pursuant to this chapter. The plugging of any well pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for such plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.

(10) Upon request by any person applying for a permit for a geological or structure test hole, the department shall keep the location and elevation of said hole confidential until such information is allowed to be released by the person obtaining such permit.

(11) For the purpose of this chapter, "water supply well" shall not include:

(a) Any well for a potable water supply for domestic use or for livestock.

(b) Any water well used primarily for cooling purposes in an industrial process.

Committee Substitute to **HB 386** is as follows:

HB 386, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.590 is amended to read as follows:

(1) Any person, seeking a permit required by KRS 353.570, shall submit to the department a written application in such form as may be prescribed by the department.

(2) Each application shall be accompanied by a specified fee *as follows:*

(a) The fee shall be one hundred dollars ($100.00) for each well to be drilled, deepened or reopened for any purpose relating to the production, repressuring or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole.

(b) If the department receives delegation of authority for administration of the underground injection control program under section 1425 of the safe drinking water act (public law 93-523 as amended), the department may, by regulation, establish a fee or schedule of fees in an amount not to exceed fifty dollars ($50.00) per well, in addition to the fees imposed by paragraph (a) of this subsection, upon each application to drill, deepen or reopen a well for any purpose relating to the production, repressuring or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole. The fees or schedule of fees to be established by regulation shall not exceed an amount sufficient to recover the costs incurred by the department in administering the underground injection control program less any other state or federal funds which are made available for such purpose.

(c) All money paid to the state treasurer for fees required by paragraph (b) of this subsection shall be for the sole use of the department in the administration of the underground injection control program under section 1425 of the safe drinking water act (public law 93-523 as amended [~~The fee shall be twenty-five dollars ($25.00) for each well to be drilled, deepened or reopened for the production of oil or gas; ten dollars ($10.00) for each well drilled, deepened or reopened for the injection of water, gas or other fluid therein; ten dollars ($10.00) for each well to be drilled, deepened or reopened as a part of a program for the recovery of oil and gas by secondary recovery methods, except that the fee in no event shall exceed one hundred dollars ($100) for the permits issued in this last case for all wells on each separately leased tract; and ten dollars ($10.00) for each water supply well, and geological or structure test hole to be drilled or deepened~~].

(3) All money paid to the state treasurer for licenses and fees required by KRS 353.500 to 353.720 shall be for the sole use of the department and shall be in addition to any moneys appropriated by the general assembly for the use of the department.

(4) Each application shall be accompanied by a plat, which shows the location and elevation of each well, prepared according to the rules and regulations promulgated under KRS 353.500 to 353.720. The plat shall be certified as accurate and correct by the applicant, a qualified employe of the applicant, a person approved by the department, or an engineer registered in Kentucky, provided that when the location of the well is known to be underlaid by coal-bearing stratum, such plat shall be certified accurate and correct only by an engineer registered in Kentucky. If any plat submitted by an applicant is determined by the department to be materially inaccurate or incomplete, the department may require that a new plat be prepared and submitted either by a person approved by the director or an engineer registered in Kentucky. The department may further require that all future plats submitted by such an applicant be prepared either by a person approved by the director or an engineer registered in Kentucky.

(5) When any person submits to the department of mines and minerals an application for a permit to drill a well, or to reopen, deepen or temporarily abandon any well which is not covered by surety bond,

the department shall except as provided in this section, require from the well operator a bond in the sum of $1,000 in favor of the department of mines and minerals, conditioned that the well upon abandonment shall be plugged in accordance with the rules and regulations of the department and that all records required by the department be filed as specified. The bond shall remain in effect until the plugging of the well is approved by the department, or the bond is released by the department. Any well operator in lieu of such bond may file with the department a blanket bond in a sum of $5,000, covering all wells drilled or to be drilled in the commonwealth by the principal in the bond, and the acceptance and approval by the department of such blanket bond shall be in full compliance with the above provision requiring an individual well bond. The bond or bonds referred to in this section shall be executed by the well operator as principal and by a corporate surety authorized to do business in the commonwealth. A deposit in cash shall serve in lieu of either of the above bonds.

(6) Notification in writing to the department by a successor to the well operator with bond as provided in subsection (5) that said successor is assuming the obligations of this chapter as to a particular well or wells, will relieve the original permittee of responsibility under this chapter with respect to such well or wells.

(7) If the requirements of subsection (5) with respect to proper plugging upon abandonment and submission of all required records on all well or wells have not been complied with within the time limits set by the department or by this chapter, the department shall cause a notice of noncompliance to be served upon the operator by certified mail, addressed to the permanent address shown on the application for a permit. The notice shall specify in what respects the operator has failed to comply with this chapter or the regulations or orders of the department. If the operator has not reached an agreement with the department or has not complied with the requirements set forth by it within forty-five (45) days after mailing of the notice, the bond shall then be forfeited to the department.

(8) When a bond is forfeited pursuant to the provisions of this chapter, the director shall give notice to the attorney general, who shall collect the forfeiture.

(9) All sums received through the forfeiture of bonds shall be placed in the state treasury and credited to a special agency account to be designated as the oil and gas well plugging fund. This fund shall be available to the department and may be expended for the plugging of any abandoned wells coming within the authority of the department pursuant to this chapter. The plugging of any well pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for such plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.

(10) Upon request by any person applying for a permit for a geological or structure test hole, the department shall keep the location and elevation of said hole confidential until such information is allowed to be released by the person obtaining such permit.

(11) For the purpose of this chapter, "water supply well" shall not include:

(a) Any well for a potable water supply for domestic use or for livestock.

(b) Any water well used primarily for cooling purposes in an industrial process.

HB 140, AN ACT relating to waste disposal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.855 is amended to read as follows:

(1) No permit shall be issued until a complete application has been submitted to and approved by the department and notice of the application for a waste disposal site or facility has been published at the expense of the applicant in a manner reasonably calculated to inform that portion of the public which is most likely to be affected by the operation of the proposed waste disposal site or facility. The publication shall take place after the department has made a preliminary determination of the application.

(2) At a minimum, publication shall be made at least once by advertisement in a daily or weekly newspaper of general circulation in the locality where the proposed site is to be located.

(3) The contents of the public notice of an application for a waste disposal site or facility shall include the following:

(a) The name and address of the applicant;

(b) A brief description of the activity for which a permit is being sought;

(c) A description of the proposed location;

(d) The name and address of this department; and

(e) The following statement: "Any person who may be aggrieved by the issuance of a permit for this proposed waste disposal site or facility may file with the department a petition which sets forth the grounds of the objection and demand a hearing pursuant to KRS 224.081(2)." Such hearing shall be held within the county where the waste disposal site or facility is proposed.

(4) No permit shall be issued until at least thirty (30) days have expired following publication of the application. The applicant for a permit must establish the date of publication by a verified affidavit from the newspaper which publishes the advertisement. If a hearing is requested, no permit shall be issued prior to a completed hearing. In the case of hazardous waste *incinerators,* landfills and other sites or facilities for the land disposal of hazardous waste no permit shall be approved or issued prior to notification of the department by the local unit of government of its actions pursuant to subsection (5) of this section.

(5) The fiscal court of the county, urban-county government, or governing body of an incorporated municipality wherein a hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste is proposed, shall conduct a public hearing after public notice has been given in accordance with KRS Chapter 424 and shall vote to approve or disapprove the hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste within thirty (30) days after the hearing described in subsections (3) and (4) of this section. If no hearing is requested under the provisions of subsections (3) and (4) of this section, the fiscal court, urban-county government, or governing body of an incorporated municipality shall conduct such public hearing and vote to approve or disapprove the hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste within sixty (60) days following publication of the application. In making a determination the fiscal court, urban-county government, or governing body of an incorporated municipality shall consider the social and economic impacts of the proposed hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste on the affected community, including changes in property values, community perception and other psychic costs; costs and availability of public services, facilities and improvements required to support the landfill or other site or facility and protect public health, safety and the environment; and the relationship of the proposed hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste to local planning and existing development. After a fiscal court or urban-county government or governing body of an incorporated municipality has voted to approve or disapprove a hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste, the court, urban-county government, or governing body of an incorporated municipality shall so notify the department in writing within ten (10) days. If a hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste is disapproved by the court, urban-county government, or governing body of an incorporated municipality, the reasons for disapproval shall be set forth clearly and concisely, and so recorded in the minutes. No permit shall be issued by the department if a fiscal court, urban-county government or governing body of an incorporated municipality disapproves the hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste in the manner prescribed herein.

Section 2. KRS 224.866 is amended to read as follows:

(1) No person shall engage in the storage, treatment, recycling or disposal of hazardous waste without first obtaining construction and operation permits from the department. The department shall promulgate regulations establishing standards for such permits but in no case shall a permit to construct or operate a hazardous waste disposal facility be issued unless it can be demonstrated that the proposed facility can be integrated into the surroundings in an environmentally compatible manner, including but not limited to insuring that hydrologic, seismologic, geologic and soil considerations have been adequately addressed in the permit application and in an operational plan. In no case shall a permit to construct a hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste be approved or issued prior to notification of the department by the local unit of government of its actions pursuant to KRS 224.855(5). A person desiring a construction permit shall file an application on forms supplied by the department which shall contain such information as the department deems necessary and provide evidence that the hazardous waste shall be treated, stored or disposed of in the manner prescribed by the department. The department may consider past performance in this or related fields by the applicant. The department, in making a determination to issue, deny or condition a construction permit, shall consider the following:

(a) An evaluation of alternatives, to include other locations and other treatment, storage, and disposal approaches, different from those proposed, available to the applicant;

(b) An evaluation of the public health, safety, and environmental aspects of the proposals;

(c) An evaluation of the social and economic impacts of the proposed action on the affected community, to include, at a minimum, changes in property values, community perception and other psychic costs, and the costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety and the environment;

(d) An evaluation of mitigation measures to alleviate problems identified in subsections (b) and (c) of this section; and

(e) The relationship of the proposal to local planning and existing development.

Except that in the case of hazardous waste *incinerators,* landfills or other sites or facilities for the land disposal of hazardous waste the provisions of paragraphs (c) and (e) of this subsection shall be determined by the local unit of government pursuant to KRS 224.855(5).

(2) Any hazardous waste which would migrate, leach, or generate gas in its normal state shall not be disposed of in a landfill unless such waste has been either neutralized, detoxified, solidified, encapsulated or otherwise treated so that the character of the waste is such that it will prevent substantial migration, leaching or gas generation or unless the landfill is designed and constructed in such manner as will prevent substantial migration, leaching or gas generation, that in either case may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment.

(3) In conjunction with the application for permits under this section the applicant shall establish adequate financial responsibility as follows:

(a) The applicant shall file as part of his application for a permit to construct the facility an estimate of the cost of closing the facility after its capacity is reached or operations have otherwise ceased. In the case of storage facilities, the cost of closing shall include the cost of properly disposing of the hazardous waste stored. The department shall evaluate this cost estimate and either accept the estimate as made or shall revise it in accordance with acceptable guidelines, using, where available, actual data on closure costs associated with similar existing facilities. Before a permit to operate can be issued the applicant for any hazardous waste permit shall deposit into an interest bearing account pursuant to an escrow agreement with the department a closure fund. Such closure fund shall be cash, irrevocable credit or other sureties satisfactory to the department in an amount equal to the cost estimate for closure. A bank or other financial institution approved by the department shall act as the escrow agent of the closure fund. The escrow agreement shall provide that disbursement is permissible only upon written approval of the department and whenever, on the basis of any information, the department determines that the owner or operator is in violation of any of the closure requirements for the facility, that the department shall have the right to use part or all of the closure fund to carry out the closure requirements. The escrow agent shall release these funds upon receiving a forfeiture order of the department issued pursuant to an appropriate administrative hearing considering one (1) or more closure violations. When the applicant has ceased operations at the facility and has completed closure of the site, he may apply to the department for return of the principle and interest in the closure fund. Upon determination that closure has been satisfactorily accomplished, the department shall release to the applicant all remaining funds accumulated in the closure fund.

(b) Any applicant for a hazardous waste disposal permit shall file with the department as part of his application an estimate of the annual cost of post-closure monitoring and routine maintenance at the site. The department shall evaluate the cost estimate, and, after such modification as may be necessary in light of its evaluation, shall give notice of acceptance of the cost estimate. This cost estimate which will be referred to as the annual post-closure operating cost will then be used to determine the annual cash payments during the life of the facility or over twenty (20) years whichever is shorter into a post-closure monitoring and maintenance fund to be used for monitoring and maintenance for a period of a minimum of twenty (20) years after facility closure. The post-closure monitoring and maintenance fund shall be established by an escrow agreement with the department and annual payments shall be placed in an interest bearing escrow account in a bank or other financial institution approved by the department which shall act as the escrow agent for the fund. The escrow agreement shall provide that whenever, on the basis of any information, the department determines that the owner or operator of the facility is in violation of any of the post-closure monitoring and maintenance requirements, the department shall have the right to use part or all of the funds to carry out the post-closure monitoring and maintenance for the facility. The escrow agent shall release these funds upon receiving a forfeiture order of the department issued pursuant to an appropriate administrative hearing considering one (1) or more post-closure monitoring and maintenance violations. One (1) year after closure and annually, thereafter, for a period of twenty (20) years, the applicant who has carried out all necessary post-closure maintenance and monitoring requirements may upon application to the department be reimbursed out of the post-closure monitoring and maintenance fund an amount equal to the estimated costs for monitoring and routine maintenance for that year and the interest accumulated on that portion of the fund for that year. Request for release of funds for reimbursement must be accompanied by an itemized list of costs incurred. Upon determination that the expenditures incurred are in accordance with the approved plan or otherwise justified the department may authorize the release of the funds to the applicant in writing. Any funds remaining in the escrow account following a termination hearing in which the applicant is released of further responsibility will likewise be released to the applicant.

(c) Before a permit can be issued the applicant for any hazardous waste permit must provide evidence of financial responsibility in an amount and for a time period specified by the department for the purpose of satisfying claims arising out of injury to persons or property resulting from the release or escape of hazardous waste into the environment. Such financial responsibility may be established by one or a combination of evidence of liability insurance, self-insurance, or other evidence of financial responsibility acceptable to the department. The level of self-insurance shall not exceed ten percent (10%) of equity, and financial responsibility must be maintained during the entire operation of the facility and until termination.

(4) The department shall promulgate regulations establishing minimal standards for closure, post-closure monitoring and maintenance, and termination of sites for the disposal of hazardous waste. Any person

who obtains a disposal permit for hazardous waste shall be responsible for the post-closure monitoring and maintenance of the permitted facility for a minimum of twenty (20) years after closure of the facility, and may apply to the department for termination of the responsibility for post-closure monitoring and maintenance at any time after the site has been closed for at least twenty (20) years. Upon receipt of such application the department shall provide notice to the public and to the owner or operator and an opportunity for a hearing on the termination of the site. In this proceeding the burden shall be on the applicant to prove by clear and convincing evidence that additional post-closure monitoring and maintenance is not necessary for adequate protection of public health or the environment. The department shall determine either that post-closure monitoring and maintenance of the site is no longer required in which case the applicant shall be relieved of such responsibility; or that additional post-closure monitoring and maintenance of the site as specified in a plan of operation is still required, in which case the department may order appropriate remedial measures, impose restrictive covenants as to future use of the property involved, or otherwise condition termination as may be necessary for adequate protection of public health and the environment.

Committee Amendment No. 1 to **HB 140:**

Amend printed copy of **HB 140,** on page 2, line 22, by inserting the following language after the period ".", "*Except that in the case of a hazardous waste incinerator, the procedure set forth in subsection (5) of this section shall not apply if a local unit of government wherein the incinerator is proposed has adopted zoning regulations pursuant to KRS Chapter 100.*"; and

On page 5, line 14, by inserting before the period "." the following language, "*, unless the exception set forth in KRS 224.855(4) applies*"

On page 6, line 20, by inserting before the period "." the following language, "*, unless the exception set forth in KRS 224.855(4) applies*"

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, February 18, 1982.

On the roll call the vote was yeas 55-Allen, Arnold, Bendl, Bennett, Blevins, Boswell, Burch, Caldwell, Clapp, Clark, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Foster, Freibert, Hancock, Harper, Head, Hines, Johnson, T. Jones, Kidd, LeMaster, List, Long, McBee, Moberly, Nett, Noe, Noland, Patrick, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, F. Smith, Stone, Stumbo, Thomas, Van Horn, Williams, Worthington, Yates. Nays 14-Deskins, Endicott, Ford, Fryman, Handy, Holloway, Kenton, Lile, Maggard, Mann, Overstreet, Perkins, Schmidt, Turner.

THURSDAY, FEBRUARY 18, 1982

TWENTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. J. T. Miller, West Point Baptist Church, Lewisport, Kentucky.

The Speaker led the members in the Pledge of Allegiance of the Flag.

The roll was called. All present except Representatives Lefevers and P. Richardson.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 17, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 77, SB 100, SB 118, SB 135, SB 151, SB 203, SB 213, SCR 24, HB 38, HB 62, HB 63, HB 66, HB 68, HB 71** with Senate Amendment, **HB 73, HB 74, HB 77** with Senate Amendment, and **HB 118.**

Introduction of Bills and Resolutions

HB 538, by Representatives Meyer, Crupper, Perkins, Handy, Cowan, Morris, Long, Richards, Bendl, Hancock, Mann, Kenton, Donnermeyer, Petty, and Seum: AN ACT relating to neighborhood redevelopment.

HB 539, by Representative Caldwell: AN ACT relating to land installment contracts.

HB 540, by Representative Pearman: AN ACT relating to revenue and taxation.

HB 541, by Representative Pearman: AN ACT relating to crimes and punishments.

HB 542, by Representatives Bennett and Holloway: AN ACT relating to wages of employes.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 509, HB 533, HB 511.**

Appropriations and Revenue: **HB 521, HB 514, HB 515, HB 513, HB 528, HB 529, HB 534, HB 525, HB 527, HB 526.**

Banking and Insurance: **HB 508, HB 520, HB 512.**

Business Organizations and Professions: **HB 516.**

Cities: **SB 202.**

Education: **HB 537.**

Health and Welfare: **HB 531, HB 532.**

Judiciary-Civil: **HB 524, SB 35, HB 519, HB 517.**

Judiciary-Criminal: **HB 523, HB 522, HB 536.**

Labor and Industry: **HB 535.**

Natural Resources and Environment: **SB 48.**

State Government: **HB 530, HB 510, HJR 36, SB 180.**

Transportation: **HB 518.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Energy: **HB 492, HB 486, SB 171.**

Counties and Special Districts: **HB 440, HB 441, HB 442.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Judiciary-Civil: **HB 407.**

Report of Committees

The Committee on Rules reported **HB 32, HB 129, HB 161, HB 203, HB 253, HB 280, HB 315, HB 401,** and **SB 13** have been posted for passage in Orders of the Day, February 19, 1982.

The Committee on Appropriations and Revenue reported **HB 402,** with Committee Amendment attached thereto, and **HB 455** with expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 402, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Commissioner" means the commissioner of revenue.

(2) "Department" means the department of revenue.

(3) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any individual or corporation acting in a fiduciary capacity for any other person.

(4) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(5) "Adjusted prime rate charged by banks" means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the board of governors of the federal reserve system.

(6) "Tax interest rate" means the interest rate determined under Section 3 of this Act.

Section 2. KRS 131.180 is amended to read as follows:

Any person who fails to make any tax report or return or pay any tax within the time required by law, for which a specific civil penalty is not provided by law, shall pay a penalty of ten per cent (10%) of the tax due, with interest from the date due at *the tax interest rate as defined in KRS 131.010(6)* [~~one per cent (1%) a month or part thereof~~], or ten dollars ($10.00) if the penalty and interest is less than this amount. This penalty shall be collected in the manner provided for the assessment and collection of taxes under the particular act involved, or collected in a civil action at the instance of the department. In addition an action may be brought to compel such person to make the report or return.

SECTION 3. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

All taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate. The tax interest rate for tax liabilities that are assessed on or after July 1, *1982, shall be sixteen percent (16%). This tax interest rate shall apply until January 1, 1983, when the tax interest rate shall be adjusted as provided in this section. The commissioner of revenue shall adjust the tax interest rate not later than November 15 of any year, beginning in 1982, if the adjusted prime rate charged by banks during October of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent, and shall become effective on January 1 of the immediately succeeding year.*

Section 4. KRS 132.080 is amended to read as follows:

The taxes fixed under KRS 132.070 shall be paid to the department of revenue by the broker within thirty (30) days after the rendition of the tax bill, subject to the same rate of discount provided in KRS 134.020. The broker may charge to and collect from each customer his portion of the tax levied upon the securities held or carried for him. If the broker fails to pay the taxes when due, he shall be liable for interest thereon at *the tax interest rate as defined in KRS 131.010(6)* [~~the rate of six per cent (6%) per annum~~], and an additional penalty of ten per cent (10%) upon the amount of the taxes with interest.

Section 5. KRS 132.160 is amended to read as follows:

(1) (a) Taxes on distilled spirits that shall be assessed while in a bonded warehouse or premises as of January 1, 1967, and January 1 of each year thereafter, shall become due September 15 following the assessment date and shall become delinquent on January 1. Delinquent taxes on such distilled spirits shall be subject to the same penalties as provided by law for other tangible personal property, and the collecting officer shall have all the powers and duties to collect such delinquent taxes, penalties, and interest as provided by law for other tangible personal property in such taxing jurisdiction.

(b) Taxes and interest on distilled spirits assessed while in a bonded warehouse or premises for each year prior to January 1, 1967, on which the federal tax has not been paid, shall be due on January 1, May 1, and September 1 next after the federal tax becomes due or is paid, or after the distilled spirits are removed from the bonded warehouse or premises for transfer in bond out of this state. Provided, however, the remaining state taxes and interest on distilled spirits assessed while in a bonded warehouse or premises as of January 1, 1966 and January 1, 1965 shall be due on or before January 15, 1968; the remaining state taxes and interest on distilled spirits assessed while in a bonded warehouse or premises as of January 1, 1964 shall be due on or before January 15, 1969; the remaining state taxes and interest on distilled spirits assessed while in a bonded warehouse or premises as of January 1, 1963 shall become due on or before January 15, 1970; the remaining state taxes and interest on distilled spirits assessed while in a bonded warehouse or premises as of January 1, 1962 and all prior years shall become due on or before January 15, 1971. After July 1, 1970, any owner or proprietor, or custodian of a bonded warehouse or premises may elect to pay at one (1) time all accrued ad valorem taxes and interest. Such taxes and interest paid under this subsection shall be used for capital outlay by all local taxing jurisdictions.

(2) The taxes shall not become due by reason of a mere removal of the distilled spirits from one (1) bonded warehouse or premises to another bonded warehouse or premises within this state, but in that event the owner or proprietor from whose bonded warehouse or premises the distilled spirits are moved shall execute a bond with good and sufficient surety conditioned upon a payment of all taxes that have accrued upon the distilled spirits prior to removal from the county, city, or taxing district from which the distilled spirits are removed. The bond shall be in an amount sufficient to protect the county, city, or taxing district and shall be approved by the county judge/executive for the county, the mayor for the city, the superintendent of any school district involved, and by the person whose duty it is to collect taxes for any other taxing district. Prior to removal of any distilled spirits, the owner or proprietor from whose bonded warehouse or premises they are to be removed shall give written notice of such intention to the county, city, or taxing district, addressed to the officer thereof abovementioned and stating the quantity of distilled spirits to be moved and the name and address of the bonded warehouse or premises to which they are to be taken. After the distilled spirits are moved, the owner or proprietor shall notify the same officers of the county, city, or taxing district of the amount of accrued taxes on the distilled spirits, together with interest on the taxes. After any distilled spirits have once been moved as provided in this section and are moved again, all taxes that have accrued thereon up to the time of the second removal shall immediately become due and payable to any county, city, or taxing district to which any taxes have accrued.

(3) The taxes on each year's assessment shall bear *interest at the tax interest rate as defined in KRS 131.010(6)* [~~legal interest~~] until paid.

Section 6. KRS 132.290 is amended to read as follows:

(1) Any property which has not been listed for taxation, for any year in which it is taxable, by the time the board of supervisors completes its work for that year shall be deemed omitted property.

(2) All omitted property shall be assessed retroactively in the manner provided by law at any time within five (5) years from the date when it became omitted, but the lien thereby accruing on any such property, except real property, shall not prejudice the rights of bona fide purchasers acquired in the meantime.

(3) All omitted property voluntarily listed shall be subject to a penalty of ten per cent (10%) of the amount of taxes, and interest at *the tax interest rate as defined in KRS 131.010(6)* [~~one-half of one per~~

~~cent (.5%) per month or fraction thereof~~] from the date when the taxes would have become delinquent had the property been listed as required by law, until the date the tax bill is prepared in accordance with KRS 133.230.

(4) All omitted property not voluntarily listed shall be subject to a penalty of twenty per cent (20%) of the amount of taxes, and interest at *the tax interest rate as defined in KRS 131.010(6)* [~~one-half of one per cent (.5%) per month or fraction thereof~~] from the date when the taxes would have become delinquent had the property been listed as required by law, until the date the tax bill is prepared in accordance with KRS 133.230.

(5) When the property is assessed retroactively by action prosecuted in the manner provided by KRS 132.330 and 132.340, an additional penalty of twenty per cent (20%) of the amount of the original tax, interest and penalty shall be collected for the purpose provided in KRS 134.400 and paid into the state treasury. All other penalties and interest shall be distributed in the same manner as the tax.

Section 7. KRS 133.120 is amended to read as follows:

(1) Any taxpayer aggrieved by an assessment made by the property valuation administrator may appeal to the board of assessment appeals. The taxpayer shall appeal his assessment by filing in person or sending a letter or other written petition stating the reasons for appeal, identifying the property for which the appeal is filed and stating the taxpayer's opinion of the fair cash value of the property with or to the county clerk within the twelve -day period in which the inspection period. The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the department of revenue, county judge/executive, mayor of any city using the county assessment or the superintendent of any school district in which the property is located, provided, such recommendation is made to the board in writing specifying the individual properties recommended for review. If the board of assessment appeals determines that any such assessment should be increased, then it shall give the taxpayer notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he so desires, in protest of such increase. Any property owner who has listed his property with the property valuation administrator at its fair cash value, likewise may ask the county board of assessment appeals to review the assessments of properties he believes to be assessed at less than fair cash value, providing, he specifies, in writing the individual properties for which the review is sought and factual information upon which his request is based; such as, comparable sales or cost data. Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.

(2) The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (1) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value. The board shall report to the property valuation administrator any property omitted from the tax roll. The property valuation administrator shall assess such property and immediately give notice to the taxpayer in the manner required by KRS 132.450(4), specifying a date when the board of assessment appeals will hear the taxpayer, if he so desires, in protest of the action of the property valuation administrator.

(3) The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.

(4) The powers of the board of assessment appeals shall be limited to those specifically granted by this section.

(5) No appeal under this section shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county and district taxes due on the valuation which he claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the court or the Kentucky board of tax appeals shall certify the valuation to the county clerk and the taxpayer shall be billed for any additional tax and *interest at the tax interest rate as defined in KRS 131.010(6)* [~~six percent (6%) interest~~] from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to such tax bill.

(6) Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky board of tax appeals.

(7) It shall be the duty of the county attorney to represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. In the event the county attorney is unable to represent the state and county, he or the fiscal court shall arrange for substitute representation.

Section 8. KRS 134.520 is amended to read as follows:

If a certificate of delinquency held by an individual is declared void by a court of competent jurisdiction because of the irregularity of taxing officers, the amount for which the certificate was issued shall be refunded by the state, county and taxing districts on a pro rata basis. If a school district or county is unable to make the refund currently when requested, it shall be given preference from the next year's revenue. The application for refund must be made within one (1) year after the judgment. The rate of interest refunded shall be *at the tax interest rate as defined in KRS 131.010(6)* [~~six per cent (6%) per annum~~], rather than twelve per cent (12%) per annum. The property covered by the void certificate shall be assessed immediately as omitted property and the tax bill shall be payable as soon as prepared.

Section 9. KRS 134.580 is amended to read as follows:

(1) When money has been paid into the state treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the department of revenue shall authorize refunds or credits, to the person who paid the tax, or to his heirs, personal representatives or assigns, or any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the department and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the department, the taxpayer may pay the amount claimed by the department to be due, and if an appeal is taken by the taxpayer from the ruling of the department within the time provided by KRS 131.340 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the department shall authorize such refund or credit as the Kentucky board of tax appeals or courts may direct.

(2) In the event refunds or credits result from clerical error of the department or its agents, but not otherwise, refunds or credits shall be authorized with interest at the *tax interest rate as defined in KRS 131.010(6)* [~~rate of eight per cent (8%) per annum~~]. The refunds authorized by this section shall be made in the same manner as other claims on the state treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.

(3) Nothing in this section shall be construed to authorize the department to make or cause to be made any refund except within four (4) years from the date the money was paid into the state treasury. Nothing in this section shall be construed as requiring the department to authorize any refund or credit to a taxpayer without demand from the taxpayer, if in the opinion of the department the cost to the state of authorizing the refund or credit would be greater than the amount that should be refunded or credited.

(4) The terms "overpayment" and "payment where no tax was due" as used in this section shall be construed as referring to tax liability under the terms of the applicable statute without reference to the constitutionality of the statute. It is not intended that this section shall apply to any case wherein the statute may be held unconstitutional, either in whole or in part.

(5) In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.

Section 10. KRS 136.377 is amended to read as follows:

(1) Any company whose tax, as provided in KRS 136.330, 136.340, 136.350, 136.370 and 342.445 or 304.3-270 was five thousand dollars or more in the previous year shall file a declaration of estimated tax and remit one third of such amount on or before June 1, 1965, provided that if any taxpayer uses the amount of the tax liability for the previous calendar year as the estimate for such declaration no penalties or interest shall apply to any subsequent adjustments. The remainder of the tax shall be due on or before March 1, 1966.

(2) As provided in subsection (1) of this section, but beginning in 1966, and each year thereafter, the tax due shall be paid in three installments, one third on or before June 1, one third on or before October 1, and the remainder on or before the following March 1. Provided, however, if any taxpayer uses the amount of the tax liability for the previous calendar year as the estimate for such declaration no penalties or interest shall apply to any subsequent adjustments.

(3) Any adjustments may be made on or before October 1. All adjustments shall be made on or before March 1.

(4) All such taxes not paid when due may be subject to a penalty of five percent per month, but not more than twenty-five percent penalty shall be assessed on any one report, and interest at the *tax interest rate as defined in KRS 131.010(6)* [~~rate of one-half of one percent per month~~] from the date the report was due.

Section 11. KRS 136.980 is amended to read as follows:

If any tax imposed by KRS 136.330 to 136.400, 299.530, 304.4-030 and 342.450, whether assessed by the department, or the taxpayer, or any installment or portion of any tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the *tax interest rate as defined in KRS 131.010(6)* [~~rate of six per cent (6%) per annum~~] from the date prescribed for its payment until payment is actually made to the department. If any assessment made by the department is not paid within the time prescribed, or protested in accordance with KRS 131.110, the taxpayer shall pay as a penalty, in addition to the amount of the tax and other applicable penalties, one per cent (1%) of the tax for each month the tax remains unpaid.

Section 12. KRS 136.990 is amended to read as follows:

(1) Any county clerk who fails to comply with the provisions of subsection (2) of KRS 136.020 shall be fined not less than ten dollars ($10.00) nor more than twenty-five dollars ($25.00).

(2) Any corporation that fails to pay its taxes, penalty and interest as provided in subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty dollars ($50.00) for each day the same remains unpaid, to be recovered by indictment or civil action, of which the Franklin Circuit Court shall have jurisdiction.

(3) Any public service corporation, or officer thereof, that willfully fails or refuses to make reports as required by KRS 136.130 and 136.140 shall be fined one thousand dollars ($1,000), and fifty dollars ($50.00) for each day the reports are not made after March 31 of each year.

(4) Any superintendent of schools or county clerk who fails to report as required by KRS 136.190, or who makes a false report, shall be fined not less than fifty dollars ($50.00) nor more than one hundred dollars ($100) for each offense.

(5) Any company or association that fails or refuses to return the statement or pay the taxes required by KRS 136.330 or 136.340 shall be fined one thousand dollars ($1,000) for each offense.

(6) Any insurance company that fails or refuses for thirty (30) days to return the statement required by KRS 136.330 or 136.340, under the oath of some principal officer or general agent or manager of this state, and to pay the tax required by KRS 136.330 or 136.340, shall forfeit one hundred dollars ($100) for each offense. The commissioner of insurance shall revoke the authority of the company or its agents to do business in this state, and shall publish the revocation pursuant to KRS chapter 424.

(7) Any person who violates subsection (3) of KRS 136.390 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(8) Where no other penalty is mentioned for failing to do an act required, or for doing an act forbidden, by this chapter, the penalty shall be not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

(9) The Franklin Circuit Court shall have jurisdiction of all prosecutions under subsections (5) to (7) of this section.

(10) If any taxpayer fails to make or file a return as required by KRS 136.090 on or before the due date of the return, then, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, five per cent (5%) of the tax found to be due by the department shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it was filed, but the total penalty shall not exceed twenty-five per cent (25%) of the tax provided, however, that in no case shall a penalty be less than ten dollars ($10.00).

(11) If the tax imposed by KRS 136.070, whether assessed by the department or the taxpayer, or any instalment or portion of the tax, is not paid on or before the date prescribed for its payment, it shall be collected as a part of the tax, interest upon the nonpaid amount at the *tax interest rate as defined in KRS 131.010(6)* [~~rate of eight per cent (8%) per annum~~] from the date prescribed for its payment until payment is actually made to the department.

Section 13. KRS 137.380 is amended to read as follows:

Any person required to secure a license and to pay a tax under KRS 137.340 to 137.400 who shall fail to secure the license and pay the tax at the time required therein shall pay a penalty of twenty per cent (20%) of the amount of the tax due and in addition thereto interest at the *tax interest rate as defined in KRS 131.010(6)* [~~rate of one half of one per cent (.5%) per month~~] on the principal amount of the tax during the period in which the tax is due and unpaid.

Section 14. KRS 138.185 is amended to read as follows:

If any person becomes delinquent in the payment of any tax due under KRS 138.130 to 138.205, he shall, in addition to any such tax due, pay a penalty equivalent to twenty percent (20%) of the tax due and delinquent, together with interest at *the tax interest rate as defined in KRS 131.010(6)* [~~eight percent (8%) per annum~~] from the date due until the date of payment.

Section 15. KRS 138.290 is amended to read as follows:

(1) If any dealer neglects or refuses to make the return required by KRS 138.240 or to pay the tax at the time provided, a penalty of twenty per cent (20%) thereof and interest at *the tax interest rate as defined in KRS 131.010(6)* [~~six per cent (6%) per annum~~] from the date when due shall be paid as a part of the tax. If collected by proceedings in court, an additional penalty of twenty per cent (20%) shall be collected and distributed as is authorized by KRS 134.400 and 135.060.

(2) If any taxpayer subject to the penalty provided in subsection (1) of this section submits in writing to the department, his reasons for failure to comply with KRS 138.240, and if the department finds the reasons evidence of justifiable cause for modifying the penalty provided in subsection (1) of this section, it may modify the penalty exacted therein to five per cent (5%) of the amount of the tax due and delinquent, provided that the department may reduce or waive the penalty when in the sole discretion of the department the exaction of the penalties provided above would be inequitable or unjust.

(3) Any dealer or transporter who fails to make any report or return required under KRS 138.240 or KRS 138.260 within the time required shall pay a penalty of ten dollars ($10.00) to be assessed and collected in the manner provided for the assessment and collection of taxes under KRS 138.210 to KRS 138.340

inclusive or in a civil action, at the instance of the department. In addition such delinquent may be compelled to make the required report or return.

Section 16. KRS 138.490 is amended to read as follows:

(1) Each person engaged in the business of conducting a race track shall furnish the department of revenue, within thirty (30) days after the end of each race meeting, a verified report of the number of persons subject to the tax levied in KRS 138.480 who enter the grounds or inclosure during the race meeting. At the same time, the person shall pay to the state the correct amount due by reason of the collection of the tax from persons entering the grounds or inclosure of the race track.

(2) Any person who fails to pay the tax due in the time specified in this section shall pay a penalty equal to twenty per cent (20%) of the amount of tax due and delinquent, together with interest at *the tax interest rate as defined in KRS 131.010(6)* [~~six per cent (6%) per annum~~] on both the original tax and the penalty.

Section 17. KRS 138.540 is amended to read as follows:

Upon the failure of any person, corporation or association subject to the tax imposed by KRS 138.510 to report and to remit the tax within the time prescribed by the department of revenue, a penalty equal to twenty per cent (20%) of the amount of the tax due and delinquent, together with interest at *the tax interest rate as defined in KRS 131.010(6)* [~~six per cent (6%) per annum~~] on both the original tax and the penalty shall be paid. In the event it is necessary to institute legal proceedings for the collection of the tax imposed by KRS 138.510, an additional penalty of twenty per cent (20%) shall be paid.

Section 18. KRS 138.625 is amended to read as follows:

(1) If any special fuels dealer neglects or refuses to make the return required by KRS 138.590 or to pay the tax at the time provided, a penalty of twenty per cent (20%) thereof and interest at *the tax interest rate as defined in KRS 131.010(6)* [~~six per cent (6%) per annum~~] from the date when due shall be paid as a part of the tax. If collected by proceedings in court, an additional penalty of twenty per cent (20%) shall be collected and distributed as is authorized by KRS 134.400 and 135.060.

(2) If any taxpayer subject to the penalty provided in subsection (1) of this section submits in writing to the department, his reasons for failure to comply with KRS 138.590, and if the department finds the reasons evidence of justifiable cause for modifying the penalty provided in subsection (1) of this section, it may modify the penalty exacted therein to five per cent (5%) of the amount of the tax due and delinquent, provided the five per cent (5%) penalty may be reduced to a one per cent (1%) penalty if the violation is the first violation by the taxpayer within twelve (12) months.

(3) Any special fuels dealer who fails to make any return required under KRS 138.590 within the time required shall pay a penalty of ten dollars ($10.00) to be assessed and collected in the manner provided for the assessment and collection of taxes under KRS 138.560 to 138.640 inclusive or in a civil action initiated by the department. In addition such delinquent taxpayer may be compelled to make the required report or return.

Section 19. KRS 138.715 is amended to read as follows:

(1) If any licensee neglects or refuses to make the return or pay the tax at the time provided in KRS 138.685, a penalty of twenty percent (20%) of the tax and interest at *the tax interest rate as defined in KRS 131.010(6)* [~~six percent (6%) per annum~~] from the date when due shall be paid on the tax.

(2) If any licensee subject to the penalty provided in subsection (1) of this section submits to the department in writing the reasons for failure to comply with KRS 138.655 to 138.725 and if the department finds the reasons sufficient evidence or justifiable cause for modifying the penalty provided in subsection (1) of this section, it may modify the penalty enacted therein to five percent (5%) of the amount of the tax due and delinquent, provided the five percent (5%) penalty may be reduced to one percent (1%) if the violation is the first violation by the taxpayer within the twelve (12) months.

(3) If the penalties provided by this section are collected by proceedings in court, an additional penalty of twenty percent (20%) shall be collected and distributed as is authorized by KRS 134.400 and 135.060. Whenever any licensee neglects or refuses to make and file any report for any calendar quarter as required by KRS 138.685, or files an incorrect or fraudulent report, the department shall determine after an investigation the amount of the liability which the licensee has incurred under KRS 138.655 to 138.725 for any particular quarter and assess and collect the amount of tax and penalties due.

(4) Any licensee who fails to make any report required under the provisions of KRS 138.655 to 138.725 within the time allowed may be required to pay a penalty of fifty dollars ($50) to be assessed and collected in the manner provided for the assessment and collection of taxes, or may be proceeded against in a civil action instigated by the department. In addition, such licensee may be compelled to make the required return.

(5) In any action for the collection of taxes due under KRS 138.655 to 138.725 and any penalties or interest imposed in connection therewith, an assessment by the department of the amount of tax due and the interest or penalties due to the state shall constitute prima facie evidence of the claim of the state and the burden of proof shall be on the licensee to show that the assessment was incorrect or contrary to law.

Section 20. KRS 139.650 is amended to read as follows:

In every case, any tax not paid on or before the due date shall bear interest at the *tax interest rate as defined in KRS 131.010(6)* [~~rate of eight per cent (8%) per annum~~] from the date due until the date of payment.

Section 21. KRS 139.740 is amended to read as follows:

(1) No judgment shall be entered and no garnishment or attachment shall be permitted by any court in this Commonwealth in an action for the collection of a debt arising out of the sale of tangible personal property unless an affidavit containing a certificate of service is executed by the plaintiff to the effect that all use taxes due the commonwealth have been paid.

(2) Prior to the filing of the affidavit, required under subsection (1), the plaintiff (including counterclaimants or crossclaimants) shall, by first-class mail, serve upon the department a copy of the affidavit. Within fifteen (15) days from the date of the filing of the affidavit the department may file a counteraffidavit. In such event no judgment shall be entered or garnishment or attachment issued until proof has been taken concerning the matters at issue in the affidavit and counteraffidavit.

(3) In the event the use tax levied by this chapter is found to be due and unpaid the plaintiff may elect to pay the tax to the department, and the amount of the tax paid by the plaintiff shall be recovered as a part of any judgment entered. If the plaintiff does not elect to pay the use tax found to be due and unpaid, judgment for the amount of the tax shall be awarded to the Commonwealth.

(4) Any judgment awarded to the Commonwealth under this section shall constitute a prior claim to any judgment obtained by the plaintiff.

(5) Tax as defined herein includes interest accrued thereon at the *tax interest rate as defined in KRS 131.010(6)* [~~rate of eight per cent (8%) per annum~~].

(6) The provisions of this section shall not apply to a plaintiff holding a retail permit issued pursuant to this chapter.

Section 22. KRS 139.980 is amended to read as follows:

(1) If any taxpayer fails or refuses to file a return or furnish any information requested in writing by the department, the department may make an estimate of the tax liability under this chapter from any information in its possession, assess the tax at not more than twice the amount estimated to be due and add a penalty of ten percent of the amount of the tax assessed. This penalty shall be in addition to all other applicable penalties in this chapter.

(2) If any taxpayer fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the department, then, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, five percent of the tax found to be due by the department shall be added to the tax for each thirty days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent of the tax, provided, however, that in no case shall the penalty be less than ten dollars.

(3) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, five percent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this chapter shall apply.

(4) If the tax imposed by this chapter, whether assessed by the department, or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the *tax interest rate as defined in KRS 131.010(6)* [~~rate of eight percent (8%) per annum~~] from the date prescribed for its payment until payment is actually made to the department. If any assessment made by the department is not paid within the time prescribed, or protested in accordance with KRS 131.110, the taxpayer shall pay as a penalty, in addition to the amount of the tax and other applicable penalties, one percent of the tax for each thirty (30) days or fraction thereof the tax remains unpaid.

(5) Any person required under the provisions of this chapter or regulations adopted thereunder to furnish a statement or certificate (including the certificate referred to in KRS 139.750), who furnishes a statement or certificate containing any false or fraudulent statement, or who willfully fails to furnish such a statement or certificate in the manner and at the time required under this chapter and regulations, shall, for each such failure, be subject to a civil penalty of ten dollars. Such penalty shall be assessed and collected by the department, and the assessment of such penalty may be reviewed only in the manner provided in KRS 131.110.

(6) If any taxpayer fails to pay the tax imposed by this chapter within the time prescribed, unless it is shown to the satisfaction of the department that the failure was due to reasonable cause, the department may assess a penalty of ten percent (10%) of the tax due, provided, however, that in no case shall the penalty be less than ten dollars ($10).

Section 23. KRS 140.222 is amended to read as follows:

(1) When the net tax due from a beneficiary's distributive share exceeds five thousand dollars ($5,000), the beneficiary may elect to pay the inheritance tax in ten (10) equal installments. The first installment shall be due at the time the return is filed with succeeding payments due in annual installments beginning one (1) year after the return is filed.

(2) The portion of the tax deferred under this section shall be charged with interest at *the tax interest rate as defined in KRS 131.010(6)* [~~eight (8) percent per annum~~] commencing eighteen (18) months after the date of death.

(3) When the beneficiary elects to pay the tax on his share as provided in this section, such election must be made in writing and signed by the beneficiary and must be filed with the department of revenue at the time of filing the tax return for the decedent's estate under KRS 140.160(2). The filing of the election together with payment of the first installment shall relieve the personal representative or trustee of the estate from further liability for the tax payments deferred under this section and the bond requirements of KRS 140.210, subject to the final approval by the department of revenue of all other taxes due under this chapter.

(4) A beneficiary electing to defer the payment of taxes under this section shall be personally liable for the amount of deferred taxes until paid.

(5) The period of limitations for actions to enforce the collection of taxes imposed by this chapter as provided by KRS 140.160(3) shall be suspended for the period of time for deferred payment granted by this section.

Section 24. KRS 141.044 is amended to read as follows:

(1) The estimated tax provided for in KRS 141.042 shall be paid as follows:

(a) If the declaration is filed on or before June 15 of the taxable year, the estimated tax shall be paid in three (3) instalments. The first instalment, in an amount equal to fifty per cent (50%) of the estimated tax, shall be paid at the time of the filing of the declaration. The second and third instalments, each in an amount equal to twenty-five per cent (25%) of the estimated tax, shall be paid on September 15 and December 15, respectively, of the taxable year;

(b) If the declaration is filed after June 15 and not after September 15 of the taxable year and is not required by KRS 141.042 to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two (2) instalments. The first instalment, in an amount equal to seventy-five per cent (75%) of the estimated tax, shall be paid at the time of the filing of the declaration and the second instalment, in an amount equal to twenty-five per cent (25%) of the estimated tax, on December 15 of the taxable year;

(c) If the declaration is filed after September 15 of the taxable year and is not required to be filed on or before September 15 of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration;

(d) If the declaration is filed after the time prescribed in KRS 141.042, including cases where extensions of time have been granted, paragraphs (a), (b), and (c) of this subsection shall not apply, and there shall be paid at the time of such filing all instalments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in KRS 141.042, and the remaining instalments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed.

(2) In the case where the tax computed under this chapter is less than the amount which has been declared and paid as estimated tax for the same taxable year, a refund shall be made upon the filing of a return, together with interest on such overpayment at the *tax interest rate as defined in KRS 131.010(6)* [~~rate of eight per cent (8%) per annum~~] from the fifteenth day of the seventh month following the close of the taxable year for which the return is filed, or from the fifteenth day of the fourth month following the filing of the return if the return is filed later than the normal filing date.

(3) (a) Overpayment resulting from the payment of estimated tax in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year;

(b) No refund shall be made of any estimated tax paid unless a complete return is filed as required by this chapter.

(4) At the election of the taxpayer, any instalment of the estimated tax may be paid prior to the date prescribed for its payment.

(5) In the application of this section and KRS 141.042 to the case of a taxable year beginning on any date other than January 1, there shall be substituted for the months specified therein the relative months and dates which correspond thereto.

Section 25. KRS 141.235 is amended to read as follows:

(1) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this chapter.

(2) Any tax collected pursuant to the provisions of KRS chapter 141, may be refunded or credited in the manner provide in KRS 134.580, provided that the claim for refund or credit is made within four (4) years of the due date of the return or the date the tax was paid, whichever is the later, except that, in any case where the assessment period contained in KRS 141.210 has been extended by an agreement between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly.

(3) Overpayments of taxes collected pursuant to KRS 141.300, 141.310, or 141.315 shall be refunded or credited with interest at *the tax interest rate as defined in KRS 131.010(6)* [~~eight per cent (8%) per annum~~]. The interest shall not begin to accrue until ninety (90) days after the overpayment is made, the return is filed, or the due date of the return, whichever is later.

(4) Exclusive authority to refund or credit overpayments of taxes collected pursuant to this chapter is vested in the commissioner or his authorized agent. Amounts directed to be refunded shall be paid out of the general fund.

Section 26. KRS 141.985 is amended to read as follows:

If the tax imposed by this chapter, whether assessed by the department, or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the *tax interest rate as defined in KRS 131.010(6)* [~~rate of eight percent per annum~~] from the date prescribed for its payment until payment is actually made to the department. Interest shall be assessed, collected, and paid in the same manner as if it were a deficiency.

Section 27. KRS 142.010 is amended to read as follows:

(1) The following taxes shall be paid:

(a) A tax of three dollars fifty cents ($3.50) on each marriage license;

(b) A tax of one dollar ($1) on each power of attorney to convey real or personal property; on each mortgage, financing statement, security agreement or conveyance of real or personal property, and on each lien or conveyance of coal, oil, gas or other mineral right or privilege.

(2) The tax imposed by this section shall be collected by each county clerk as a prerequisite to the filing of an instrument subject to the tax or the issuance of a marriage license. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.

(3) Taxes imposed under this section and vehicle lienholder penalties imposed by KRS 186.045(3) shall be reported and paid to the department of revenue by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the department.

(4) Any county clerk liable for the taxes imposed by this section who fails to file a report and pay the tax to the department on or before the due date shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of the tax due. In every case, any tax not paid on or before the due date shall bear interest at the *tax interest rate as defined in KRS 131.010(6)* [~~rate of eight percent (8%) per annum~~] from the date due until the date of payment.

Section 28. KRS 143.080 is amended to read as follows:

Any tax not paid on or before the due date shall bear interest at the *tax interest rate as defined in KRS 131.010(6)* [~~rate of eight percent per annum~~] from the date due until paid.

Section 29. KRS 143A.090 is amended to read as follows:

(1) The department may upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the department, extend the time for filing the return or paying the tax for a period not exceeding thirty (30) days.

(2) Any taxpayer to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the *tax interest rate as defined in KRS 131.010(6)* [~~rate of ten percent (10%) per annum~~] from the date on which the tax would otherwise have been due.

Section 30. KRS 243.990 is amended to read as follows:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of KRS 243.020 to 243.670, for which no other penalty is provided, shall, for the first offense, be fined not less than one hundred (100) nor more than two hundred dollars ($200), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the second and each subsequent violation, he shall be fined not less than two hundred (200) nor more than five hundred dollars ($500), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license.

(2) Any person who, by himself or through another, directly or indirectly, violates subsection (1) of KRS 243.030 shall, for the first offense, be fined not less than one hundred (100) nor more than two hundred dollars ($200), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; for the second offense he shall be fined not less than two hundred (200) nor more than five hundred dollars ($500), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the third and each subsequent offense, he shall be fined not less than five hundred (500) nor more than five thousand dollars ($5,000), or be imprisoned in the penitentiary for not more than five (5) years, or both.

(3) Any person who violates subsection (3) of KRS 243.020 shall be fined not less than one hundred (100) nor more than five hundred dollars ($500).

(4) Any person who violates KRS 243.620 with respect to a license issued under KRS 243.050 shall be fined not less than fifty (50) nor more than five hundred dollars ($500).

(5) Any person who violates any of the provisions of KRS 243.720 or 243.730 or any regulation issued thereunder shall be fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or be imprisoned for not less than thirty (30) days nor more than one (1) year, or both.

(6) Any person required to pay any tax or file any report or statement provided by KRS 243.710 to 243.850, who fails to pay the tax or file any report or statement when due shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty of ten dollars ($10) or an amount equal to twenty per cent (20%) of the tax due and delinquent, whichever is greater.

(7) In every case, any tax imposed by KRS 243.710 to 243.720 which is not paid on or before the due date shall bear interest at the *tax interest rate as defined in KRS 131.010(6)* [~~rate of eight percent (8%) per annum~~] from the due date until the date of payment.

Section 31. Whereas, as the result of competitive interest rates the taxpayer can profit at the expense of the Commonwealth by failing to pay his taxes, an emergency is declared to exist and the provisions of this Act shall be effective July 1, 1982.

Committee Amendment No. 1 to **HB 402** is as follows:

Amend printed copy of **HB 402,** page 2, line 17, by adding before the word "all" the paragraph number *1*; and

on page 3, line 8, by adding a new subsection to Section 3 as follows:

(2) Except for the provisions of KRS 141.044(2) and KRS 141.235(3), interest shall be allowed and paid upon any overpayment in respect of any of the taxes provided for in Chapters 131, 132, 133, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A and 243 of the Kentucky Revised Statutes at a rate equal to 75% of the rate provided in subsection (1) above.

HB 455, AN ACT relating to compensation of members of the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.090 is amended to read as follows:

(1) There is hereby created a legislative research commission composed of the president pro tempore of the senate, the assistant president pro tempore of the senate, the speaker of the house of representatives, the speaker pro tempore of the house of representatives, the majority and minority floor leaders of the senate and the house of representatives, the majority and minority party whip of the senate, the majority and minority party whip of the house, the majority and minority caucus chairmen of the senate and house of representatives. Any vacancy in the commission shall be filled by the remaining members thereof, Provided, if the vacancy is in the membership of the house of representatives then the successor shall be from the house, and if the vacancy is from the senate membership of the commission then the successor shall be from the senate. A member thus elected to fill any vacancy shall hold office for the unexpired term of his predecessor. The president pro tem of the senate and the speaker of the house of representatives shall serve as co-chairmen of the commission.

(2) The legislative research commission shall meet during regular and special sessions of the general assembly, and during the intervals between sessions at such times and places as the co-chairmen may determine. Meetings of the commission shall be called by the co-chairmen on their own initiative, or at the written request of any three (3) members of the commission. For attending meetings *of the commission or any of its subcommittees whose membership consists only of members of the commission* between sessions[~~, whether regular or special,~~] of the general assembly, the members of the commission[~~, or any subcommittee thereof,~~] shall be paid their necessary traveling expenses and in addition thereto *an amount per day equal to the per diem compensation such persons receive during any such session* [~~sixty-five dollars ($65.00) per day except as provided in KRS 6.225 and in KRS 6.190~~]. *For attending meetings of interim joint committees or other commission subcommittees, members of the commission shall be paid an amount per day equal to that received by all other members of such committees or subcommittees who are not designated as chairmen or co-chairmen thereof.*

(3) The commission shall appoint a director, who shall have had graduate training in government in a recognized university or college or practical experience in governmental administration, and who shall hold office at the pleasure of the commission. The salary of the director shall be determined by the commission. The commission shall have exclusive jurisdiction over the employment of such personnel as may be necessary to effectuate the provisions of KRS 7.090 to 7.110.

(4) Any professional, clerical or other employes required by any committee appointed by the general assembly shall be provided to the committee by the legislative research commission. The chairman of the committee shall advise the director of the legislative research commission of his need for such personnel. In the event that the personnel required by any committee cannot be met by the staff of the legislative research commission, the director shall employ such personnel as necessary to meet the needs of the committee, and shall fix the rate of compensation of such employes.

(5) The director shall, at the discretion of the commission and under its supervision and control, provide for the allocation of the work and activities of all employes of the commission.

(6) The commission may, in effectuating the provisions of KRS 7.090 to 7.110, contract with any public or private agency or educational institution or any individual for research studies, the gathering of information or the printing and publication of its reports.

(7) The legislative research commission shall constitute administrative offices for the general assembly and the director shall serve as administrative officer for the assembly when it is not otherwise in session.

Section 2. KRS 7.110 is amended to read as follows:

(1) The commission or any member thereof, or an employe duly authorized by the commission or the chairman thereof, shall have access to all records of every agency, division or department of state government, and of any agency or institution, public or private, which has been the recipient of public funds. The commission or any member thereof, or any employe duly authorized by the commission or the chairman thereof, may require information on oath of any person touching any matter which he is instructed to investigate, study or audit, and shall have the power to subpoena witnesses and records for such purpose, and otherwise compel the giving of evidence of any matter under study. If any person fails or refuses to testify or furnish documentary evidence concerning any matter with respect to which the commission desires information pertaining to the studies in which it is engaged, the Franklin Circuit Court, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court or a refusal to testify therein. Every witness so subpoenaed under this section shall receive for his attendance the fee and mileage provided for witnesses in civil cases in circuit court, which shall be audited and paid upon the presentation of proper vouchers sworn to by the witness and approved by the commission.

(2) All state agencies and institutions shall cooperate with the commission to effectuate the purposes of KRS 7.090 to 7.110 and shall submit copies of their annual or biennial reports to the commission.

(3) The commission shall encourage and arrange conferences with officials of other states and of other units of government; carry forward the participation of this state as a member of the council of state governments, both regionally and nationally, and formulate proposals for cooperation between this state and other states. The legislative research commission shall function as Kentucky's commission on interstate cooperation in carrying out the program of the council of state governments as it relates to Kentucky.

(4) The commission shall designate persons to represent Kentucky at the national conference of commissioners on uniform state laws. The commission shall report the findings and recommendations of the national conference to the general assembly. Any funds appropriated to the commissioners on uniform state laws shall be paid out on vouchers approved by the director of the commission.

(5) The commission may establish such subcommittees and advisory citizens' committees as may be convenient or desired for the proper and efficient performance of its functions. Members of the general assembly *other than those who are members of the commission* designated to serve on subcommittees shall receive the same travel allowances and compensation for attending meetings as they do for attending meetings during a session of the general assembly, except that each general assembly member who is a chairman of a joint interim committee of the legislative research commission shall be paid, *in addition to such allowances and compensation, ten dollars ($10)* [~~sixty dollars ($60.00)~~] per day for each committee meeting that he chairs.

(6) The commission shall report its findings, either with or without recommendations, to the governor of the Commonwealth, and to each member of the general assembly at least thirty (30) days prior to the convening of each regular session of the general assembly.

Section 3. KRS 6.225 is amended to read as follows:

Between sessions of the general assembly offices shall be maintained in the State Capitol Building for the use and benefit of the president pro tem of the senate and the speaker of the house of representatives. Except when the general assembly is in session the president pro tem of the senate and the speaker of the house of representatives shall each receive *an amount* [~~fifty dollars ($50.00)~~] per day *equal to the per diem compensaton such persons receive during sessions of the General Assembly* for each day they are engaged in the duties of their offices and shall be reimbursed for necessary traveling expenses.

The Committee on Labor and Industry reported **HB 422** and **SB 54** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 422, AN ACT relating to wages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.020 is amended to read as follows:

Every employer doing business in this state shall, as often as semimonthly, pay to each of its employes all wages or salary earned to a day not more than eighteen (18) days prior to the date of that payment. Any employe who is absent at the time fixed for payment, or who, for any other reason, is not paid at that time, shall be paid thereafter at any time upon six (6) days' demand. No employer subject to this section shall, by any means, secure exemption from it. Every such employe shall have a right of action against any such employer for the full amount of his wages due on each regular pay day. *The provisions of this section do not apply to those individuals defined in KRS 337.010(2)(a)(ii).*

SB 54, AN ACT relating to civil rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.110 is amended to read as follows:

(1) Nothing contained in this chapter requires an employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to an individual or to a group because of the race, color, religion, national origin, sex, or age between forty (40) and seventy (70) of the individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, national origin, sex, or age between forty (40) and seventy (70) employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to, or employed in, an apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, national origin, sex, or age between forty (40) and seventy (70) in the state or a community, section, or other area, or in the available workforce in the state or a community, section or other area.

(2) Nothing contained in this chapter regarding age prohibits:

(a) Minimum hiring ages otherwise provided by law.

(b) State compliance with federal regulations.

(c) Termination of the employment of any person who is unable to perform his duties.

(d) Any physical or medical examinations of applicants or employes which an employer requires to determine fitness for the job or position sought or held.

(e) An employer, labor organization or employment agency from observing the terms of a bona fide seniority system or any bona fide employe benefit plan such as a retirement, pension or insurance plan which is not a subterfuge to evade the purposes of this chapter, except that no such employe benefit plan shall excuse the failure to hire any individual, *and no such seniority system or employe benefit plan shall require or permit the involuntary retirement of any individual because such individual is between age forty (40) and seventy (70).*

The Committee on Judiciary-Civil reported **HB 178,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 178, AN ACT relating to state highway contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) Any person who engages in a conspiracy, agreement or collusion among bidder or prospective bidders which restrains, tends to restrain or is reasonably calculated to restrain competition by agreement to bid at a fixed price, or to refrain from bidding shall be guilty of a class C felony.

(2) Restraint of competition shall mean:

(a) Involvement in a contract for the purchase of equipment, goods, services or materials for construction or repair let or to be let by the bureau of highways; or

(b) Involvement in a contract as a subcontractor with a prime contractor for the purchase of equipment, goods, services, or materials or for construction or repair let or to be let by the bureau of highways.

SECTION 2. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

No person upon conviction of a violation of Section 1 of this Act shall be eligible to serve as a member of a state licensing board, nor shall have authority to bid on construction, repair, equipment, materials or other goods and services let or to be let by the bureau for a period of three (3) years.

Committee Substitute to **HB 178** is as follows:

HB 178, AN ACT relating to state highway contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) Any person who enters into a contract, conspiracy or other arrangement among bidders or prospective bidders which restrains, tends to restrain or is reasonably calculated to restrain competition in the letting of contracts for construction, reconstruction or maintenance of roads shall be guilty of a class D felony.

(2) Restraint of competition includes but is not limited to actions where:

(a) The price quotation of any bid is fixed or controlled; or

(b) Any bid is submitted with the intention that either it is higher than another bid and thus complementary thereto, or identical to another bid; or

(c) One (1) or more prospective bidders refrain from bidding as the result of an arrangement among bidders or prospective bidders.

(3) The provisions of this section shall not apply to bidders entering into agreements for the sole purpose of submitting a bid as a joint venture and who sign the bid submitted.

(4) The provisions of this section shall apply to any persons including prime contractors, subcontractors, and others who enter into a contract, conspiracy or other agreement declared illegal by Section 1 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) No person shall, upon conviction for violation of Section 1 of this Act, be eligible to serve as a member of a state licensing board.

(2) The bureau of highways may revoke the certificate of eligibility of any person convicted of or pleading guilty or nolo contendere to a charge of violating Section 1 of this Act for a period not to exceed three (3) years. The bureau of highways shall follow its procedures current at the time of decision for revoking the certificate of eligibility.

(3) The Commonwealth may bring a civil action in Franklin Circuit Court against any person believed to have violated Section 1 of this Act for recovery of damages. The Commonwealth shall be entitled to recover three (3) times the actual damages sustained.

The Committee on State Government reported **HR 30,** with Committee Amendment attached thereto, and **SJR 15** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 30, A RESOLUTION amending the permanent Rules of the House of Representatives of 1982.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Rule 54 of the Rules of the House of Representatives of 1982 be created to read as follows:

Rule 54. Rejected Administrative Regulations. When an administrative regulation has been referred by the Clerk to a standing committee of the House, the committee shall review the regulation and take such action as it deems appropriate. If the committee recommends rejection it must set forth in its report the reasons for its rejection which shall be for either of the following reasons, or both: (1) The administrative regulation does not conform to statutory authority. (2) It does not carry out legislative intent.

Unless the House and Senate committees both recommend rejection of the regulation in their committee reports and the committee reports are thereafter adopted by at least two-fifths of the members elected to each house, and a majority of the members voting, the regulation shall become effective.

When a House committee report recommending rejection has been adopted by the House as set forth above, the House clerk shall so notify the clerk of the Senate.

If both the Senate and the House have approved committee reports recommending rejection of a regulation, a report to that effect shall be signed by both clerks and sent to the promulgating agency and the regulations compiler. A copy of this report shall be on file in the office of the Clerk of the Senate and in the office of the Clerk of the House.

Proposed regulations that have been properly laid before the general assembly shall become effective upon sine die adjournment of the general assembly unless the general assembly in regular session shall disapprove the proposed regulation.

Section 2. That Rules 54 through 74 of the Rules of the House of Representatives of 1982 be renumbered as Rules 55 through 75 respectively.

Committee Amendment No. 1 to **HR 30** is as follows:

Amend printed copy of **HR 30**, page 1, line 5, by deleting "Clerk" and insert in lieu thereof the words "Committee on Committees".

SJR 15, A JOINT RESOLUTION authorizing and directing the Commonwealth, through its appropriate state agencies, to deed and transfer certain real property to the Kentucky Easter Seal Society for Crippled Children and Adults, Inc.

WHEREAS, prior to July 10, 1972, the Kentucky Easter Seal Society for Crippled Children and Adults, Inc. owned certain real property located in Breckinridge County, Kentucky, and known as Camp Green Shores; and

WHEREAS, the Kentucky Easter Seal Society transferred ownership of said real property to the Commonwealth by deed executed July 10, 1972, for the purpose of obtaining state and federal funds to further improve said real property; and

WHEREAS, the Commonwealth has leased the property for 99 years, without charge, to the Kentucky Easter Seal Society; and

WHEREAS, the Kentucky Easter Seal Society expended $2,000,000 including $500,000 in state funds to improve said real property for the purpose of providing a camping and recreational facility for the benefit of the physically handicapped; and

WHEREAS, state funding has been curtailed and federal support to further improve said real property has not materialized; and

WHEREAS, transfer of ownership of said real property by the Commonwealth to the Kentucky Easter Seal Society for Crippled Children and Adults, Inc. would return to the Kentucky Easter Seal Society a significant asset upon which to derive funds to further improve the real property known as Camp Green Shores, to the benefit of the physically handicapped;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That as soon as may be practicable after the effective date of this resolution, the Commonwealth, through the Department of Parks, the Department of Finance, and such other state agencies as may be appropriate, shall gratuitously transfer by deed certain real property and improvements thereon to the Kentucky Easter Seal Society for Crippled Children and Adults, Inc., such real property being located in Breckinridge County, Kentucky and being known as Camp Green Shores and being the same real property transferred to the Commonwealth by the Kentucky Easter Seal Society for Crippled Children and Adults, Inc. by deed executed July 10, 1972.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 40, HB 44, HB 158,** and **HCR 1** had been examined and found correctly enrolled. Said Bills and Resolution read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 40, HB 44, HB 158, and **HCR 1** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Calendar

HB 385, HB 445, HB 13, HB 143, HB 326, SB 73, HB 313, HB 372, HB 373, HB 374, HB 425, HB 439, SB 8, SB 61, HB 99, HB 392, SB 21, SB 67, HB 358, HB 386, and **HB 140** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 334, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that **HB 334** be passed.

On the roll call the vote was yeas 82-Arnold, Bendl, Bennett, Blandford, Boswell, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 334 was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 334** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 46 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SB 46** be passed.

On the roll call the vote was yeas 85-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Allen.

SB 46 was passed and the title agreed to.

Representative Deskins moved that the vote by which **SB 46** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 87, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kidd moved the adoption of the Committee Amendment No. 1 to **HB 87.** Agreed.

Representative Kidd moved the adoption of the Committee Amendment No. 2 to **HB 87.** Agreed.

Representative Kidd moved that **HB 87,** as amended, be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Handy.

HB 87, as amended, was passed and the title agreed to.

Representative Kidd moved that the vote by which **HB 87,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 304, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kidd moved the adoption of the Committee Amendment No. 1 to **HB 304.** Agreed.

Representative Stumbo moved the adoption of the Floor Amendment No. 2 to **HB 304.** Agreed.

Representative Patrick moved that **HB 304,** as amended, be passed.

On the roll call the vote was yeas 86-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn. Endicott, Farrow, Ford, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Heleringer, Hines, Holbrook, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Schmidt, Seum, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Clark, B. Smith.

HB 304, as amended, was passed and the title agreed to.

Representative Patrick moved that the vote by which **HB 304,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 119, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved the adoption of the Committee Substitute to **HB 119.** Agreed.

Representative Holbrook moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 119.** Agreed.

Representative Holbrook moved that **HB 119,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 65-Allen, Arnold, Bendl, Blandford, Boswell, Brinkley, Bronger, Bruce, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Guenthner, Haering, Handy, Harper, Heleringer, Hines, Holbrook, Johnson, T. Jones, Kenton, Layman, Lile, List, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Petty, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, Stone, Stumbo, Todd, Turner, Williams, Worthington. Nays 16-Bennett, Blevins, Clarke, Dunn, Foster, Freibert, Gray, Hancock, Mann, Noe, Pearman, Perkins, Thomas, Thomason, Tobin, Van Horn.

HB 119, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Holbrook moved that the vote by which **HB 119,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 219 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that **HB 219** be passed.

On the roll call the vote was yeas 69-Allen, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, Clark, Cline, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Ford, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, R. Jones, T. Jones, Kidd, Layman, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Nett, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, Riner, Schmidt, Seum, B. Smith, Stone, Stumbo, Thomas, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 18-Arnold, Barrows, Burnette, Clarke, Cowan, Craddock, Crupper, Farrow, Foster, Freibert, Hancock, McNutt, Moberly, Moore, Morris, Noe, Pearman, Thomason.

HB 219 was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 219** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 247 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkley moved that **HB 247** be passed.

On the roll call the vote was yeas 73-Arnold, Bendl, Blandford, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, T. Jones, Kenton, Kidd, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Moberly, Morris, Nett, Noe, Overstreet, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Turner, Van Horn, White, Williams, Yates. Nays 3-Allen, Layman, Pearman.

HB 247 was passed and the title agreed to.

Representative Brinkley moved that the vote by which **HB 247** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 308 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 308** be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, R. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 308 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 308** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 329 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 329** be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Holbrook, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 329 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 329** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 340, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be ready by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Van Horn moved the adoption of the Committee Amendment No. 1 to **HB 340.** Agreed.

Representative Van Horn moved that **HB 340,** as amended, be passed.

On the roll call the vote was yeas 69-Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Cline, Cowan, Craddock, Crupper, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn. Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Haering, Hancock, Handy, Harper, Head, Hines, Kenton, Kidd, LeMaster, Lile, Long, Lundergan, Maggard, McBee, Moberly, Morris, Nett, Noe, Noland, Overstreet, Pearman, Perkins, Petty, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Tobin, Van Horn, White, Williams, Worthington, Yates. Nays 19-Allen, Blevins, Clarke, Curd, Guenthner, Holbrook, Holloway, Layman, List, Mann, McNutt, Moore, Patrick, Rapier, Schmidt, Thomas, Thomason, Todd, Turner.

HB 340, as amended, was passed and the title agreed to.

Representative Van Horn moved that the vote by which **HB 340,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 357 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **HB 357** be passed.

Representative T. Jones moved that **HB 357** be laid on the Clerk's desk. Rejected.

On the roll call the vote was yeas 72-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Haering, Hancock, Handy, Harper, Hines, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McNutt, Moberly, Morris, Nett, Noe, O'Brien, Pearman, Perkins, Priddy, Rapier, Richards, B. Richardson, Riner, Schmidt, Seum, B. Smith, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Yates. Nays 20-Allen, Brown, Caldwell, Cline, Cyrus, Dawahare, Fryman, Guenthner, Heleringer, Holbrook, Layman, Mann, McBee, Meyer, Noland, Overstreet, Petty, Rattliff, Stone, Worthington.

HB 357 was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 357** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 375, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Guenthner moved the adoption of the Floor Amendment No. 1 to **HB 375.** Agreed.

Representative Seum moved that **HB 375,** as amended, be laid on the Clerk's desk. Rejected.

Speaker Pro Tempore Thomason presiding.

Representative Gray moved that **HB 375,** as amended, be passed.

On the roll call the vote was yeas 87-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 3-Allen, Endicott, Layman.

HB 375, as amended, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 375,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 38, HB 62, HB 63, HB 66, HB 68, HB 73, HB 74,** and **HB 118** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 38, HB 62, HB 63, HB 66, HB 68, HB 73, HB 74, and **HB 118** delivered to the Senate, signed by President. Ordered delivered to the Governor.

The Speaker resumed the Chair.

Orders of the Day (continued)

HB 426 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative List moved that **HB 426** be passed.

Representative Schmidt moved that **HB 426** be laid on the Clerk's desk. Agreed.

HR 24 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of **HR 24.**

HR 24 was adopted by voice vote.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 2 to Committee Substitute to **HB 143,** by Representative Heleringer:

Amend printed copy of Committee Substitute to **HB 143,** page 16, line 6, by deleting the following: "a legislator appointed by the legislative research commission", and adding in lieu thereof the following: "a member of the general public who has no financial interest in thoroughbred racing or breeding and who lives within 25 miles of a local jurisdiction where thoroughbred racing is conducted, appointed by the governor".

Floor Amendment No. 2 to **HB 161,** by Representative O'Brien:

Amend printed copy of **HB 161,** page 2, line 3, delete (1) - NORMAL industry practice, renumber balance of sections accordingly.

Floor Amendment No. 1 to **HB 319,** by Representative Mann:

Amend printed copy of **HB 319,** on page 1, by deleting lines 1 through 21 in their entirety, and on page 2, by deleting lines 1 through 12 in their entirety, and by inserting in lieu thereof the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of theft of mail matter when with intent to deprive the owner thereof he:

(a) Steals;

(b) Abstracts;

(c) By fraud or deception obtains;

(d) Embezzles;

(e) Conceals;

(f) Damages; or

(g) Destroys;

Any mail matter of another (including but not limited to any letter, postal card, package, bag, or other item) from any letterbox, mail receptacle, or other authorized depository for mail matter, or from a letter carrier, postal vehicle, or private mail box or which has been left for collection or delivery adjacent thereto by the United States Postal Service.

(2) Theft of mail matter is a Class D felony.

SECTION 2. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of possession of stolen mail matter when he knowingly or having reason to believe that it has been the subject of theft in violation of Section 1 of this Act:

(a) Possesses;

(b) Buys;

(c) Receives;

(d) Conceals;

(e) Deals in; or

(f) Sells;

any mail matter (as defined in Section 1 of this Act).

(2) Possession of stolen mail matter is a Class D felony."

Floor Amendment No. 3 to **HB 339,** by Representative Donnermeyer:

Amend printed copy of **HB 339,** page 11, line 7, delete the word "*state*" and insert in lieu thereof the word "*circuit*"

page 13, line 24, delete the word "*state*" and insert in lieu thereof the word "*circuit*"

Floor Amendment No. 3 to **SB 13,** by Representative O'Brien:

Amend printed copy of **SB 13,** page 5, line 22, after the word "*government.*" insert the following: "*If the plan required under the provisions of this act, or if any other matter presented to the voters under the provisions of this act, does not receive a majority, or majorities, of the votes cast, the authority granted under the provisions of this act to develop a new form of local government shall cease.*"

Floor Amendment No. 4 to **SB 13,** by Representative Hines:

Amend printed copy of **SB 13,** page 2, line 16, beginning with the word "*The*" delete in their entirety, lines 16 thru 26; and

on page 3, delete in their entirety lines 1 thru 7, and insert in lieu thereof the following:

"*(1) In any county containing a city of the first class, the following question shall be placed on the ballot at the first regular election occurring after the enactment of this Act: "Are you in favor of the establishment of a drafting commission to develop a plan for the reorganization of local government within this county, Yes — No —*"; and

on page 3, delete in their entirety lines 8 thru 26; and

on page 4, delete in their entirety lines 1 thru 7 and insert in lieu thereof the following:

"*(2) Upon approval of the voters of the county as required by subsection (1) of this section, the drafting commission shall be appointed from a list consisting of names of one registered republican, one registered democrat, and one registered independent nominated by each state representative and each state senator from the list of registered voters residing within his district. From this list the county judge/executive of the county and the mayor of the city of the first class shall jointly appoint a representative drafting commission composed of a number of members equal to the number of senators and representatives whose districts lie wholly or partially within the county. Appointments shall be divided equally between the two (2) political parties having the largest registration within the county, and fair representation shall be given to voters registered as independents. There shall also be representatives from the cities other than the first class located within the county. The drafting commission shall select its own chairperson.*"; and

on page 4, line 8, delete "*(4)*" and in lieu thereof insert "*(3)*"; and

on page 6, line 26, insert the following:

"SECTION 6. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

Notwithstanding the method provided in KRS 67A.020 for the establishment of a commission to draft a comprehensive plan for urban-county government, the mayor of the largest city in any county jointly with the county judge/executive of such county may call for an election to be held on the question as provided in section 2, subsection (1) of this Act. If a majority of the votes cast are in the affirmative a representative commission shall be established in accordance with KRS 67A.020."

Floor Amendment No. 1 to **SB 32,** by Representative O'Brien:

Amend printed copy of **SB 32,** page 2, line 15, by deleting lines 15 through 22 in their entirety.

Floor Amendment No. 1 to **SB 47,** by Representative Blandford:

Amend printed copy of **SB 47,** on page 1, line 13, by inserting before the word "shall" the following language:

"*but not designated as such by the department due to the failure of the owner to make a satisfactory showing of confidentiality*"; and

on page 1, lines 15 and 16, by placing brackets "[]" around the language "providing the owner fifteen (15) days written notice" and by inserting in lieu thereof the following: "*the consent of the owner*"

Floor Amendment No. 4 to **HB 339,** by Representative Deskins:

Amend printed copy of **HB 339,** page 28, after line 16, add:

SECTION 13. A NEW SECTION IS CREATED TO READ AS FOLLOWS:

All abortions subject to this act shall be paid for by the Commonwealth of Kentucky if said person is indigent.

Floor Amendment No. 5 to **HB 339,** by Representative Overstreet:

Amend printed copy of **HB 339,** page 28, after line 16, add new section: This Act shall not apply in cases where an abortion has been performed or contemplated in cases of rape or incest.

Representative Donnermeyer moved that **HB 339,** as amended, be taken from the Clerk's desk and placed in the Orders of the Day.

On the roll call the vote was yeas 57-Arnold, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Burch, Burnette, Caldwell, Clapp, Clark, Crupper, Curd, Donnermeyer, Dunn, Endicott, Farrow, Ford, Freibert, Guenthner, Hancock, Handy, Harper, Heleringer, Holbrook, Holloway, Johnson, Layman, Lile, Little, Maggard, Mann, McBee, McNutt, Meyer, Moore, Morris, Nett, O'Brien, Patrick, Pearman, Perkins, Rapier, Richards, B. Richardson, Riner, Schmidt, B. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, Williams, Yates. Nays 10-Barrows, Cowan, Cyrus, Deskins, Gray, Hines, T. Jones, Moberly, Noe, Thomason.

The motion that **HB 339,** as amended, be taken from the Clerk's desk and placed in Orders of the Day was adopted.

Representative Deskins requested a fiscal impact statement in regard to **HB 339.**

The Chair ruled a member could not ask for fiscal impact.

Representative Arnold moved that **HB 505** be reassigned to the Committee on Cities. Agreed.

Representative Mann moved that **HB 319,** as amended, be taken from the Clerk's desk and placed in Orders of the Day. Agreed.

Representative Farrow moved that **HB 450** and **HB 500** be reassigned to the Committee on Counties and Special Districts. Agreed.

Representative White requested that he be recorded as voting "nay" on **HB 357.** Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, **HB 148, HB 149, HB 525;** Representative Brown, **HB 374;** Representative

Crupper, **HB 470**; Representative Cyrus, **HB 525**; Representative Foster, **HB 487**; Representative R. Jones, **HB 411**; Representative Moore, **HB 537**; Representative Richards, **HB 411**; Representative Riner, **HB 177**; Representative Schmidt, **HB 275**; Representative Stumbo, **HB 525**; Representative Thomas, **HB 20, HB 24, HB 27, HB 33, HB 34**; Representative Yates, **HB 155.**

The following meetings were announced.

Counties and Special Districts: Special meeting, Friday, 8:00 a.m.

State Government: One-half hour after adjournment, Room 110.

Special Subcommittee on Health: Friday, 8:30 a.m., Room 103.

Budget Review Subcommittee of Appropriations and Revenue: Friday 8:00 10:00 a.m. and on adjournment Friday.

Judiciary-Criminal: No meeting today.

Budget Review - Transportation: Thirty minutes after adjournment, Friday.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 37, by Representatives Williams, Van Horn, Bronger, Bennett, Dunn, Stumbo, Patrick, and Brinkley: A RESOLUTION designating Junior Williamson honorary 101st Representative of the House of Representatives.

HR 38, by Representatives Guenthner, Bennett, Craddock, Cyrus, Deskins, Gray, Handy, Head, Heleringer, Hines, Little, Long, Perkins, Riner, Stone, Todd, and Van Horn: A RESOLUTION adjourning the House of Representatives in honor of Polish Solidarity leader of Lech Walesa.

HB 543, by Representative Tobin: AN ACT relating to death benefits.

HB 544, by Representative LeMaster: AN ACT relating to adjustment in benefits provided under the judicial form retirement system.

HB 545, by Representative LeMaster: AN ACT relating to banking.

HB 546, by Representative Dunn: AN ACT relating to motor vehicles.

HB 547, by Representative Richards: AN ACT relating to school taxes.

HB 548, by Representatives Johnson and Moberly: AN ACT relating to price advertising.

HB 549, by Representatives Little and Donnermeyer: AN ACT relating to the levy and assessment of property taxes on unmined minerals.

HB 550, by Representatives Cowan and Holloway: AN ACT relating to the collection of school taxes.

HB 551, by Representatives Freibert, Cline, Patrick, and Clapp: AN ACT relating to state personnel.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 206, HB 493, HB 478, HB 479.**

Transportation: **HB 463, HB 202.**

Education: **HB 377.**

Judiciary-Criminal: **SB 75, HB 149, SJR 10.**

Adjournment

Representative LeMaster moved that the House adjourn until 10:00 a.m., Friday, February 19, 1982.

On the roll call the vote was yeas 57-Allen, Arnold, Bendl, Bennett, Blevins, Boswell, Burch, Burnette, Caldwell, Clapp, Clark, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Farrow, Ford, Freibert, Gray, Hancock, Head, Holbrook, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, List, Little, McBee, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, Williams, Yates. Nays 12-Deskins, Endicott, Guenthner, Handy, Heleringer, Holloway, Lile, Mann, Meyer, Overstreet, Perkins, Schmidt.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 19, 1982

TWENTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Dennis W. Jones, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Lefevers and Pearman.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 18, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 552, by Representatives Cline and Dunn: AN ACT relating to revenue and taxation for the funding of programs for fire departments and firefighters.

Senate Message

Announcing passage of **SB 10, SB 18, SB 20, SB 39, SB 127, SB 170, SB 190, SB 191, SB 207, SB 237, SCR 26, HB 64** with Senate Amendments, **HB 75, HB 86, HB 128, HB 205**, and **HB 288.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 540, HB 547, HB 549, HB 550.**

Banking and Insurance: **HB 545, SB 203.**

Cities: **HB 538.**

Education: **SB 77, SB 100, SB 118.**

Health and Welfare: **SB 151.**

Judiciary-Civil: **HB 539, HB 544.**

Judiciary-Criminal: **HB 541, SB 213.**

Labor and Industry: **HB 542, HB 548.**

State Government: **HB 543, HB 551, HR 37, HR 38, SB 135, SR 24.**

Transportation: **HB 546.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **HB 282, HB 363, HR 26.**

Business Organizations and Professions: **HB 516, SB 224, HB 228.**

Report of Committees

The Committee on Rules reported **HB 95, HB 232, HB 393, HB 425, SB 8, SB 14, SB 21, SB 73,** and **SR 1** have been posted for passage in Orders of the Day, February 22, 1982.

The Committee on Rules reported **HB 143** has been recommitted to the Committee on Appropriations and Revenue.

Calendar

HB 402, HB 455, HB 422, SB 54, HB 178, HR 30, and **SJR 15** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 319, as amended by Committee Amendment No. 1 and with Floor Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Floor Amendment No. 1 to **HB 319.** Agreed.

Representative Donnermeyer moved that **HB 319,** as amended, be passed.

On the roll call the vote was yeas 73-Allen, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Gray, Guenthner, Hancock, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lile, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Turner, Van Horn, White, Yates. Nays 15-Arnold, Barrows, Brown, Deskins, Foster, Handy, Kenton, LeMaster, List, Moore, Noe, Perkins, Stumbo, Williams, Worthington.

HB 319, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 319,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 203, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative White moved the adoption of the Committee Amendment No. 1 to **HB 203.** Agreed.

Representative White moved the adoption of the Committee Amendment No. 2 to **HB 203.** Agreed.

Representative White moved that **HB 203,** as amended, be passed.

On the roll call the vote was yeas 92-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 203, as amended, was passed and the title agreed to.

Representative White moved that the vote by which **HB 203,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 253, with Committee Substitute and Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 253.** Agreed.

Representative Burch moved that **HB 253,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 253, by way of Committee Substitute, was passed.

Representative Burch moved the adoption of the Committee Title Amendment No. 1 to **HB 253.** Agreed.

Representative Burch moved that the vote by which **HB 253,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 280, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burnette moved the adoption of the Floor Amendment No. 1 to **HB 280.** Rejected.

Representative F. Smith moved that **HB 280** be recommitted to the Committee on Appropriations and Revenue.

Representative Clarke moved that the vote on Floor Amendment No. 1 be reconsidered.

On the roll call the vote was yeas 20-Blandford, Blevins, Boswell, Brinkley, Deskins, Dunn, Ford, Fryman, Gray, Hines, Little, Maggard, McBee, Meyer, Moore, Noe, Perkins, Rattliff, Stumbo, Todd. Nays 66-Allen, Arnold, Barrows, Bennett, Bronger, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Endicott, Farrow, Foster, Freibert, Haering, Hancock, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lile, Long, Mann, McNutt, Moberly, Morris, Nett, Noland, O'Brien, Patrick, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Turner, Van Horn, Williams, Worthington, Yates.

The motion that **HB 280** be recommitted to the Committee on Appropriations and Revenue was rejected.

On the roll call the vote was yeas 76-Allen, Arnold, Bennett, Blevins, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clarke, Cline, Cowan, Crupper, Curd, Dawahare, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lile, List, Long, Lundergan, Mann, McBee, McNutt, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 16-Blandford, Boswell, Bronger, Clark, Cyrus, Deskins, Dunn, Fryman, Gray, Guenthner, T. Jones, Little, Meyer, Moore, Perkins, Stumbo.

The motion that the vote on Floor Amendment No. 1 to **HB 280** be reconsidered was adopted.

Representative Burnette moved the adoption of the Floor Amendment No. 1 to **HB 280.**

On the roll call the vote was yeas 66-Arnold, Bennett, Blevins, Burch, Burnette, Caldwell, Clarke, Cowan, Craddock, Crupper, Curd, Dawahare, Donnermeyer, Ellington, Endicott, Farrow, Foster, Freibert, Haering, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lile, List, Long, Lundergan, Mann, McBee, McNutt, Moberly, Morris, Nett, Noland, O'Brien, Overstreet, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 23-Barrows, Blandford, Boswell, Brinkley, Bronger, Bruce, Cyrus, Deskins, Dunn, Ford, Fryman, Gray, Guenthner, LeMaster, Little, Maggard, Meyer, Moore, Noe, Perkins, Stumbo, Thomas.

Floor Amendment No. 1 to **HB 280** was adopted.

Representative Blandford requested a ruling of the Chair as to the need for a title amendment.

The Chair ruled the title expressed the subject of the bill.

Representative Allen moved that **HB 280,** as amended, be laid on the table.

On the roll call the vote was yeas 30-Allen, Barrows, Bennett, Blandford, Boswell, Bronger, Bruce, Clark, Dawahare, Deskins, Dunn, Endicott, Ford, Fryman, Gray, Guenthner, Heleringer, Holbrook, Holloway, Little, Maggard, Meyer, Moore, Patrick, Perkins, Rattliff, Stone, Stumbo, White, Yates. Nays 49-Arnold, Bendl, Blevins, Brinkley, Brown, Burch, Burnette, Caldwell, Clarke, Crupper, Curd, Donnermeyer, Ellington, Farrow, Foster, Freibert, Haering, Hancock, Head, Johnson, T. Jones, Layman, List, Lundergan, Mann, McBee, McNutt, Moberly, Morris, Noland, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Thomas, Thomason, Tobin, Todd, Van Horn, Williams, Worthington.

The motion that **HB 280,** as amended, be laid on the table was rejected.

Representative Turner moved that **HB 280,** as amended, be laid on the Clerk's desk. Agreed.

Report on Enrolled Bills

The Committee on Enrollment report **HB 75, HB 86, HB 128, HB 205, HB 288,** and **SB 46** had been examined and found correctly enrolled. Said bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 11:10 a.m.)

HB 75, HB 86, HB 128, HB 205, and **HB 288** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (Continued)

HB 401 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 401** be passed.

On the roll call the vote was yeas 88-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 401 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 401** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 13, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved that **SB 13** be passed.

Representative Bronger moved the adoption of the Floor Amendment No. 1 to **SB 13,**

On the roll call the vote was yeas 35-Bennett, Boswell, Bronger, Bruce, Burnette, Caldwell, Crupper, Cyrus, Dawahare, Deskins, Dunn, Endicott, Farrow, Guenthener, Haering, Hancock, Harper, Heleringer, Hines, Holloway, Lile, Little, Moore, Morris, O'Brien, Overstreet, Priddy, Riner, Robinson, B. Smith, Van Horn, White, Williams, Worthington, Yates. Nays 51-Barrows, Bendl, Blandford, Brinkley, Burch, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Donnermeyer, Ford, Foster, Freibert, Fryman, Gray, Handy, Head, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Layman, LeMaster, List, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Nett, Noe, Noland, Perkins, Petty, Rapier, Richards, B. Richardson, Schmidt, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Turner.

Floor Amendment No. 1 to **SB 13** was rejected.

Representative Hines moved the adoption of the Floor Amendment No. 4 to **SB 13.**

On the roll call the vote was yeas 43-Bennett, Bronger, Caldwell, Cline, Crupper, Cyrus, Dawahare, Deskins, Dunn, Ellington, Endicott, Farrow, Guenthner, Haering, Hancock, Harper, Head, Heleringer, Hines, Holloway, Kidd, Lile, Little, Lundergan, Mann, Moberly, Moore, Morris, Noe, O'Brien, Overstreet, Patrick, Priddy, Richards, Riner, Robinson, B. Smith, F. Smith, Todd, Van Horn, Williams, Worthington, Yates. Nays 47-Arnold, Barrows, Bendl, Boswell, Brinkley, Bruce, Burch, Clapp, Clark, Clarke, Cowan, Craddock, Curd, Donnermeyer, Ford, Foster, Freibert, Fryman, Gray, Handy, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Layman, LeMaster, List, Long, Maggard, McBee, McNutt, Meyer, Nett, Noland, Perkins, Petty, Rapier, B. Richardson, Schmidt, Seum, Stone, Stumbo, Thomas, Thomason, Tobin, Turner.

Floor Amendment No. 4 to **SB 13** was rejected.

Representative O'Brien moved the adoption of the Floor Amendment No. 3 to **SB 13.**

On the roll call the vote was yeas 41-Allen, Bennett, Bronger, Burnette, Cline, Crupper, Dawahare, Dunn, Ellington, Endicott, Farrow, Freibert, Guenthner, Haering, Hancock, Harper, Head, Heleringer, Hines, Holloway, Kidd, Lile, Little, Lundergan, Mann, Moberly, Morris, O'Brien, Overstreet, Patrick, Rattliff, Riner, Robinson, B. Smith, F. Smith, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 47-Barrows, Bendl, Blandford, Boswell, Brinkley, Bruce, Burch, Caldwell, Clapp, Clarke, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Foster, Fryman, Gray, Handy, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Layman, LeMaster, List, Long, Maggard, McBee, McNutt, Meyer, Nett, Noland, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, Schmidt, Seum, Stone, Thomas, Thomason, Tobin.

Floor Amendment No. 3 to **SB 13** was rejected.

Speaker Pro Tempore Thomason presiding.

Representative Van Horn moved that **SB 13** be laid on the Clerk's desk.

On the roll call the vote was yeas 44-Bennett, Blevins, Brinkley, Bronger, Bruce, Burnette, Crupper, Cyrus, Dawahare, Deskins, Dunn, Ellington, Endicott, Farrow, Gray, Haering, Harper, Head, Hines, Holloway, Kidd, Lile, Little, Lundergan, Mann, McBee, Moberly, Moore, Morris, Noe, O'Brien, Overstreet, Patrick, Priddy, Riner, Robinson, F. Smith, Stumbo, Thomas, Todd, Van Horn, Williams, Worthington, Yates. Nays 51-Arnold, Barrows, Bendl, Blandford, Boswell, Burch, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Curd, Donnermeyer, Ford, Foster, Freibert, Fryman, Guenthner, Hancock, Handy, Heleringer, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Layman, LeMaster, List, Long, Maggard, McNutt, Meyer, Nett, Noland, Perkins, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Schmidt, Seum, B. Smith, Stone, Thomason, Tobin, Turner, White.

The motion that **SB 13** be laid on the Clerk's desk was rejected.

Representative Williams moved that the House recess until Monday at 4:00 p.m.

On the roll call the vote was yeas 32-Allen, Bennett, Blevins, Brinkley, Brown, Bruce, Crupper, Dawahare, Dunn, Endicott, Farrow, Gray, Guenthner, Haering, Head, Hines, Holloway, Lile, Lundergan, McBee, Moberly, Morris, O'Brien, Patrick, Riner, Robinson, F. Smith, Stumbo, Van Horn, Williams, Worthington, Yates. Nays 54-Arnold, Bendl, Blandford, Boswell, Bronger, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Ford, Foster, Freibert, Fryman, Hancock, Handy, Harper, Heleringer, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Layman, LeMaster, List, Long, Maggard, Mann, McNutt, Meyer, Nett, Noland, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, Schmidt, Seum, B. Smith, Thomas, Thomason, Tobin, Turner, White.

The motion that the House recess was rejected.

Representative Yates moved that **SB 13** be recommitted to the Committee on State Government.

On the roll call the vote was yeas 31-Allen, Bennett, Blevins, Boswell, Brinkley, Crupper, Dawahare, Deskins, Dunn, Endicott, Farrow, Gray, Haering, Hines, Kidd, Lile, Little, McBee, Moore, Morris, O'Brien, Overstreet, Patrick, Riner, Robinson, Stumbo, Todd, Van Horn, Williams, Worthington, Yates. Nays 50-Barrows, Bendl, Blandford, Bronger, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Curd, Cyrus, Donnermeyer, Ford, Freibert, Fryman, Hancock, Handy, Heleringer, Holbrook, R. Jones, T. Jones, Kenton, Layman, LeMaster, List, Long, Maggard, McNutt, Meyer, Nett, Noland, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Schmidt, Seum, B. Smith, F. Smith, Thomas, Thomason, Tobin, Turner, White.

The motion that **SB 13** be recommitted to the Committee on State Government was rejected.

On the roll call the vote was yeas 59-Allen, Arnold, Barrows, Bendl, Blandford Boswell, Bronger, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Handy, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, LeMaster, List, Long, Lundergan, Maggard, McNutt, Meyer, Nett, Noland, Perkins, Petty, Rapier, Rattliff, B. Richardson, Schmidt, Seum, F. Smith, Stone, Thomas, Thomason, Tobin, Turner, White. Nays 33-Bennett, Brinkley, Brown, Caldwell, Crupper, Dunn, Endicott, Farrow, Gray, Harper, Head, Hines, Lile, Little, Mann, McBee, Moberly, Morris, Noe, O'Brien, Overstreet, Patrick, Priddy, Richards, Riner, Robinson, B. Smith, Stumbo, Todd, Van Horn, Williams, Worthington, Yates.

SB 13 was passed and the title agreed to.

Representative Nett moved that the vote by which **SB 13** was passed be reconsidered and said motion be placed on the table.

On the roll call the vote was yeas 53-Allen, Arnold, Bendl, Blandford, Boswell, Brinkley, Bronger, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Ford, Foster, Freibert, Fryman, Haering, Hancock, Handy, Heleringer, Holbrook, R. Jones, T. Jones, Kenton, Layman, LeMaster, List, Long, Lundergan, Maggard, McNutt, Meyer, Nett, Noland, Perkins, Petty, Rapier, B. Richardson, Schmidt, Seum, B. Smith, F. Smith, Stone, Todd, Turner, White. Nays 18-Bennett, Crupper, Dunn, Endicott, Farrow, Guenther, Hines, Lile, McBee, Morris, Patrick, Priddy, Riner, Robinson, Stumbo, Van Horn, Williams, Worthington.

The motion that the vote by which **SB 13** was passed be reconsidered and said motion be placed on the table was adopted.

Speaker Richardson resumed the Chair.

HB 339, as amended by Committee Amendments No. 1 and No. 2, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that Committee Amendment No. 2 to **HB 339** be reconsidered. Agreed.

Representative Donnermeyer moved the adoption of the Floor Amendment No. 3 to **HB 339.** Agreed.

Representative Donnermeyer moved that **HB 339,** as amended, be passed.

Representative Overstreet moved the adoption of the Floor Amendment No. 5 to **HB 339.**

On the roll call the vote was yeas 40-Barrows, Bendl, Blevins, Brown, Caldwell, Clarke, Cline, Cowan, Crupper, Cyrus, Deskins, Endicott, Ford, Foster, Fryman, Gray, Hines, R. Jones, T. Jones, Kenton, Kidd, LeMaster, List, Little, Long, Maggard, Moberly, Morris, Noe, Noland, Overstreet, Perkins, Rattliff, B. Richardson, P. Richardson, Robinson, Seum, Stumbo, Thomason, Todd. Nays 50-Allen, Arnold, Bennett, Blandford, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Clapp, Clark, Craddock, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Friebert, Guenthner, Haering, Hancock, Harper, Head, Heleringer, Holbrook, Johnson, Layman, Lile, Lundergan, Mann, McNutt, Meyer, Moore, Nett, Patrick, Rapier, Richards, Riner, Schmidt, B. Smith, F. Smith, Stone, Thomas, Turner, Van Horn, White, Worthington, Yates.

Floor Amendment No. 5 to **HB 339** was rejected.

Representative Barrows moved that **HB 339,** as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 32-Arnold, Barrows, Bendl, Blevins, Brown, Clapp, Cline, Cowan, Crupper, Cyrus, Deskins, Endicott, Foster, Gray, Hines, Holbrook, R. Jones, Kenton, LeMaster, List, Moberly, Noe, Overstreet, Perkins, Rattliff, B. Richardson, Robinson, Stumbo, Thomas, Thomason, Todd, Turner. Nays 49-Allen, Bennett, Blandford, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clark, Craddock, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Ford, Freibert, Fryman, Guenthner, Haering, Hancock, Harper, Head, Heleringer, Holloway, Layman, Little, Lundergan, Maggard, McNutt, Meyer, Morris, Nett, Patrick, Priddy, Rapier, Richards, Riner, Schmidt, B. Smith, F. Smith, Stone, Van Horn, White, Worthington, Yates.

The motion that **HB 339,** as amended, be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 76-Allen, Arnold, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Craddock, Crupper, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, Layman, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moore, Morris, Nett, Noland, O'Brien, Patrick, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 15-Barrows, Bendl, Clarke, Cowan, Cyrus, Deskins, Gray, Hines, R. Jones, T. Jones, Kenton, LeMaster, Moberly, Noe, Thomason.

HB 339, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 339,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 315,** by Representative Gray:

Amend printed copy of **HB 315** on page 2, line 21, after the word "*shall*" by inserting the words "*restrict the use of said signs to limited access highways of four (4) lanes or more,*"

Floor Amendment No. 2 to **HB 315,** by Representative Yates:

Amend printed copy of **HB 315** on page 3, lines 3-6, after "*(4)*" by deleting the lines in their entirety and inserting the following language:

"*Requiring the businesses requesting said sign be open seven (7) days per week on a twenty-four (24) hour basis;*

(5) Restricting the use of said signs to rural interchanges which are at least two (2) miles from any city limits; and"

Floor Amendment No. 6 to **HB 339,** by Representative Hancock:

Amend printed copy of Floor Amendment No. 4 of **HB 339** on page 1 after the word indigent insert the following: *with such necessary funds being deducted from those funds that would be returned to the individual counties by the way of KRS 42.450-42.495.*

Floor Amendment No. 1 to **HB 426,** by Representative Schmidt:

Amend printed copy of **HB 426** on page 4, line 18, after the word "copies;" insert the following: "*the Northern Kentucky University Chase Law School library, three (3) copies;*"

Floor Amendment No. 1 to **HB 374,** by Representative Brown:

Amend printed copy of **HB 374** on page 1, after line 11 by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) Fifteen percent (15%) of the annual appropriations to the Kentucky School Building Authority for debt service on new bond issues shall be reserved for assisting those districts in which school facilities have been damaged or destroyed by a calamity. For purposes of this Act, a calamity shall be defined as sudden damage caused by fire, tornado, windstorm, cyclone, explosion, riot, flood, or other accident. Any balance in the fifteen percent (15%) reserve not committed to calamity projects at the end of each fiscal year shall be available for funding projects through the regular process established by the Kentucky School Building Authority."

Representative Arnold moved that **HB 450** be reassigned to the Committee on Judiciary-Criminal. Agreed.

Representative Schmidt moved that **HB 426** be taken from the Clerk's desk and placed in Orders of the Day. Agreed.

Representative Turner moved the adoption of the following Legislative Citation No. 14:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Jayceettes of Monroe County for your most noteworthy and laudable recognition on February 13, 1982, in memorializing our Viet Nam Veterans for their supreme sacrifice of life, their loved ones and families in such a devastating costly and never-to-be forgotten War. The memorial service was held in the Monroe County Courthouse, Tompkinsville, Kentucky. This public awareness that you have demonstrated is a great tribute to you for it symbolizes your faith in God, your country and your fellowman. Your courageous commitment and desire for freedom transcend the highest in self-denial. May your actions in Tompkinsville be an example of the esteem in which these Veterans should always be held.

This prestigious body is very proud of you and we extend to you our best wishes. (Sponsored by Representative Turner)

Agreed.

The following meetings were announced.

Committee on Rules: On adjournment, Room 316.

State Government: Cancelled today.

State Government: Monday, 1:00 p.m., Room 109.

Counties and Special Districts: Tuesday, 8:00 a.m.

Education Budget Review: One-half hour after adjournment today.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 553, by Representative Schmidt: AN ACT relating to voting.

HB 554, by Representatives Clarke and Thomason: An ACT relating to the department of revenue.

HB 555, by Representative Burch: AN ACT relating to public accountancy.

HB 556, by Representative Caldwell: AN ACT relating to taxation.

HB 557, by Representative Van Horn: AN ACT relating to compensation of justices and judges.

HB 558, by Representative Van Horn: AN ACT relating to domestic relations.

HB 559, by Representatives Donnermeyer and McBee: AN ACT relating to regional planning.

HB 560, by Representatives Blevins, Stumbo, Barrows, and Seum: AN ACT proposing an amendment to Section 32 of the Constitution of Kentucky relating to qualifications of senators and representatives.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **SB 48.**

Labor and Industry: **HB 535.**

Health and Welfare: **HB 1, HB 484.**

Education: **HB 537, HB 494.**

Business Organizations and Professions: **HB 477.**

State Government: **HR 35, HR 2, HB 146, HB 267, HB 293, HB 461, HB 210, HB 321, HB 415.**

Cities: **HB 505, SB 133, SB 141, SB 11.**

Judiciary-Criminal: **HB 208, HB 450.**

Report of Committees

The Committee on Counties and Special Districts reported **HB 160, HB 323** with Committee Amendment attached thereto, **HB 324** with Committee Amendment attached thereto, **HB 378** with Committee Amendment attached thereto, **HJR 34,** and **SB 5** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 160, AN ACT relating to petition signatures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 104.480 is amended to read as follows:

(1) Before the secretary for natural resources and environmental protection shall establish a flood control district, a petition shall be filed with the secretary, *containing valid signatures of* [~~signed by~~] seventy per cent (70%) of those in possession claiming as freeholders within the boundaries of the proposed flood control district.

(2) In determining when seventy per cent (70%) of the landowners have signed the petition the secretary shall *consult* [~~be bound by~~] the names *appearing* [~~as they appear~~] upon the county tax duplicate, which for all purposes of KRS 104.450 to 104.680 shall be prima facie evidence of such ownership. The secretary shall further require evidence to determine the fact that all signatures on the petition are genuine, and a notification by ordinary mail sent to the respective addresses shown on the petition shall establish the genuineness of a signature if the petitioner so notified fails to report in writing within ten (10) days that he did not sign the petition. When authorized by ordinance, such a petition may be signed by a majority of the governing body of any municipality lying wholly or partly within the proposed district. When so signed by a majority of such governing body the petition shall fill all requirements of representation on the part of the freeholders of the municipality as they appear upon the assessment roll of the municipality, and individuals within the municipality shall not sign the petition.

Section 2. KRS 157.565 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, the board of education of any district in any year in which the total school tax rate is less than the maximum rate supported by the district power equalization program in that or the next subsequent school year, as provided for in KRS 157.555 and 157.560, shall have the authority to raise the maximum permissible local ad valorem tax rate as provided in KRS 160.470 to an amount not to exceed ten cents ($.10) for the school year beginning on July 1, 1978, and a rate not to exceed fifteen cents ($.15) for the school year beginning July 1, 1979 after compliance with the following:

(a) The district board of education shall give notice of the proposed rate increase. Notice shall be given by causing to be published at least one (1) time in a newspaper of general circulation in the district, or in any other good faith manner if there is no such newspaper, the fact that such rate is being levied. Such advertisement shall state that the district board of education will meet at a place and on a date fixed in the advertisement, not earlier than one (1) week and not later than two (2) weeks from the date of the advertisement, for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposal.

(b) The order or resolution levying the school tax designated heretofore in this section shall go into effect not less than thirty (30) days nor more than one hundred twenty (120) days after its passage. If during the thirty (30) days immediately following the passage of the order or resolution a petition signed by a number of registered and qualified voters equal to twenty-five percent (25%) of the votes cast in the school district or combined taxing district levying the tax for the office receiving the greatest total vote at the last preceding presidential election is presented to the school board protesting against passage of the order or resolution, the order or resolution shall be suspended from going into effect for that district until after the election provided for in subsection (c) of this section. Each sheet of the petition shall contain the names and addresses of voters in but one (1) voting precinct and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, number or designation of the district or ward wherein the precinct is situated. [~~Each voter shall sign his name in the same manner as he signed the current registration form described in KRS 116.155 or subsection (2) of KRS 116.045, as the case may be.~~] If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One or more persons shall verify by affidavit the signatures and addresses of the signers of the petition. The board or boards of registration in the county shall provide necessary and appropriate aid to the school board or boards so that the latter may make the determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution.

(c) Thereupon, if it has been determined that the petition contains enough valid signatures to suspend the effect of the order or resolution, the county board of elections shall submit to the voters of the school district in which a valid recall petition has been filed pursuant to subsection (b) of this section at the next regular May or November election the question as to whether the tax shall be levied. The question shall be so framed that the voter may by his vote answer, "for" or "against". If a majority of the votes cast in a district upon the question oppose its passage, the order or resolution shall not go into effect in that district. If a majority of the votes cast in a district upon the question favor its passage, the order or resolution shall go into effect in that district. In the event that the election is to be held in more than one (1) school district within a county the votes shall be counted separately.

(2) In the event a school district tax rate is not sufficient to qualify the school district for matching funds from the power equalization fund under the provisions of KRS 157.545 through 157.575 and the school district does not elect to levy an additional ad valorem tax as provided for in subsection (1) of this section, school districts levying any of the permissive taxes provided for in KRS 160.482 through 160.648 may in accordance with regulations of the state board for elementary and secondary education recommended by the superintendent of public instruction substitute revenue from such levy to the extent that such revenue would match the maximum rate supported by the power equalization program.

Section 3. KRS 160.485 is amended to read as follows:

(1) The imposition of license fees authorized hereby shall be by order or resolution of the fiscal court. There shall be no more than one (1) such order or resolution passed in any (1) one calendar year. In the case of license fees required to be imposed pursuant to subsection (2) of KRS 160.484 the fiscal court shall make the order or resolution within ten (10) days following receipt of the first request which makes subsection (2) of KRS 160.484 effective.

(2) The order or resolution of the fiscal court imposing license fees pursuant to subsections (1), (2), or (4) of KRS 160.484 shall go into effect thirty (30) days after its passage. If during the thirty (30) days next following the passage of the order or resolution a petition signed by a number of registered and qualified voters equal to fifteen percent (15%) of the votes cast in the county for the office receiving the greatest total vote at the last preceding presidential election is presented to the fiscal court protesting against passage of the order or resolution, the order or resolution shall be suspended from going into effect until after the election referred to in subsection (3) of this section. Each sheet of the petition shall contain the names and addresses of voters in but one (1) voting precinct, and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, designation, or number of the district or ward wherein the precinct is situated. [~~Each voter shall sign his name in the same manner as he signed the current registration form described in KRS 116.155.~~] If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One or more persons shall verify by affidavit the signatures and addresses of the signers of the petition. The board or boards of registration in the county shall give necessary and appropriate aid to the fiscal court so that the latter body may make the initial, but not conclusive, determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution.

(3) Thereupon the fiscal court shall submit to the voters of the county at the next regular election or called common school district election, either of which to be held not less than sixty (60) days from the date of passage of said order or resolution, the question as to whether such license fees for common school purposes shall be levied. The question shall be so framed that the voter may by his vote answer, "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order or resolution shall not go into effect. If a majority of the votes cast upon the question favor its passage, the order or resolution shall go into effect.

(4) License fees imposed pursuant to KRS 160.482 to 160.488 shall become applicable upon the date specified in the order or resolution, but in no event later than the first day of the calendar year first beginning after the day upon which the said order or resolution is made.

Section 4. KRS 160.597 is amended to read as follows:

Any school tax authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 may be recalled as follows:

(1) The order or resolution levying any of the school taxes designated heretofore in this section shall go into effect not less than thirty (30) days nor more than ninety (90) days after its passage. If during the thirty (30) days immediately following the passage of the order or resolution a petition signed by a number of registered and qualified voters equal to fifteen percent (15%), except in counties containing a city of the first class, equal to five percent (5%), of the votes cast in the school district or combined taxing district levying the tax for the office receiving the greatest total vote at the last preceding presidential election is presented to the county board of elections requesting that the order or resolution of such tax be placed on the ballot for voter approval, the order or resolution shall be suspended from going into effect for that district until after the election provided for in subsection (2) of this section. The person presenting the petition shall be given a receipt indicating the date of presentation. Each sheet of the petition shall contain the names and

addresses of voters in but one (1) voting precinct and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, number or designation of the district or ward wherein the precinct is situated. [~~Each voter shall sign his name in the same manner as he signed the current registration form described in KRS 116.155 or subsection (2) of KRS 116.045, as the case may be.~~] If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One or more persons shall verify by affidavit the signatures and addresses of the signers of the petition. The county board of elections shall make the determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution, and immediately thereafter shall notify the school board that the petition has been received and that the order or resolution levying such tax will be placed on the ballot for voter approval at the next general election. The board of elections shall certify to the school board within thirty (30) days of receipt of the petition that the petition is properly presented and in compliance with the provisions of this section. If the board of elections finds the petition to be invalid, it shall state in writing the deficiency of said petition. Written notification that the petition has been declared invalid and the deficiencies thereof shall be sent by certified mail to the person to whom a receipt was given by the board of elections, and shall be published at least one (1) time in a newspaper of general circulation within the county containing the school district levying the tax, or if there be no such newspaper, shall be posted at the courthouse door. If good cause is shown, the board of elections shall permit the petitioners to correct the deficiencies either by securing additional valid signatures or by circulating a new petition, such petition to be submitted to the board within thirty (30) days from the date of the written notification of the deficiencies.

(2) Thereupon, if it has been determined that the petition contains enough valid signatures to suspend the effect of the order or resolution, the county board of elections shall submit to the voters of the school district in which a valid recall petition has been filed pursuant to subsection (1) of this section at the next regular November election the question as to whether the tax shall be levied. The question shall be so framed that the voter may by his vote answer, "for" or "against." If a majority of the votes cast in a district or combined taxing district upon the question oppose its passage, the order or resolution shall not go into effect in that district or combined taxing district. If a majority of the votes cast in a district or combined taxing district upon the question favor its passage, the order or resolution shall go into effect in that district. In the event that the election is to be held in more than one (1) school district within a county the votes shall be counted separately.

(3) If any statute in existence on June 17, 1978, is found to be in conflict with any provision of this section, the provisions of this section shall prevail.

Section 5. KRS 220.040 is amended to read as follows:

(1) Before the commissioner of sanitation districts shall establish a district, a petition, approved as to propriety and necessity by the county board of health of each county affected, shall be filed with the commissioner, *containing valid signatures of* [~~signed by~~] sixty per cent (60%) of those in possession claiming as freeholders within the limits of the territory proposed to be organized into a district.

(2) In determining when sixty per cent (60%) of the landowners have signed the petition, the commissioner shall *consult* [~~be bound by~~] the names *appearing* [~~as they appear~~] upon the county tax duplicate, which for all purposes of KRS 220.010 to 220.520 shall be prima facie evidence of such ownership. The commissioner shall further require evidence to determine the fact that all signatures on the petition are genuine, and a notification by ordinary mail sent to the respective addresses shown on the petition shall be deemed satisfactory by the commissioner if the petitioner so notified fails to report in writing within ten (10) days that he did not sign the petition. When authorized by ordinance, such a petition may be signed by the governing body of any municipality lying wholly or partly within the proposed district. When so signed by such governing body a petition on the part of the governing body shall fill all requirements of representation upon the petition of the freeholders of the municipality as they appear upon the assessment roll of the municipality, and individuals within the municipality shall not sign the petition. Such a petition may also be filed by any municipality interested in some degree in the improvement, upon proper action by its governing body, except as provided in KRS 220.520.

HB 323, AN ACT relating to sheriffs' deputies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.345 is amended to read as follows:

(1) The county clerk, sheriff and jailer of each county having a population of 75,000 or over shall receive an annual salary of fourteen thousand three hundred dollars ($14,300).

(2) In counties containing a city of the first class and in counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by

an order entered upon the order book of the circuit court, and signed by the chief judge thereof. *In counties containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized reimbursement for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office.* In all other counties with a population of 75,000 or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department of finance.

(3) Each officer shall, on the first day of each month, send to the department of finance a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the department of finance the amount so collected or received. The department of finance may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the state treasurer upon the warrant of the department of finance made payable to the officer. If seventy-five percent (75%) of the amount paid into the state treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the department of finance to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the department of finance by the officer during his official term.

(5) In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by an order entered upon the order book of the circuit court and signed by the chief judge thereof. In all other counties with a population of 75,000 or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department of finance.

Committee Amendment No. 1 to **HB 323** is as follows:

Amend printed copy of **HB 323** on page 1, line 15, by deleting "*reimbursement*" and inserting therefor: "*an allotment*"

HB 324, AN ACT relating to county government audits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 43.070 is amended to read as follows:

(1) To determine whether any unauthorized, illegal, irregular, or unsafe handling or expenditure of revenue or other improper practice of financial administration has occurred and to assure that all proper items have been duly charged, taxed, and reported, the auditor shall audit annually:

(a) The funds contained in each county's budget; and

(b) The books, accounts, and papers of all county clerks, [~~circuit clerks, county judges/executive, county attorneys,~~] sheriffs, *and* jailers[~~, coroners and constables~~]; provided, however, that the auditor shall not conduct such an audit if the elected official notifies the auditor that he has employed a certified public accountant to audit the books, accounts, and papers of his office, *in accordance with KRS 64.810.*

(2) *The auditor may audit the books, accounts and papers of all county judges/executive, county attorneys, coroners and constables.*

(3) The county shall bear one-half (½) of the actual expense of the audit conducted pursuant to paragraph (a) of subsection (1) of this section and shall bear the total actual expense of the audit conducted pursuant to paragraph *(1)(b) and subsection (2)* [~~(b) of subsection (1)~~] of this section. No county shall be required to bear the expense for more than one audit of the same fund or office annually pursuant to subsection (1)(a) or (1)(b) of this section except as provided for in KRS 64.810 (3).

(4) [~~(3)~~] Within a reasonable time after the completion and distribution of the audit reports authorized by subsection (1) of this section, the auditor of public accounts shall bill the county for the expenses incurred pursuant to subsection (2) of this section. A copy of this bill shall be forwarded to the secretary of the department of finance. Should the fiscal court within sixty (60) days following receipt of said bill determine the charge to be excessive or otherwise improper it shall submit its objection to the secretary of the

department of finance and to the state treasurer for resolution of the controversy in accordance with subsection (4) of this section. If the amount billed has not been paid within sixty (60) days from date of billing, and no objection has been filed, the auditor shall notify the secretary of the department of finance and the commissioner of revenue who shall cause said amount to be deducted from the next payment or return of moneys provided by KRS 47.110 by the state to the county or counties. Deductions shall continue until the total amount due the auditor's office has been paid. All moneys received pursuant to this section shall be credited to the trust and agency account of the auditor of public accounts. When an objection to the bill has been filed with the secretary of the department of finance and the state treasurer in accordance with subsection (4) of this section the amount found to be equitable and just shall become payable immediately upon the entry of the final decision.

(5) [~~(4)~~] Any controversy over the amount of the bill for the actual expenses incurred shall be submitted by the fiscal court to the secretary of the department of finance and the state treasurer for a decision as to the proper amount. In the event that these two (2) arbitrators fail to agree, then the controversy shall be submitted to the attorney general, whose decision shall be final.

Section 2. KRS 64.810 is amended to read as follows:

(1) Any county clerk, [~~county judge/executive, county attorney,~~] sheriff, *or* jailer *may*[~~, coroner, or constable shall have the right to~~] employ a certified public accountant to audit the books, accounts, and papers of his office in lieu of the audit conducted by the state auditor of public accounts required by KRS 43.070.

(2) If said official elects to exercise the right prescribed in subsection (1), then he shall:

(a) Notify in writing *by January 30 following the calendar year to be audited* [~~within thirty (30) days following the period to be audited,~~] the fiscal court of his county and the state auditor of the name of the certified public accountant employed by said official to audit the books, accounts, and papers of his office[~~; the auditor shall acknowledge, in writing, receipt of such notification, and approval of the use of the designated independent certified public accountant cannot be withheld unless such certified public accountant fails to conform to standard audit programs established for governmental accounting and other generally accepted accounting procedures as set forth by the Kentucky board of accountancy~~];

(b) Bear the cost of the audit from funds received or collected by him, and the cost of the audit shall be construed as an expense of his office[~~;~~

~~(c) Within a reasonable time after the certified public accountant's examination, submit the accountant's written report to the governor, the general assembly, the attorney general, the county officials' compensation board, the state librarian, the state auditor of public accounts, and the fiscal court and county attorney of his county. In addition, the official shall send the report to a newspaper having general circulation in the county of the official, and the letter of transmittal accompanying the report shall be published in said newspaper in accordance with the provisions of KRS chapter 424~~].

(3) *No county official shall enter into any contract with a certified public accountant for an audit unless the auditor of public accounts has declined, in writing, to perform the audit or has failed to respond within thirty (30) days of receipt of a written notice of the intent to employ a certified public accountant. Any contract with a certified public accountant entered into as a result of the auditor of public accounts declining to perform the audit shall specify the following:*

(a) The audit shall be completed by August 1 following the calendar year being audited;

(b) The certified public accountant shall forward a copy of the audit report and management letters to the county official, fiscal court of the county and the auditor of public accounts upon completion of the audit, and no later than August 1 following the calendar year being audited;

(c) The auditor of public accounts shall have the right to review the certified public accountant's work papers.

(4) After preliminary review of the certified public accountant's work papers, should discrepancies be found, the auditor's office may conduct its own audit to verify the findings of the certified public accountant's report. If such audit is conducted, the expenses to said county official, as directed by KRS 43.070(3) shall be construed as an allowable expense of that office. If the audit conducted by the auditor of public accounts discloses discrepancies in the audit by the certified public accountant, the findings of the auditor of public accounts shall be deemed official for purposes of collection of money owed the county pursuant to KRS 64.820.

(5) No later than August 1 following the calendar year being audited, the county official shall submit the accountant's written report to the governor, the general assembly, the attorney general, the county officials' compensation board, the state librarian and county attorney of his county. In addition the official shall send the report to the newspaper having general circulation in the county of the official, and the letter of transmittal accompanying the report shall be published in said newspaper in accordance with the provisions of KRS Chapter 424.

(6) This section shall not be construed as eliminating the requirement that the books, accounts, and papers of the above named officials be audited yearly. [~~This section shall not preclude the state auditor from~~

~~reviewing the reports of the certified public accountant. After preliminary review, should discrepancies be found, nothing in this section or in KRS 43.070(1)(b) shall be construed as precluding the auditor's office from making its own investigative report or audit to verify the findings of the independent certified public accountant's report. If such investigative audit be deemed necessary, the expenses to said county official, as directed by KRS 43.070(2), shall be construed as an allowable expense of that office.~~]

Section 3. KRS 64.820 is amended to read as follows:

(1) The fiscal court shall collect any amount due the county from county officials as determined by the audit of the official conducted pursuant to KRS 43.070 and 64.810 if the amount can be collected without suit.

(2) In the event the fiscal court cannot collect the amount due the county from the county official without suit, the [~~state auditor or certified public accountant shall report the facts and amount involved to the fiscal court of the county. The~~] fiscal court shall then direct the county attorney to institute suit for the collection of the amount reported by the auditor or certified public accountant to be due the county within ninety (90) days from the date of receiving the auditor's or certified public accountant's report.

Committee Amendment No. 1 to **HB 324** is as follows:

Amend printed copy of **HB 324** on page 4, line 4, by inserting after "43.070" and before the period the following: "*, if the auditor of public accounts declines to perform the audit or has failed to respond to written notice of intent to employ a certified public accountant within thirty (30) days of receipt of the notice*";

and on page 5, line 9, by deleting everything after "(3)";

and on page 5, by deleting all of lines 10 through 13;

and on page 5, line 14, by deleting: "*The intent to employ a certified public accountant.*".

HB 378, AN ACT relating to county judges/executive.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.705 is amended to read as follows:

(1) Each county shall have a chief executive officer known as the county judge/executive. Only a resident of the county shall be eligible for election as county judge/executive. He shall be nominated and elected by the qualified voters of the county in the manner provided by law for the election of county officers. In case the office of county judge/executive becomes vacant by reason of death, resignation, or removal, it shall be filled with a person appointed by the Governor, in accordance with section 152 of the Constitution, for the unexpired term.

(2) The salary of the county judge/executive shall be set by the fiscal court.

(3) The minimum annual compensation paid to the county judge/executive shall be a sum not less than sixty percent (60%) of the maximum compensation certified under KRS 64.527, *and not less than the annual compensation of any other county official in the county,* except that no fiscal court shall be required under provisions of this section to approve an amount for the compensation of any one official which would exceed six percent (6%) of the county's total annual general fund receipts including federal revenue sharing monies.

(4) In no event shall the county judge/executive, justice of the peace, magistrate, or commissioners who serve on the fiscal court holding office on January 2, 1978, receive less than the total annual compensation received by that official during calendar year 1976.

Committee Amendment No. 1 to **HB 378** is as follows:

Amend printed copy of **HB 378** on page 1, line 16, by inserting after "(3)" and before "The" the following: "*Except in urban county governments,*".

HJR 34, A JOINT RESOLUTION providing for the adoption and implementation of the Kentucky Clean Community System Program for a more beautiful Kentucky.

WHEREAS, improper disposal of solid waste by citizens of the Commonwealth of Kentucky continues to be a serious problem; and

WHEREAS, the Kentucky Labor-Management Advisory Council, being a duly constituted body of the Commonwealth of Kentucky (as provided for by KRS 336.162) endorsed, by resolution, the voluntary concept of solid waste control on December 2, 1980; and

WHEREAS, the Secretary of the Department for Natural Resources and Environmental Protection endorses the concept of voluntary solid waste control in keeping Kentucky "clean and green"; and

WHEREAS, a substantial reduction in solid waste could be accomplished with the implementation of a Kentucky Clean Community System Program;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Clean Community System Council be established and consist of the Secretary for Natural Resources and Environmental Protection, the Secretary of Transportation, and representatives of the Beverage Industry Recycling Program Association, Kentucky Association of County Officials, Kentucky Municipal League, a statewide general business association, the Federated Garden Clubs of Kentucky and one member from each chamber of the general assembly of the Commonwealth of Kentucky.

Section 2. That a State Coordinator for the Kentucky Clean Community System Council be appointed and assigned to work within the Department for Natural Resources and Environmental Protection and, along with members of the Council, shall adopt and implement a Kentucky Clean Community System Program and that the State Coordinator shall work with cities, counties, and state agencies involved in the Kentucky Clean Community System Council to develop a statewide solid waste reduction and cleanliness program.

Section 3. That all cities and counties in the Commonwealth shall be encouraged to utilize this program and be assisted by those responsible for developing and implementing the program.

Section 4. That members of the Clean Community System Council shall cooperate with all Waste Management Districts throughout the Commonwealth.

Section 5. That the Clerk of the House of Representatives is hereby authorized and directed to transmit appropriate copies of this resolution to the Governor of the Commonwealth of Kentucky and to the heads of departments named herein.

SB 5, AN ACT relating to county fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.350 is amended to read as follows:

(1) In counties having a population of seventy-five thousand (75,000) or more, the salaries of the county clerks, sheriffs and jailers and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining and operation of the offices, shall be paid out of the state treasury in amounts not to exceed seventy-five percent (75%) of the fees collected by the officers respectively, and received into the treasury; and twenty-five percent (25%) of the fees collected by the officers respectively, and received into the state treasury shall be paid in the manner provided by law for the payment of other claims against the state to the fiscal courts or urban-county government of the respective counties. The amount of twenty-five percent (25%) of the fees collected by the *jailers* [~~officers respectively~~] during each calendar year shall be paid to the fiscal courts or urban-county government of the respective counties by April 1 of each year succeeding the calendar year during which the fees were received by the department of finance. *The amount of twenty-five percent (25%) of the fees collected by the county clerks and sheriffs during each calendar year shall be paid to the fiscal courts or urban-county governments of the respective counties quarterly no later than April 15, July 15, October 15 and January 15. Each payment shall be for the preceding three (3) months during which fees were received by the department of finance. Adjustments necessary to insure that exactly twenty-five percent (25%) of fees collected are returned to the fiscal courts or urban-county governments shall be made in the January 15 payment.* After payment of the salaries and expenses specified in this subsection, any remaining balance of the seventy-five percent (75%) of the fees collected by the officers respectively at the end of their official term shall be paid by the state treasurer to the fiscal courts or urban-county government of the respective counties, subject to the provisions of subsection (2) of this section.

(2) Notwithstanding the provisions of subsection (1), all sums received into the state treasury and representing seventy-five percent (75%) of the fees collected by the sheriffs and jailers specified in subsection (1) from any county in which a metropolitan correctional services department has been established shall be

expended from the state treasury for the payment of the salaries and costs specified in subsection (1), and in Section 106 of the Constitution of Kentucky. After payment of the salaries and costs specified in this subsection, the remaining balance representing fees collected by sheriffs and jailers shall be paid by the state treasury to the fiscal court of the county in which a metropolitan correctional services department has been established by April 1 of each year succeeding the calendar year in which the fees were received by the department of finance.

Representative LeMaster moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative LeMaster moved that when the House adjourns, it do so by voice vote. Agreed.

Representative LeMaster moved that when the House adjourns, it do so until 4:00 p.m., Monday, February 22, 1982. Agreed.

Adjournment

Representative LeMaster moved that the House adjourn.

The House adjourned by voice vote.

MONDAY, FEBRUARY 22, 1982

THIRTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend J. Williamson Brown, Jr., Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Lefevers and Overstreet.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 19, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HCR 39, by Representative F. Smith: A CONCURRENT RESOLUTION directing a study of physical education in the public schools.

HB 561, by Representative Schmidt: AN ACT relating to credit unions.

HB 562, by Representatives Harper, Ford, Fryman, and R. Jones: AN ACT relating to real estate errors and omissions insurance.

HB 563, by Representative Burch: AN ACT relating to dental laboratories.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 552, HB 554, HB 556.**

Banking and Insurance: **SB 39, SB 127, SB 207.**

Business Organizations and Professions: **HB 555.**

Counties and Special Districts: **HB 559.**

Education: **SB 237.**

Judiciary-Civil: **HB 557, HB 558, SB 191.**

Judiciary-Criminal: **SB 10, SB 190, SB 18.**

State Government: **HB 553, HB 560, SB 170, SR 26.**

Transportation: **SB 20.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 468, HB 469, HB 508, HB 512, HB 520, HB 545, SB 74, SB 97, SB 136, SB 203.**

Judiciary-Civil: **HB 474.**

Report of Committees

The Committee on Rules reported **HB 13, HB 99, HB 140, HB 374, HB 386, HB 445, HB 383, HR 30,** and **SB 61** have been posted for passage in Orders of the Day, February 23, 1982.

The Commitee on Rules reported **HB 204** has been recommitted to the Committee on Judiciary-Civil.

The Committee on State Government reported **HB 106,** with Committee Substitute and Committee Amendments attached thereto with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Committee Amendment No. 1 to the Committee Substitute to **HB 106** is as follows:

Amend printed copy of Committee Substitute to **HB 106,** page 14, line 2, by adding, after "Act." the words:

The criteria shall be reviewed at least quarterly for the purpose of more clearly defining the specific acts or circumstances which constitute Type A and B violations.

and on page 14, line 4, by deleting "*such*" and inserting in lieu thereof "*the initial.*"

Committee Amendment No. 2 to the Committee Substitute to **HB 106** is as follows:

Amend printed copy of Committee Substitute to **HB 106,** page 13, line 8, after "*for*", by adding "*and paid a fine for*".

Calendar

HB 160, HB 323, HB 324, HB 378, HJR 34, and **SB 5** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 32, with Committee Amendment attachted thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of the Committee Amendment No. 1 to **HB 32.** Agreed.

Representative Noe moved that **HB 32,** as amended, be passed.

On the roll call the vote was yeas 76-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Clark, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, Kidd, Layman, Lile, List, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, Worthington, Yates. Nays 11- Bruce, Burnette, Caldwell, Craddock, Deskins, LeMaster, Little, Lundergan, B. Richardson, Stumbo, Tobin.

HB 32, as amended, was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 32**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 33, SB 119, SB 169, SB 196, SB 204,** and **HB 20** with Senate Amendment.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 41** had been examined and found correctly enrolled. **SB 41** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:17 p.m.)

Orders of the Day (continued)

HB 129, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkley moved the adoption of the Floor Amendment No. 1 to **HB 129.** Agreed.

Representative Brinkley moved that **HB 129,** as amended, be passed.

On the roll call the vote was yeas 60-Arnold, Bendl, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Freibert, Haering, Harper, Heleringer, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Morris, Noland, O'Brien, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomason, Turner, Van Horn, White, Yates. Nays 2-Foster, Fryman.

HB 129, as amended, was passed and the title agreed to.

Representative Brinkley moved that the vote by which **HB 129,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 161, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Amendment No. 1 to **HB 161.** Agreed.

Representative Donnermeyer moved that **HB 161,** as amended, be passed.

On the roll call the vote was yeas 64-Allen, Arnold, Bendl, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Clapp, Clarke, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Freibert, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, R. Jones, Kenton, Kidd, LeMaster, List, Little, Long, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Morris, Noe, O'Brien, Pearman, Perkins, Petty, Priddy, Richards, B. Richardson, P. Richardson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Turner, Van Horn, Worthington, Yates. Nays 11-Barrows, Caldwell, Clark, Craddock, Foster, Fryman, Haering, Lile, Moore, Rapier, Rattliff.

HB 161, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 161,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 315, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Floor Amendment No. 1 to **HB 315.** Agreed.

Representative Gray moved that **HB 315,** as amended, be passed.

Representative Worthington moved that **HB 315,** as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 14-Arnold, Blevins, Burnette, Crupper, Dawahare, T. Jones, Lundergan, Rapier, Robinson, Seum, B. Smith, Stumbo, Worthington, Yates. Nays 69-Allen, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, R. Jones, Kenton, Layman, Lile, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Noland, O'Brien, Patrick, Pearman, Perkins, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, F. Smith, Stone, Thomason, Tobin, Turner, Van Horn, White, Williams.

The motion that **HB 315,** as amended, be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 82-Allen, Arnold, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Fryman, Gray, Haering, Hancock, Harper, Head, Heleringer, Hines, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 7- Barrows, Blevins, Holbrook, Patrick, Robinson, Stumbo, Yates.

HB 315, as amended, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 315,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 426, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative List moved the adoption of the Floor Amendment No. 1 to **HB 426.** Agreed.

Representative List moved that **HB 426,** as amended, be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 426, as amended, was passed and the title agreed to.

Representative List moved that the vote by which **HB 426,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 95, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative White moved the adoption of the Committee Amendment No. 1 to **HB 95.** Agreed.

Representative White moved the adoption of the Floor Amendment No. 1 to **HB 95.**

On the roll call the vote was yeas 56-Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Burnette, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Freibert, Gray, Guenthner, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, Moberly, Moore, Noe, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Robinson, F. Smith, Stone, Stumbo, Thomas, Van Horn, White, Williams, Yates. Nays 19-Allen, Caldwell, Clarke, Ellington, Ford, Foster, Hancock, Harper, Head, R. Jones, Layman, LeMaster, McNutt, Morris, Richards, Schmidt, B. Smith, Tobin, Turner.

Floor Amendment No. 1 to **HB 95** was adopted.

Representative White moved that **HB 95**, as amended, be passed.

Representative Clarke moved that a fiscal impact note be attached to Floor Amendment No. 1 to **HB 95.**

On the roll call the vote was yeas 28-Arnold, Barrows, Bendl, Caldwell, Clarke, Ellington, Foster, Freibert, Haering, Hancock, Harper, Holloway, R. Jones, Kenton, List, Long, McNutt, Meyer, Morris, Nett, Rapier, Richards, Schmidt, B. Smith, F. Smith, Tobin, Turner, Worthington. Nays 50-Allen, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Fryman, Gray, Guenthner, Handy, Head, T. Jones, Layman, Lile, Little, Maggard, Mann, McBee, Moberly, Moore, Noe, Noland, Patrick, Pearman, Perkins, Petty, Priddy, Robinson, Seum, Stone, Stumbo, Van Horn, White, Williams, Yates.

The motion that a fiscal impact note be attached to Floor Amendment No. 1 to **HB 95** was rejected.

Representative White moved that **HB 95**, as amended, be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 3-Clarke, R. Jones, Richards.

HB 95, as amended, was passed and the title agreed to.

Representative White moved that the vote by which **HB 95**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 13** had been examined and found correctly enrolled. **SB 13** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 5:04 p.m.)

Orders of the Day (continued)

HB 332 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved that **HB 332** be passed.

On the roll call the vote was yeas 88-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4-Harper, Layman, Lile, Rattliff.

HB 332 was passed and the title agreed to.

Representative Curd moved that the vote by which **HB 332** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 392 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved that **HB 392** be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, White, Williams, Worthington, Yates. Nays 3-B. Richardson, Tobin, Van Horn.

HB 392 was passed and the title agreed to.

Representative R. Jones moved that the vote by which **HB 392** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 425 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved that **HB 425** be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 2-Donnermeyer, Petty.

HB 425 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 425** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 21 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **SB 21** be passed.

On the roll call the vote was yeas 86-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kidd, Layman, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Tobin, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 2-Clarke, Turner.

SB 21 was passed and the title agreed to.

Representative Farrow moved that the vote by which **SB 21** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 73 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Boswell moved that **SB 73** be passed.

On the roll call the vote was yeas 86-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Johnson, T. Jones, Kenton, Kidd, Layman, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Noe, Noland, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Holloway, O'Brien.

SB 73 was passed and the title agreed to.

Representative Boswell moved that the vote by which **SB 73** was passed be reconsidered and said motion be placed on the table. Agreed.

SR 1 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved that **SR 1** be adopted.

On the roll call the vote was yeas 86-Arnold, Barrows, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Freibert, Fryman, Gray, Hancock, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Allen, Foster.

SR 1 was adopted and the title agreed to.

Representative F. Smith moved that the vote by which **SR 1** was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

Representative Craddock moved the adoption of the following Legislative Citation No. 15:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates you, Mr. and Mrs. W. J. Polley, on this your blissful Golden Anniversary, March 6, 1982. Love and affection have cemented many tender ties of a beautiful and happy relationship for you. God blessed you with his priceless gift of love - your children. Sharing life's joys and sorrows for fifty years is the ultimate in living the good life.

May God's eternal goodness crown you with lasting love, health and happiness.

This prestigious body extends to you and family our sincere and very best wishes. (Sponsored by Representative Craddock)

Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Bennett, **HB 487;** Representative Blevins, **HB 275;** Representative Bruce, **HB 298;** Representative Donnermeyer, **HB 149;** Representative Harper, **HB 505;** Representative Holbrook, **HB 383;** Representative Lile, **HB 525;** Representative Long, **HB 379;** Representative Moore, **HB 203;** Representative Noe, **HB 142;** Representative Patrick, **HB 95;** Representative F. Smith, **HB 535, HB 543;** Representative Thomas, **HB 37, HB 43, HB 53, HB 59.**

The following Floor Amendment was filed.

Floor Amendment No. 2 to **HB 280,** by Representative Ford:

Amend printed copy of **HB 280** page 3, following line 9, by adding the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

Any digger who digs 15 pounds or less of wild ginseng in a calendar year shall be exempt from the provisions of this Act."

and on page 3, line 10, by renumbering "SECTION 5" as "SECTION 6"

and on page 3, line 20, by renumbering "Section 6" as Section 7"

The following meetings were announced.

Committee on Rules: On adjournment, Room 316.

Counties and Special Districts: Tuesday, 8:00 a.m.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 40, by Representatives Noe, LeMaster, Brown, Cline, Dawahare, Ford, Little, Maggard, Moberly, Moore, Noland, Perkins, Robinson, and Todd: A RESOLUTION inviting the McLain Family Band of Berea, Kentucky to open a session of the House of Representatives with a song.

HR 41, by Representatives Harper, Caldwell, McBee, Donnermeyer, Petty, Mann, and Schmidt: A RESOLUTION honoring Notre Dame Academy.

HB 564, by Representatives Van Horn, Fryman, Clark, Gray, and Burnette: AN ACT relating to the designation of the coon hound as the official state dog of the Commonwealth of Kentucky.

HB 565, by Representatives Kenton, List, Bendl, Bennett, Brinkley, Craddock, Hancock, Harper, T. Jones, McNutt, Meyer, Noe, and Thomason: AN ACT relating to property assessment and reassessment moratoriums.

HB 566, by Representatives Dunn and Head: AN ACT relating to hairdressers and cosmetologists.

HB 567, by Representative Arnold: AN ACT relating to peace officers.

HB 568, by Representative Arnold: AN ACT relating to roads.

HB 569, by Representative Schmidt: AN ACT relating to statutory liens.

HB 570, by Representatives LeMaster and Clarke: AN ACT relating to appropriations and revenue.

HB 571, by Representatives LeMaster and Clarke: AN ACT relating to revenue and taxation.

HB 572, by Represenatative Pearman: AN ACT relating to local government.

HB 573, by Representatives LeMaster, Dunn, Thomason, and Donnermeyer: AN ACT relating to compensation of elective state officials.

HB 574, by Representative Johnson: AN ACT relating to teacher certification.

HB 575, by Representative Caldwell: AN ACT relating to the Kentucky Building Code.

HB 576, by Representatives Bennett, Williams, and Dunn: AN ACT relating to sales and use taxes.

HB 577, by Representatives Schmidt, Fryman, Maggard, Ford, Harper, and Ellington: AN ACT relating to crimes and punishments.

HB 578, by Representatives Mann, Bronger, Blandford, and Priddy: AN ACT relating to medical assistance.

HB 579, by Representative T. Jones: AN ACT relating to local government.

HB 580, by Representatives Barrows and Moberly: AN ACT relating to the school month and day.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 525.**

State Government: **HR 37.**

Labor and Industry: **HB 490, HB 548.**

Announcements

Representative Harper moved that **HB 511** be reassigned to the Committee on Appropriations and Revenue.

On the roll call the vote was yeas 18-Caldwell, Clarke, Endicott, Foster, Fryman, Guenthner, Harper, Heleringer, Holbrook, Layman, Lile, Mann, Noland, Pearman, Schmidt, Stone, Van Horn, Worthington. Nays 39-Arnold, Barrows, Boswell, Burnette, Clark, Cline, Cowan, Crupper, Cyrus, Deskins, Donnermeyer, Farrow, Freibert, Hancock, Head, T. Jones, Kenton, Kidd, LeMaster, List, Little, Long, Maggard, McBee, Meyer, Moberly, Morris, Noe, O'Brien, Perkins, Priddy, Richards, B. Richardson, P. Richardson, F. Smith, Stumbo, Thomason, Todd, Turner.

The motion that **HB 511** be reassigned to the Committee on Appropriations and Revenue was rejected.

The following Floor Amendment was filed:

Floor Amendment No. 3 to **HB 280,** by Representative Little:

Amend printed copy of **HB 280** page 1, following line 15, by inserting the following:

"*(4) "Dealer" means any person who sells five (5) pounds or more of ginseng in a calendar year.*"

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, February 23, 1982.

On the roll call the vote was yeas 52-Arnold, Barrows, Bendl, Bruce, Burch, Caldwell, Clark, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Farrow, Ford, Foster, Freibert, Fryman, Hancock, Handy, Harper, Head, Hines, Johnson, R. Jones, Kidd, Layman, Little, Long, McBee, Moberly, Nett, Noe, Noland, Patrick, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, Yates. Nays 11-Blevins, Boswell, Deskins, Endicott, Guenthner, Heleringer, Lile, Maggard, Mann, Meyer, Schmidt.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 23, 1982

THIRTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend J. Williamson Brown, Jr., Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Lefevers and Overstreet.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 22, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 160, SB 162, SB 164, SB 228, SB 234,** and **SB 248.**

Introduction of Bills and Resolutions

HB 581, by Representative List: AN ACT relating to unlawful taking.

HB 582, by Representatives Meyer and Arnold: AN ACT relating to special districts.

HB 583, by Representative Pearman: AN ACT relating to payment of a bonus to certain veterans who served during the Viet Nam conflict and certain persons deriving from them, providing for funding thereof, and appropriating funds for administration.

HB 584, by Representative Hines: AN ACT relating to revenue and taxation.

HB 585, by Representative Holloway: AN ACT changing the classification of the city of Middletown, in Jefferson County.

HB 586, by Representative Hancock: AN ACT relating to retirement.

HB 587, by Representative Bendl: AN ACT relating to the uniform commercial code.

HB 588, by Representative Heleringer: AN ACT relating to insurance.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 570, HB 571, HB 576.**

Banking and Insurance: **HB 561.**

Business Organizations and Professions: **HB 562, HB 566, HB 578.**

Cities: **HB 565, HB 579, HB 575.**

Counties and Special Districts: **HB 567, HB 572.**

Education: **HB 574, HB 580, HCR 39, SB 119.**

Energy: **SB 33.**

Health and Welfare: **HB 563.**

Judiciary-Civil: **HB 569, SB 204.**

Judiciary-Criminal: **HB 577.**

Labor and Industry: **SB 196.**

State Government: **HB 564, HB 573, HR 40, HR 41, SB 169.**

Transportation: **HB 568.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Agriculture and Small Business: **HB 413.**

Report of Committees

The Committee on Rules reported **HB 260, HB 342, HB 97, HB 372, HB 385, HB 422, HB 455, HB 160, HR 23, SB 67,** and **SB 5** have been posted for passage in Orders of the Day, February 24, 1982.

The Committee on Cities reported **HB 505, SB 141, SB 11,** and **SB 133** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 505, AN ACT relating to enterprise zones.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The general assembly hereby finds and declares that the health, safety and welfare of the people of Kentucky are enhanced by the continual encouragement, development, growth and expansion of private enterprise within this Commonwealth. That there are certain economically depressed areas in the Commonwealth that need particular attention to create new jobs, stimulate economic activity and attract private sector investment rather than government subsidy to improve the quality of life of their citizens. It is the purpose of this Act to encourage new economic activity in these depressed areas of the Commonwealth by means of reduced taxes and the removal of unnecessary governmental barriers to the production and earning of wages and profits and the creation of economic growth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Authority" means the enterprise zone authority of Kentucky;

(2) "Enterprise zone" means an area of the Commonwealth declared by the authority to be eligible for the benefits of this Act;

(3) "Qualified business" means any person, corporation or other entity who during the time of designation of an enterprise zone is engaged in the active conduct of a trade or business:

(a) With at least fifty percent (50%) of its employes performing substantially all of their services within an enterprise zone; and

(b) With individuals from one (1) or more of the following three (3) categories constituting at least twenty-five percent (25%) of the business's employes:

1. Residents of an enterprise zone;

2. Individuals who have been unemployed for at least the entire year prior to obtaining employment with the business;

3. Individuals who have received public assistance benefits, based on need and intended to alleviate poverty, for at least the entire year prior to obtaining employment with the business.

(4) "Qualified property" means:

(a) Any tangible personal property located in an enterprise zone used predominantly by the taxpayer in the zone in the active conduct of a trade or business; and

(b) Any real property located in such zone which:

1. Was used predominantly by the taxpayer in the active conduct of a trade or business; or

2. Was the principal residence of the taxpayer on the date of the sale or exchange;

(c) Any interest in a corporation, partnership, or other entity if, for the most recent taxable year of such entity ending before the date of the sale or exchange, such entity was a qualified business.

(5) "Qualified employe" means any employe who works for a qualified business.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Any city, county or urban county government by act of the local legislative body may designate any area or areas within their jurisdiction to be an economically depressed area. Such city, county or urban county government may then make written application to the authority to have such area or areas declared to be an enterprise zone. Such application shall include a description of the location of the area or areas in question and such other information as the authority may require.

(2) Upon receipt of an application from a city, county or urban county government the authority shall review the application to determine whether the area or areas described in the application qualify to be designated an enterprise zone.

(3) The authority shall complete its review within one hundred twenty (120) days of receipt of the application, but may extend this time period an additional sixty (60) days if necessary. If the authority denies the application, it shall inform the unit of local government of the fact along with the reasons for the denial.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Any area or areas of a city, county or urban county government may be designated an enterprise zone which:

(a) Has a continuous boundary, and

(b) Is an area of pervasive poverty, unemployment and economic distress.

(2) An area meets the requirements of subsection (1)(b) of this section if:

(a) The average rate of unemployment in such area for the most recent eighteen (18) month period for which data are available was at least one and one-half (1 ½) times the average national rate of unemployment for such eighteen (18) month period; or

(b) At least seventy percent (70%) of the residents living in the area have incomes below eighty percent (80%) of the median income of the residents of the city, county or urban county government requesting designation; or

(c) The population of all census tracks in the area decreased by ten percent (10%) or more between 1970 and 1980 and the city, county or urban county government requesting designation establishes to the satisfaction of the authority that either:

1. Chronic abandonment or demolition of commercial or residential structures exist in the area, or

2. Substantial tax arrearages of commercial or residential structures exist in the area.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) In each of the three (3) calendar years following the calendar year of the effective date of this Act, the authority may designate two (2) enterprise zones. In the fourth calendar year from the year of the effective date of this Act, the authority may designate one (1) enterprise zone. In deciding which areas should be designated as enterprise zones the authority shall give preference to:

(a) Areas with the highest levels of poverty, unemployment, and general distress;

(b) Areas which have the widest support from the government seeking designation, the community, residents, local business and private organizations; and

(c) Areas for which the government seeking designation has made or will make the greatest effort to encourage economic activity and remove impediments to job creation including but not limited to a reduction of tax rates or fees, an increase in the level or efficiency of local services and a simplification or streamlining of governmental requirements on employers or employes, taking into account the resources available to such government to make such efforts.

(2) Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of designation and ending on December 31 of the twentieth year following designation.

(3) The authority may remove designation of any area as an enterprise zone if such area no longer meets the criteria for designation as set out in this Act or by regulation adopted by the authority pursuant

to this Act, provided that no designation shall be removed less than ten (10) years from the date of original designation.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of carrying out the provisions of this Act, there is hereby created the enterprise zone authority of Kentucky consisting of nine (9) members. The authority shall be appointed as follows: one (1) member appointed by the governor from a list of three (3) persons nominated by the labor management advisory council; one (1) member appointed by the governor from a list of three (3) persons nominated by the Kentucky municipal league; one (1) member appointed by the governor from a list of three (3) persons nominated by the Kentucky association of counties; one (1) member appointed by the governor who is qualified to represent the interests of Kentucky's small business community; two (2) members appointed by the governor to serve at-large; the speaker of the house of representatives or his designee; the president pro tempore of the senate or his designee; and the secretary of commerce.

(2) The members shall serve a term of four (4) years, except that the first appointments shall be made as follows: three (3) for a term of one (1) year; two (2) for a term of two (2) years; two (2) for a term of three (3) years; and two (2) for a term of four (4) years.

(3) All members shall serve until such time as their successors are qualified and appointed.

(4) The department of commerce shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority shall administer this Act and shall have the following powers and duties:

(1) To establish criteria for determining which areas qualify as enterprise zones;

(2) To monitor the implementation of this Act and submit reports evaluating the effectiveness of the program and any suggestions for legislation to the governor and general assembly by October 1 of any year preceding a regular session of the general assembly;

(3) To conduct a continuing evaluation program of enterprise zones;

(4) To promulgate all necessary rules and regulations in accordance with the provisions of KRS Chapter 13 to carry out the purposes of this Act;

(5) To assist units of local government in obtaining federal status as an enterprise zone;

(6) To assist any qualified employer in obtaining the benefits of any incentive or inducement program provided by law and to certify qualified employers to be eligible for the benefits of this Act;

(7) To assist the governing authority of an enterprise zone in obtaining assistance from any other agency of state government, including but not limited to assistance in providing training and technical assistance to qualified businesses within a zone.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish and design for public display a master business license which shall certify that the qualifying business has obtained all necessary state agency permits, licenses, certificates, approvals, registrations, charters or any other form of permission required by law, including agency rule, to engage in business in a zone.

(2) The authority shall provide information and appropriate assistance to persons desiring to locate and engage in business in a zone regarding the state licenses, permits, certificates, approvals, registrations, charters, and any other forms of permission required by law to engage in business in the Commonwealth.

(3) Irrespective of any authority delegated to the authority to implement the provisions of this Act, the authority for determining if any requested licenses, permits, certificates, approvals, registrations, charters, or any other form of permission required by law shall be issued shall remain with the agency otherwise legally authorized to issue the license.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of KRS Chapter 141 notwithstanding, gains from the sale of qualified property within a zone shall be exempt from state income taxes.

(2) The provisions of KRS Chapter 141 notwithstanding, all interest payments on loans made to qualified businesses or on mortgage loans on any property within a zone shall be exempt from all state taxes, provided that such loans were made after the zone was officially designated.

(3) The provisions of KRS Chapter 139 notwithstanding, building materials used in remodeling, rehabilitation or new construction in a zone and new and used equipment and machinery purchased by qualified businesses for use in the zone, certified by the purchaser to be used for these purposes, shall be exempt from sales and use tax.

(4) The provisions of KRS 138.460 notwithstanding, motor vehicles purchased by qualified businesses in a zone, shall be exempt from the motor vehicle usage tax.

(5) The provisions of KRS Chapter 141 notwithstanding, for state tax purposes, qualified businesses may carry forward their net operating losses, including casualty losses, for so long as the zone in which they are located shall be designated.

(6) For the purposes of this Act, qualifying buildings and structures within a zone shall be eligible for the moratorium on property taxes provided by Section 172B of the Constitution.

(7) The provisions of KRS Chapter 132 notwithstanding, any city, county or urban county government may, by act of the governing body of appropriate jurisdiction, adopt, for the purposes of revenues received by such city, county or urban county government, an annual ad valorem tax rate on qualified property with a zone of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) In order to carry out the purposes of this Act, any administrative body which promulgates administrative regulations pursuant to the provision of KRS Chapter 13, may, by regulation, exempt designated enterprise zones from the provisions of any regulation, in whole or in part, promulgated by that administrative body.

(2) Enterprise zones shall not be exempted from the provisions of any regulation, if such exemption endangers the health and safety of the citizens of the Commonwealth.

(3) The authority shall conduct a review of all state regulations and shall recommend to the appropriate administrative bodies the exemption of regulations promulgated by such agency which would contribute to the implementation of this Act.

(4) Any exemption of a regulation in designated zones shall be adopted by regulation in the manner provided by KRS Chapter 13.

SECTION 11. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Individuals residing in an enterprise zone may establish, under the provisions of this Act, a neighborhood enterprise association corporation. There shall be only one (1) such corporation for each geographic neighborhood area. The neighborhood area to which each corporation applies shall be defined by the incorporating residents.

(2) The incorporating residents shall draft a charter and by-laws for the association suitable for doing business in corporate form. The charter and by-laws shall describe the geographic neighborhood area to which the incorporating association applies, the manner in which a stock interest in the corporation shall be offered to each resident of the neighborhood, contain provisions for amendment by a majority of stockholders, and authorize the corporation to engage in business only within the particular zone in which the neighborhood area of the corporation is located.

(3) The incorporating residents shall send to all eligible residents of the corporation's neighborhood area:

(a) An explanation of the proposed new corporation and their rights in it;

(b) A copy of the corporate charter and by-laws; and

(c) An offer of the stock interest to which each particular resident is entitled without any charge for such stock.

(4) The board of directors of the corporation may, upon approval of a majority of the members of the local legislative body of appropriate jurisdiction, apply to the authority for certification as a neighborhood enterprise association corporation. The authority shall not grant such status unless the corporation has complied with the requirements of this Act and such other requirements as may be adopted by the authority by regulation. Upon granting certification, the authority shall place the corporation's charter and by-laws in a public file. The authority shall have power to revoke or suspend certification, or any of the leases issued under subsection (5) of this section, if the corporation fails to continue to comply with the requirements of this Act. The authority shall give technical assistance to zone residents attempting to start such corporations.

(5) All property within the neighborhood area of a certified corporation which is owned by state and local government and which is not in current use by such government shall be leased to the corporation. The term of the lease shall not be less than ninety-nine (99) years and the full amount of rental fees under such lease shall not exceed one dollar ($1). The lease may be renewed upon expiration if the corporation has continuously complied with the requirements of this Act.

(6) A certified corporation shall be exempt from any state or local tax during the life of the zone in which it is located.

SB 141, AN ACT relating to tourism and convention commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) The commission established pursuant to subsection (2) of KRS 91A.350 by an urban-county government shall be composed of nine (9) members appointed by the chief elective official of the urban-county government in the following manner:

(a) Three (3) commissioners from a list submitted by the local hotel and motel association.

(b) One (1) commissioner from a list submitted by the local restaurant association or associations.

(c) One (1) commissioner from a list submitted by the local chamber of commerce.

(d) Four (4) commissioners who shall be residents of the urban-county.

(2) Vacancies shall be filled in the same manner that original appointments are made.

(3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the chief elective official of the urban-county shall appoint three (3) commissioners for a term of three (3) years, three (3) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year.

(4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 91A.350 to 91A.390. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as event coordinators, advertising firms, chambers of commerce, publishers and printers.

(5) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor and the chief elective official.

SB 11, AN ACT relating to the election of city officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.050 is amended to read as follows:

(1) Except in cities of the second class which operate under the city manager form of government pursuant to KRS 83A.150, election of city officers shall be governed by general election laws as provided in KRS Chapters 116 through 121 unless the city legislative body prescribes by ordinance, not later than two hundred forty (240) days prior to a regular election in which any city office is to be filled, that election of city officers shall be under nonpartisan city election laws as provided in KRS 83A.170. *Immediately subsequent to publication of any ordinance prescribing that election of city officers be under nonpartisan city election laws, a copy of that ordinance shall be filed with the county clerk of the county in which the city is located.* City officers of each city of the second class operating under the city manager form of government pursuant to KRS 83A.150 shall be elected in nonpartisan elections as provided in KRS 83A.170.

(2) A city may change the manner of election of city officers within the provisions of subsection (1) of this section by ordinance, except that no change shall be made earlier than five (5) years from the last change.

(3) The city shall pay the costs of city elections only if city elections are held at a time other than prescribed by law for elections generally.

SB 133, AN ACT relating to urban-county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

(1) The legislative body of an urban-county government may sell or lease property, including any interest in real property, of the urban-county government which is not needed or has become unsuitable for public use by the urban-county government, or which property would be more suitably consistent with the public interest for some other use of a public nature.

(2) When the legislative body of an urban-county government finds that the purposes of one (1) or more of its departments and the public purposes of the Commonwealth would be promoted by the construction of buildings and improvements on land owned by the urban-county government, it may authorize the

construction of such buildings and improvements by private entrepreneurs with private capital under a conveyance and leaseback agreement authorized by subsection (3) of this section.

(3) The legislative body of an urban-county government may, subsequent to a finding made pursuant to subsection (2) of this section, convey the fee interest in the particular real property to a private individual, corporation or partnership, subject to a written agreement by such private entrepreneur to construct such buildings and improvements on the fee simple holding and then subsequently, after placing a mortgage necessary to fund the capital improvements on the fee interest by the private entrepreneur, reconvey the fee title back to the urban-county government. The urban-county government shall in turn execute a long term lease on the real property back to the private entrepreneur. Under such conveyances the mortgage shall not constitute a general obligation or debt of the urban-county government. The urban-county government may, in event of default, redeem the mortgage if it so elects. In such a leaseback arrangement, with suitable rentals, the actual operation of such constructed facilities shall be conducted solely by the entrepreneur or his agent, but the operation will be considered a public purpose and public use of the property. However, the urban-county government and the lessee shall agree that, and with adequate insurance, the urban-county government shall be held harmless in connection with property loss and general liability for injuries or death suffered on the property. Under the leaseback agreements the facility will not be considered a governmental facility or function of the urban-county government.

Committee Amendment No. 1 to **SB 133** is as follows:

Amend printed copy of **SB 133,** page 1, line 3, delete the word "*an*" and insert in lieu thereof the following: "*any city of the first or second class or*"

The Committee on Counties and Special Districts reported **HB 440,** with Committee Substitute attached thereto, and **HB 442** with expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 440, AN ACT relating to jails and jailers and making an appropriation therefor and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.005 is amended to read as follows:

As used in KRS *Chapter 441* [~~441.005 to 441.200, 64.070 and 64.150,~~] unless the context otherwise requires:

(1) "Jail" means *county jails and correctional or detention facilities, including correctional facilities defined in KRS 67B.020 and juvenile detention and treatment facilities, operated by and under the supervision of any county, city or urban county government* [~~a jail as defined in KRS 441.410~~].

(2) "Prisoner" means any person confined in jail pursuant to any code, ordinance, law, or statute of any unit of government and who is:

(a) Charged with or convicted of an offense; or

(b) Held for extradition or as a material witness; or

(c) Confined for any other reason.

(3) "Unit of government" means that unit of government including the United States government whose law, statute, ordinance, or code a prisoner is charged with violating. In the event of a person imprisoned for contempt of court, the state shall be deemed the responsible unit of government.

(4) "Bureau" means the bureau of corrections.

(5) "Jail personnel" means deputy jailers, matrons and other jail employes involved in the supervision, custody, care or treatment of prisoners in jails but does not include food service, maintenance, or clerical personnel.

SECTION 2. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The fiscal court of each county shall provide for the incarceration of prisoners arrested in the county or sentenced or held by order of the courts in the county.

(2) The fiscal court shall provide for the incarceration of prisoners by:

(a) Providing and maintaining a jail in the county; or

(b) Contracting with another county for the incarceration and care of its prisoners and providing for the transportation of prisoners.

(3) Nothing in this section shall prohibit a county from providing facilities for holding prisoners for limited periods of time and contracting with another county for longer periods of incarceration.

(4) Any county may enter into an agreement pursuant to KRS 65.210 to 65.300 to provide or to use jail facilities.

SECTION 3. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) For the care and maintenance of prisoners charged with or convicted of violations of state law, each county shall receive a contribution from the state treasury for jail operating expenses in an amount equal to the total amount paid to the jailer in fiscal year 1980-81 for fees pursuant to KRS 64.150 and the number of permanent beds in the jail, as determined by the bureau of corrections, times three hundred dollars ($300).

(2) KRS 64.345 and 64.350 notwithstanding, within fourteen (14) days of the effective date of this Act, and by May 1 of each year thereafter, the fiscal court in consultation with the jailer shall adopt an operating budget for the jail which shall provide for the expenditure of a state, county and other funds for jail operations.

(3) Payments of the state contribution for jail operating expenses shall be made monthly by the department of finance to the county treasurer. The county treasurer shall disburse jail operating funds as authorized by the jail operating budget and shall keep books of accounts of all receipts and disbursements and make such reports as are required by the state local finance officer.

(4) All state funds paid to a county under this section and any interest earned on such funds shall be expended on the incarceration of prisoners, as provided in Section 2 of this Act. Any funds and any interest earned on such funds not so expended shall be returned to the state treasury.

(5) In the event that a jail was closed during fiscal year 1980-81 or for other reasons the fees earned by the jailer were not representative of the usual jail population, the secretary of finance may, upon proper documentation by the county, permit a prior fiscal year to be used as a basis for calculating the state's contribution to the jail operating expenses.

(6) The number of permanent beds in each jail shall be established by information supplied and certified by the bureau of corrections.

SECTION 4. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The jailer shall receive a monthly salary from the county jail operating budget.

(2) In recognition of the increased duties and responsibilities of the office of jailers, jailers holding office on the effective date of this Act shall be entitled to a level of compensation in calendar year 1982 which shall be equal to the compensation of jailer in calendar year 1981 as adjusted for the change in consumer price index during calendar year 1981 or $12,000 whichever is greater.

(3) The jailer's monthly salary for the period July, 1982 through December, 1982 shall be the jailer's compensation for calendar year 1982 as provided in subsection (2) of this section less the jailer's earnings for January through June, 1982 divided by six (6).

(4) The jailer's compensation for 1983 and subsequent years shall equal the prior year's compensation as adjusted for the change in the prior year's consumer price index.

SECTION 5. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The bureau shall:

(a) By July 1, 1983, promulgate regulations pursuant to KRS Chapter 13 establishing minimum standards for jails. Such standards shall include, but not be limited to, rules governing the following areas:

1. Health and safety conditions;
2. Fire safety;
3. Jail operations, recordkeeping and administration;
4. Curriculum of basic and continuing annual training for jailers and jail personnel;
5. Custody, care and treatment of prisoners;
6. Medical care; and
7. Jail equipment, renovation and construction.

(b) Consult the recommendations of the jail standards commission created pursuant to executive order number 81-1026.

(c) Review and amend the standards as necessary.

(d) Provide technical assistance and consultation to local governments in order to facilitate compliance with standards.

(2) The bureau may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

SECTION 6. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The bureau shall employ such jail consultants, inspectors and other employes as are necessary to administer and enforce the provisions of Sections 5 to 7 of this Act.

(2) The bureau shall inspect each jail quarterly and may inspect jails more frequently.

(3) The bureau shall be granted access at any reasonable time to any jail facility or part of any jail facility and shall be granted access to all books, records, and data pertaining to any jail which the bureau deems necessary for the administration and enforcement of the provisions of Sections 5 to 7 of this Act.

(4) The bureau shall submit an annual written report of the findings of its inspections and the condition of the jail to the jailer and the fiscal court.

SECTION 7. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) Whenever the bureau finds that a violation of its regulations, or the laws or other state regulations pertaining to the protection of persons and property, exists in any jail, the commissioner of the bureau shall order that the violation be corrected immediately.

(2) In order to enforce an order made pursuant to subsection (1) of this section the commissioner may:

(a) Order the jail or portions thereof to be vacated and closed until the violation is eliminated.

(b) Order the jail to cease to house certain classes of prisoners or limit the length of time prisoners or certain classes of prisoners may be housed in the jail.

(c) Order the reduction of or a suspension of state payments to the county for jail operating costs.

(3) An order issued under this section shall be in writing, incorporating the findings of the bureau and other agencies, if appropriate, and shall be delivered to or mailed by certified mail, return receipt requested, to the county jailer and county judge/executive within twenty-four (24) hours of the issuance of said order. The county jailer or county judge/executive may within seventy-two (72) hours of receipt of said notification, request in writing a public hearing before the commissioner of the bureau or his designee on the matters covered by said order. The commissioner of the bureau or his designee may issue, modify or repeal the order at the conclusion of the hearing.

SECTION 8. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) No person responsible for the supervision or maintenance of a jail shall knowingly cause or permit such a facility to be operated in violation of the regulations and laws of this state pertaining to the health, safety and security and operation of jails.

(2) When the bureau, pursuant to this Act, orders a county jailer, if it is determined he is responsible, or the fiscal court, to correct or eliminate a violation of any state regulation or law pertaining to the operations and maintenance of jails and the county jailer or fiscal court does not take corrective action to the satisfaction of the bureau within the time specified in the bureau's order, then the commissioner of the bureau or his designee may request the Franklin County Circuit Court to enforce the orders of the bureau. Any person who refuses to obey the orders of the court shall be held in civil contempt.

SECTION 9. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

Appeals from any order issued pursuant to Sections 5 to 7 of this Act shall be granted as a matter of right, and shall be taken to the Franklin County Circuit Court within thirty (30) days from the date the order is issued by the bureau.

SECTION 10. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) Those prisoners confined in a facility which does not meet the regulations promulgated by the bureau pursuant to this Act, or state laws and regulations pertaining to health, safety and security of persons confined in jails may seek a transfer to a facility which meets said regulations and laws.

(2) Any prisoner so aggrieved may petition any court having jurisdiction over him and, upon proper showing by the confined person that the jail is not in satisfactory compliance with the regulations of the bureau or state laws and regulations pertaining to the health, safety and security of confined persons, the court shall enter an order of transfer to a facility which does not meet such laws and regulations.

(3) The governmental unit responsible for the incarceration of the prisoner shall pay the cost of the transfer and shall pay the supervising and maintaining authorities at the approved facility to which the person is transferred, all reasonable charges related to the daily maintenance and supervision of the prisoner.

SECTION 11. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

The jailer shall:

(1) Submit a quarterly report to the fiscal court concerning the physical condition of the jail, the number of jail personnel and personnel needs and other matters requested by the fiscal court.

(2) Submit a monthly report to the bureau, on forms supplied by the bureau, containing but not limited to, the following information on each prisoner:

(a) The unit of government whose law the prisoner is charged with violating, the statute or ordinance the prisoner is charged with violating and whether the charge is a felony or misdemeanor;

(b) The status of the prisoner, whether pending trial or post conviction;

(c) The age and sex of the prisoner; and

(d) The county responsible for the incarceration of the prisoner.

SECTION 12. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the bureau shall maintain a local corrections training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to Section 5 of this Act and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education.

(2) Beginning in August, 1982 each jailer shall receive an expense allowance to help defray the costs of his and his staff's participation in the local corrections training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the state treasury, provided, however, that such payments shall be discontinued if the jailer fails to complete basic training within one (1) year of taking office. Thereafter, expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of such training.

(3) The allowance authorized in subsection (2) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

Section 13. KRS 24A.191 is amended to read as follows:

(1) The department of finance shall determine from certified audits provided by the cities and counties, the reasonable cost of which shall be reimbursed by the department of finance, the base court revenue for each city and county which had a local court as of June 30, 1976. In the event that any city or county believes that unusual circumstances have adversely affected the resulting computation of base court revenues, then the county or city may appeal to the department of finance and the department of finance may adjust such computation accordingly.

(2) In the determinations of net court revenue and base court revenue under KRS 24A.190 to 24A.193 the department of finance shall not deduct moneys or otherwise penalize a city or county for moneys received by the city, the county, or the county jailer from any source for:

(a) *Amounts paid under Section 3 of this Act for the care and maintenance of prisoners* [~~Keeping and dieting of prisoners under KRS 64.150~~]; or

(b) Reimbursement for medical bills of prisoners confined in the county jail.

Section 14. KRS 35.285 is amended to read as follows:

(1) A sentence of confinement adjudged by a military court may be carried into execution by confinement in any place of confinement under the control of the national guard or active militia, or in any jail, penitentiary or prison designated for that purpose as prescribed in KRS 35.055; and persons so confined in such a jail, penitentiary or prison shall be subject to the same discipline and treatment as persons confined or committed to such jail, penitentiary or prison by the courts of the state.

(2) The omission of the words "hard labor" in any sentence of a court-martial adjudging confinement shall not be construed as depriving the authority executing such sentence of the power to require hard labor as a part of the punishment.

(3) The jailers, officers and wardens of all jails, penitentiaries or prisons designated pursuant to KRS 35.055 shall receive the bodies of persons ordered into confinement prior to trial and of persons committed to confinement by the process or mandate of a military court and shall confine them according to law, and no such jailer, officer or warden shall demand or require payment of any fee or charge of any nature for receiving or confining a person in such jail, penitentiary or prison [~~except that county jailer may be entitled payment for keeping and dieting prisoners in jail as provided in KRS 64.150~~].

Section 15. KRS 64.090 is amended to read as follows:

Sheriffs may charge and collect for the following services the following fees:

Executing and returning process	$3.00
Serving an order of court and return	3.00
Summoning each witness	2.00
Summoning an appraiser or reviewer	2.00
Attending a surveyor, when ordered by a court, per deputy or sheriff assigned	20.00
Taking any bond that he is authorized or required to take in any action	5.00

Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond given and not complied with, six per cent (6%) on the first three hundred dollars ($300) and three per cent (3%) on the residue; when he levies an execution or distress warrant, and the defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the plaintiff and collected as costs in the case.

Taking a recognizance of a witness	$3.00
Levying an attachment	5.00

When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of attached property shall be allowed by order of court.

Summoning a garnishee	3.00
Summoning a jury in a misdemeanor case, attending the trial, and conducting the defendant to jail to be paid by the party convicted	8.00
Serving process or arresting the party in misdemeanor cases, to be paid by the plaintiff	10.00
Serving an order or process of revivor	3.00
Executing a writ of possession against each tenant or defendant	7.00

Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission.

Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses	8.00

Collecting militia fines and fee-bills, ten per cent (10%), to be deducted out of the fee-bill or fine.

Levying for a fee-bill	3.00
Serving a notice	2.00
Serving summons, warrants or process of arrest in bastardy cases	6.00
Serving each order appointing surveyors of roads, to be paid out of the county levy	5.00
Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant	5.00
Like services in cases of private passways to be paid by the applicant	5.00
Executing each writ of habeas corpus, to be paid by the petitioner	3.00
All services under a writ issued under KRS 381.460 to 381.570	10.00

[~~Performing the duties of jailer, the same fees and allowances that are prescribed for jailers.~~]

For services in summoning grand and petit jurors and performing his duties under KRS Chapter 29A the sheriff shall be allowed, for each person so summoned, and paid out of the state treasury for constructive service the sum of $1.50 and for personal service the sum of $3.00.

Section 16. KRS 64.345 is amended to read as follows:

(1) The county clerk *and* [~~,~~] sheriff [~~and jailer~~] of each county having a population of 75,000 or over shall receive an annual salary of fourteen thousand three hundred dollars ($14,300).

(2) In counties containing a city of the first class and in counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by an order entered upon the order book of the circuit court, and signed by the chief judge thereof. In all other counties with a population of 75,000 or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department of finance.

(3) Each officer shall, on the first day of each month, send to the department of finance a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the department of finance the amount so collected or received. The department of finance may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the state treasurer upon the warrant of the department of finance made payable to the officer. If seventy-five percent (75%) of the amount paid into the state treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the department of finance to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the department of finance by the officer during his official term.

(5) In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to

each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by an order entered upon the order book of the circuit court and signed by the chief judge thereof. In all other counties with a population of 75,000 or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department of finance.

Section 17. KRS 64.350 is amended to read as follows:

(1) In counties having a population of seventy-five thousand (75,000) or more, the salaries of the county clerks *and* [~~,~~] sheriffs [~~and jailers~~] and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining and operation of the offices, shall be paid out of the state treasury in amounts not to exceed seventy-five percent (75%) of the fees collected by the officers respectively, and received into the treasury; and twenty-five percent (25%) of the fees collected by the officers respectively, and received into the state treasury shall be paid in the manner provided by law for the payment of other claims against the state to the fiscal courts or urban- county government of the respective counties. The amount of twenty-five percent (25%) of the fees collected by the officers respectively during each calendar year shall be paid to the fiscal courts or urban-county government of the respective counties by April 1 of each year succeeding the calendar year during which the fees were received by the department of finance. After payment of the salaries and expenses specified in this subsection, any remaining balance of the seventy-five percent (75%) of the fees collected by the officers respectively at the end of their official term shall be paid by the state treasurer to the fiscal courts or urban-county government of the respective counties, subject to the provisions of subsection (2) of this section.

(2) Notwithstanding the provisions of subsection (1), all sums received into the state treasury and representing seventy-five percent (75%) of the fees collected by the sheriffs [~~and jailers~~] specified in subsection (1) from any county in which a metropolitan correctional services department has been established shall be expended from the state treasury for the payment of the salaries and costs specified in subsection (1), and in Section 106 of the Constitution of Kentucky. After payment of the salaries and costs specified in this subsection, the remaining balance representing fees collected by sheriffs [~~and jailers~~] shall be paid by the state treasury to the fiscal court of the county in which a metropolitan correctional services department has been established by April 1 of each year succeeding the calendar year in which the fees were received by the department of finance.

Section 18. KRS 64.355 is amended to read as follows:

It is hereby declared to be the intent of the general assembly that all fees of the office of county clerk *and* [~~,~~] sheriff [~~and jailer~~] in counties having a population of 75,000 or more that are paid into the state treasury pursuant to the provisions of Section 106 of the Constitution of Kentucky are the property of the respective county and these fees along with those collected by the circuit clerk shall be computed as part of the county's total tax effort for the purpose of determining credit for any federally funded program.

Section 19. KRS 64.365 is amended to read as follows:

Clerks *and* [~~,~~] sheriffs [~~and jailers~~] who are required under Const., Section 106 to pay the fees collected by them into the state treasury are relieved from all liability as insurers of funds that come into their hands or subject to their control after the funds are deposited in good faith in a depository or depositories in the county approved by the fiscal court, and the obligors in the bonds shall not be responsible for loss of, or delay in payment of such funds by reason of the failure or suspension of such depository.

Section 20. KRS 64.527 is amended to read as follows:

In order to equate the compensation of county judges/executive, county clerks, sheriffs, justices of the peace, county commissioners *and* [~~,~~] coroners [~~and jailers~~] with the purchasing power of the dollar, the department of finance shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum. The department of finance shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the department of finance, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the department of finance.

Section 21. KRS 64.528 is amended to read as follows:

In order to equate the current rate of compensation of commonwealth's attorneys, county clerks, county judges/executive, county attorneys, sheriffs, [~~jailers,~~] justices of the peace, and commissioners with the present value and purchasing power of the dollar, the court required by law to fix the compensation of the officials named in this section may, on or before September 1, 1974, adjust said officials' compensation within the limits set forth in Acts 1974, chapter 254 and may provide that said officials be entitled to the maximum amount of compensation for the entire 1974 calendar year.

Section 22. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, the fiscal court of each county shall fix the compensation of every county officer and employe except the officers named in KRS 64.535 and the county attorney *and jailer*. The fiscal court may provide a salary for the county attorney.

(2) For the purposes of this section, justices of the peace and constables in all counties shall be deemed to be county officers and deputies or assistants of county officers shall be deemed to be county employes, but employes of county boards or commissions which are now authorized by law to fix the compensation of their employes shall not be deemed to be county employes for the purposes of this section.

(3) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive from both sources. The fiscal court may also fix the number of deputies and assistants, and, the compensation thereof, and the maximum amount that the officer may expend each year for expenses of his office.

(4) In the case of county officers elected by popular vote and the county attorney, in the event the fiscal court provides him a salary, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

(5) Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county clerk, sheriff, jailer, and their deputies, assistants and expenses, in counties having a population of 75,000 or more.

(6) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed the maximum compensation allowable under KRS 64.527. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed nine thousand six hundred dollars ($9,600) per year, in counties containing cities of the second class it shall not exceed nine thousand dollars ($9,000) per year and in counties containing cities of the third or fourth class it shall not exceed twenty percent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding 1974, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; nor shall they receive any compensation for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.

Section 23. KRS 64.535 is amended to read as follows:

The county clerk, county judge/executive, sheriff *and* [~~,~~] county attorney [~~and jailer~~] of each county shall receive a maximum monthly salary of one-twelfth (1/12) of fourteen thousand three hundred dollars ($14,300,) to be paid solely out of the statutory fees and salaries received by him during the calendar year.

Section 24. KRS 64.690 is amended to read as follows:

(1) Except as provided in KRS 64.610 and in this section, KRS 64.480 to 64.740 are intended to supersede any existing statute, fixing the compensation, or authorizing any public officer or body to fix the compensation, of any public officer or employe covered by KRS 64.480 to 64.740.

(2) Any public officer or body which has authority to fix the compensation of any state officer or employe covered by KRS 64.640 shall exercise such authority, subject to the schedule and limits of compensation for the particular office or position prescribed under KRS 64.640.

(3) KRS 64.480 to 64.740 are not intended to supersede any existing statute, with respect to the compensation of circuit clerks, county clerks, sheriffs, [~~jailers,~~] master commissioners and receivers, and their deputies and assistants, in counties containing a population of 75,000 or more, or property valuation administrators, their deputies and assistants, in any county.

Section 25. KRS 67.080 is amended to read as follows:

(1) The fiscal court may:

(a) Appropriate county funds according to the provisions of KRS 68.210 through 68.360 for lawful purposes;

(b) Sell and convey any real estate belonging to the county, and buy land for the use of the county, when necessary, for the purpose of erecting thereon public buildings. The fiscal court may appoint one (1) or more commissioners to sell or buy real estate under this subsection, subject to the approval of the fiscal court, and convey it to the purchaser, under the direction of the court, or have it conveyed to the court, by deed properly executed and recorded;

(c) Regulate and control the fiscal affairs of the county;

(d) Cause correct accounts and records to be kept of all receipts and disbursements of the public funds of the county, and have the accounts of all county officers audited, when necessary; employ a competent person to keep such accounts and records, and make such audits, and pay such person a reasonable compensation for such services;

(e) Exercise all the corporate powers of the county unless otherwise provided by law;

(f) Establish all appointive offices, set the duties of those offices, and approve all appointments to those offices;

(g) Investigate all activities of the county government.

(2) The fiscal court shall:

(a) Appropriate county funds, according to the provisions of KRS 68.210 through 68.360, for purposes required by law;

(b) As needed, cause the construction, operation and maintenance of all county buildings and other structures, grounds, roads and other property;

(c) Adopt an administrative code for the county;

(d) Provide for the incarceration of prisoners according to the provisions of Section 2 of this Act.

(3) The fiscal court shall not exercise executive authority except as specifically assigned by statute.

Section 26. KRS 67.130 is amended to read as follows:

The fiscal court of each county shall be responsible for the maintenance and operation of all county buildings, grounds and other properties. The county judge/executive shall execute the policies of the fiscal court relating to buildings, grounds and other properties. [~~The county judge/executive, with the approval of the fiscal court, may employ the jailer as superintendent of such county buildings, grounds and other properties at the county seat as he deems appropriate.~~] The fiscal court of each county shall annually appropriate a sum sufficient to purchase the labor and materials necessary to maintain and operate county property, including the jailer's *or deputies'* residence if owned by the county, and to keep the jailer's *or deputies'* residence in repair and in clean, comfortable and presentable condition. Any sum appropriated for maintenance and operation of the jailer's *or deputies'* residence shall be expended by the jailer. The county attorney shall bring civil action in the name of the county to recover possession of or for injury to or intrusion or trespass upon any such county property, and the net proceeds of any such recovery shall be paid into the county treasury.

Section 27. KRS 67B.030 is amended to read as follows:

(1) A metropolitan correctional services department may be established by order of the fiscal court of any county containing a city of the first class, in which the constitutional offices of sheriff and jailer have been consolidated as provided in section 105 of the Constitution of the Commonwealth of Kentucky. Said department shall, upon its creation, constitute a de jure department and division of county government, having and possessing all of the enumerated powers, responsibilities, and duties hereinafter specifically set forth.

(2) Upon the creation of a metropolitan correctional services department by the fiscal court of a county containing a city of the first class, in which the constitutional offices of sheriff and jailer have been consolidated pursuant to section 105 of the Constitution of the Commonwealth of Kentucky, all of the duties, responsibilities, and liabilities of the sheriff and jailer as set forth and contained in the Kentucky Revised Statutes, with reference to the operation and maintenance of the county jail and all county correctional facilities shall immediately be vested in the department [~~which department shall thereupon, in the performance of its duties and responsibilities, charge and collect all fees, imposts and charges otherwise provided to be charged and collected by sheriffs and jailers, and deposit same with the treasurer of said county,~~] and thereupon the sheriff and jailer shall have no further responsibility, duty and liability for the performance of said statutory duties on a personal basis; provided, however, that said Sheriff shall be required to annually inspect all county correctional facilities and render reports as hereinafter provided.

Section 28. KRS 71.020 is amended to read as follows:

Each jailer shall have the custody, rule and charge of the jail in his county and of all persons in the jail and shall keep the same himself or by his deputy or deputies. [~~He or one (1) of his deputies shall reside not more than four hundred (400) yards from the jail and~~] Where *the jail* [~~it is such as~~] admits the residence of the same therein he or one (1) of his deputies *may* [~~shall~~] reside in the jail.

Section 29. KRS 71.060 is amended to read as follows:

(1) [~~Subject to the provisions of KRS 64.345,~~] Any jailer may appoint not more than two (2) deputies, and, with the approval of the *fiscal court* [~~county judge/executive~~], may appoint additional deputies. The jailer shall be liable on his official bond for the conduct of his deputies. The deputies shall have all the powers and be subject to the same penalties as the jailer. They may be removed at any time by the jailer.

(2) [~~Subject to the provisions of KRS 441.230,~~] Any jailer may appoint a respectable woman to care for and have supervision over the female prisoners in the jail, subject to the orders of the jailer. The woman so appointed shall be called jail matron and shall receive a salary to be paid in the same manner as deputy county jailers. *With the approval of the fiscal court, the jailer may appoint additional matrons.*

Section 30. KRS 196.030 is amended to read as follows:

(1) The bureau shall, unless otherwise provided by law, exercise all functions of the state in relation to:

(a) Management of penal, reform and correctional institutions;

(b) Supervision of probation and parole;

(c) The giving of assistance to other departments, agencies and institutions of the state and federal government when requested by performing services in conformity with this section;

(d) Acting as the agent of the federal government in matters of mutual concern, and in the administration of any federal funds granted to the state to aid in the performance of any function of this bureau;

(e) Administration and enforcement of the provisions of KRS Chapter 441 relating to the development and enforcement of jail standards, training of jailers and jail personnel and jail planning and construction.

(2) The provisions of this section shall not apply to any institution, home or agency which does not receive aid from the state, or a county or municipality.

Section 31. KRS 211.920 is amended to read as follows:

As used in KRS 211.925 to 211.945, unless the context otherwise requires:

(1) "Department" shall mean the department for human resources.

(2) "State confinement facility" shall mean a penal or correctional facility or juvenile detention or treatment facility operated by or under the supervision of the commonwealth of Kentucky.

(3) [~~"Local confinement facility" shall mean a penal or correctional facility or juvenile detention or treatment facility operated by or under the supervision of any county, city, or metropolitan government or any other subdivision of the commonwealth of Kentucky.~~

~~(4)~~] "Public health and health" shall mean and include, but shall not be limited to, all environmental, dental, mental, medical, and nutritional aspects of the health of persons confined in a state [~~or local~~] confinement facility.

Section 32. KRS 211.925 is amended to read as follows:

In addition to all other powers and duties vested in it by law, the department shall have the authority, power, and duty to:

(1) Adopt, modify, and repeal rules, regulations, and standards relating to the public health or health aspects of the operation of state [~~and local~~] confinement facilities, and exercise general supervision over the administration of KRS 211.920 to 211.945 and assist in the enforcement of all rules, regulations, and standards promulgated pursuant to it;

(2) Collect, evaluate, and disseminate information from state [~~and local~~] confinement facilities as it relates to the public health of the people of the commonwealth;

(3) Develop comprehensive plans for the elimination of conditions in state [~~and local~~] confinement facilities which adversely affect the public health or the health of those persons confined or likely to be confined in any state [~~or local~~] confinement facility;

(4) Enter upon the premises and inspect any state [~~or local~~] confinement facility for the purpose of determining the extent of compliance with KRS 211.920 to 211.945 investigating the effect of the operation of state [~~and local~~] confinement facilities upon the public health or the health of those persons confined or likely to be confined in any state [~~or local~~] confinement facility;

(5) Advise, consult, and cooperate with other agencies of the commonwealth, including the bureau of corrections [~~and office of local government~~], other jurisdictions, the federal government, interstate and interlocal agencies, and local governments regarding the effects of the operation of confinement facilities upon the public health;

(6) Accept, receive, and administer grants or other funds or gifts from public and private agencies for the purpose of implementing KRS 211.920 to 211.945.

Section 33. KRS 211.930 is amended to read as follows:

[~~Six months after June 21, 1974,~~] No person responsible for the supervision or maintenance of a state [~~or local~~] confinement facility shall knowingly cause or permit such facility to be operated in violation of rules, regulations, or standards promulgated by the department pursuant to KRS 211.920 to 211.945.

Section 34. KRS 211.935 is amended to read as follows:

If, upon the inspection of [~~either~~] a state [~~or local~~] confinement facility, the department finds that conditions exist which endanger the health of those confined or likely to be confined in the facility, or the public health of the citizens of the commonwealth of Kentucky, the department shall advise the supervising and maintaining authorities, and those persons confined in the facility, that the facility does not meet the rules, regulations, or standards duly established by the department pursuant to KRS 211.920 to 211.945.

Section 35. KRS 211.945 is amended to read as follows:

All laws of the Commonwealth [~~and its subdivisions~~] that relate to the supervision and maintenance of state [~~or local~~] confinement facilities shall be administered in a manner consistent with the provisions of KRS 211.925 to 211.940 and the rules, regulations, and standards promulgated pursuant to it.

SECTION 36. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The bureau of corrections shall possess all authority and responsibility for fire prevention and reduction of loss by fire in jails as defined in Section 1 of this Act; provided, however, that the state fire marshal shall cooperate with the bureau of corrections in the development of fire safety regulations for jails and the training of jail inspectors employed by the bureau of corrections.

(2) Upon the request of the commissioner of the bureau of corrections, the state fire marshal shall investigate the cause and circumstances of fires or explosions in jails.

Section 37. KRS 439.179 is amended to read as follows:

(1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

(a) Seeking employment; or

(b) Working at his employment; or

(c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or

(d) Attendance at an educational institution; or

(e) Medical treatment.

(2) Unless such privilege is expressly granted by the court, the prisoner is sentenced to ordinary confinement. The prisoner may petition the sentencing court for such privilege at the time of sentence or thereafter, and, in the discretion of the sentencing court, may renew his petition. The sentencing court may withdraw the privilege at any time by order entered with or without notice. *The bureau upon consultation with the jailer shall advise the court in establishing criteria in determining a prisoner's eligibility for work release.*

(3) The jailer shall notify the department for human resources which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the district court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. Such wages or salary are not subject to garnishment of either the employer or the district court during the prisoner's term, and shall be disbursed only as provided in this section, but for tax purposes they are the income of the prisoner.

(4) Every prisoner gainfully employed is liable for the cost of his board in the jail, at *a reasonable* [~~the~~] amount, *not to exceed ten dollars ($10) per day,* established by *the fiscal court* [~~law~~]. If he defaults his privilege under this section is automatically forfeited. All moneys shall be collected by the district court and paid to the *county treasury for use on the jail as provided in Section 3 of this Act* [~~state treasury~~]. The fiscal court may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment *and require that such costs be repaid by the prisoner.*

(5) Unless otherwise ordered by the sentencing court, the wages or salaries of employed prisoners shall be disbursed by the district court on a monthly basis for the following purposes and in the order stated:

(a) The board of the prisoner *and transportation costs incurred by the county*;

(b) Support of the prisoner's dependents, if any;

(c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;

(d) The balance, if any, to the prisoner upon his discharge.

(6) [~~If the prisoner was convicted in a justice or a police court, the district judge shall have authority and jurisdiction to make all determinations and orders under this section as might otherwise be made by the sentencing court after the prisoner is received at the jail.~~

~~(7)~~] The sentencing court may direct that its functions under subsections (3) or (5) or both be performed by any bonded public official. Such order shall remain in force until rescinded by the district court.

(7)[~~(8)~~] The bureau of corrections shall, at the request of the district judge, investigate and report on the amount necessary for the support of the prisoner's dependents, *and periodically review the prisoner's progress while on leave from the jail and report its findings to the district judge.*

(8)[~~(9)~~] The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed five (5) days.

[~~(10) Nothing in this statute shall be construed to affect KRS 64.150 which provides for the payment of fees to the jailer. In this section "jail" refers to all misdemeanant institutions, and "jailer" to the superintendent thereof, but, in counties of the first class, "jailer" designates the sheriff who serves as superintendent of the jail.~~]

(9)[~~(11)~~] In counties containing an urban-county form of government, the duties, responsibilities and obligations vested herein in the bureau of corrections shall be performed by the adult misdemeanant probation and work release agency of the urban-county government.

Section 38. KRS 441.010 is amended to read as follows:

(1) The county governing body *may* [~~shall~~] prescribe rules for the government and cleanliness of the county jail and the comfort and treatment of prisoners, *provided such rules are consistant with state law.* The county judge/executive *may* [~~shall~~] inspect the jail at *any reasonable time* [~~least once each month~~].

(2) Wilful violation of the rules promulgated pursuant to subsection (1) of this section shall be deemed a violation.

(3) If a prisoner in the county jail needs medical care and is a needy person, the unit of government shall pay for his medical expenses, except that any payment for medical care for prisoners of the United States government shall be governed by federal law. The determination of whether or not a person is a needy person shall be made pursuant to KRS 31.120. Such determination may be made after medical care is given if a licensed physician determines that medical care should not be delayed. The unit of government shall not pay for medical care which could be postponed until after the period of confinement without hazard to the needy person except for the initial examination by the physician to determine whether medical care is needed. Only a licensed physician may determine that medical care can be postponed without hazard. The amount and nature of payments under this subsection shall be subject to the following terms and conditions:

(a) The physician or physicians attending the prisoner shall certify, under oath, that the prisoner's condition was such that medical care could not be postponed until after the period of confinement without hazard, that medical procedures were limited to those necessary to preserve the life or health of the prisoner and that they were not of an elective nature except for the initial examination by the physician to determine whether medical care is needed; and

(b) No payments to physicians, hospitals, laboratories, or other health care providers shall exceed the maximum payments allowed to similar persons or facilities for the same or similar services under the Kentucky medical assistance program. Such services shall not include psychological testing, evaluation or care; and

(c) Prisoners who are later determined not to have been indigent, or who at a time following treatment are no longer indigent, may be required to repay the costs of payments made pursuant to this section to the unit of government which made the payment; and

(d) The terms and conditions relating to any determination of nonindigency and demands for repayment shall be under the same terms and conditions as are provided under KRS Chapters 31 and 431 relating to similar circumstances in the program for defense of indigents by the public advocate.

Section 39. KRS 441.020 is amended to read as follows:

The United States may use the jail of any county, and any city may use the jail of the county in which the city is located, by paying the *county* [~~jailer~~] the fees *set by agreement with the fiscal court* [~~allowed by KRS 64.150~~] for the type of services rendered. Any jailer shall receive and confine in jail, until lawfully discharged, persons committed under the laws of the United States or for a violation of the ordinances of any city within the county.

Section 40. KRS 441.030 is amended to read as follows:

If in any county there is no jail, or the jail is insecure, or there is danger or probable danger that any or all of the persons confined in the jail under any order or process of *a* [~~the circuit~~] court, or held to answer any charge in *a* [~~the circuit~~] court, will be removed from the jail by violence, the circuit judge shall, by an order made of record, direct that any or all of such persons be transferred to the jail of the nearest county in which the jail is secure and they can be safely kept. When any such order is made, and a copy thereof is furnished to the jailer of the county designated, he shall receive all such prisoners. If the circuit judge is not in the county, the order of transfer may be made by the district judge, who shall deliver the order, or a copy thereof, to the circuit clerk for revision by the circuit court.

Section 41. KRS 441.040 is amended to read as follows:

(1) Immediately upon the receipt of a copy of an order made pursuant to KRS 441.030, the sheriff, or if there is no sheriff, the coroner, shall transfer the prisoners to the jail of the county designated in the order. He shall deliver the prisoners to the jailer of that county at the jail, with a copy of the order, and take from him a receipt for the prisoners, which he shall return to the office of the circuit clerk of the county from which the removal was made. The clerk shall file the receipt in his office. The jailer shall receive the prisoners and safely keep them until they are properly discharged. If the jailer fails to accept and keep such prisoners, he and his sureties shall be liable in the same manner and to the same extent as if the prisoners had been regularly committed by an order of the circuit court of his county. [~~The jailer shall receive the same fees as he would receive for a prisoner committed by the circuit court of his county.~~] The officer conveying the prisoners to the designated jail, and such guards as the judge directs him to take, not exceeding the number of guards allowed in taking convicts to the penitentiary, shall receive the compensation and mileage allowed by KRS 64.070 for taking convicts to the penitentiary. The compensation shall be allowed by the circuit judge directing the transfer and paid out of the State Treasury, unless there was no jail in the county or it was rendered insecure by the failure of the fiscal court to keep it in the requisite condition, in which case it shall be paid by the fiscal court of the county. The circuit judge, in making the allowance, shall state

in the order out of which fund it shall be paid. The order of the judge directing the transfer shall be conclusive evidence that the transfer was proper and to the right jail, and shall be a justification to the jailer for holding any such prisoner in any action against him for false imprisonment.

(2) If a transfer of prisoners is necessary because there is no jail in the county or because the jail was rendered insecure by the failure of the fiscal court to keep it in the requisite condition, the cost of lodging the prisoners in the jail of the county to which they are transferred shall be borne by the fiscal court of the county from which the transfer was made at a rate set by the circuit judge. The order of transfer shall state the reasons of the transfer.

Section 42. KRS 441.060 is amended to read as follows:

(1) The expense of keeping and dieting a prisoner transferred to the penitentiary or reformatory pursuant to KRS 441.050 shall be borne by the unit of government.

2) The unit of government shall pay the expenses directly to the bureau of corrections.

(3) "Expenses" shall mean *the* [~~any~~] fee *set by the bureau of corrections* [~~provided by law to be allowed to a jailer for keeping and dieting a prisoner~~].

Section 43. KRS 441.065 is amended to read as follows:

Upon the consolidation of the offices of sheriff and jailer and the establishment of a workhouse or penal farm in any county containing a city of the first class, no person thereafter, except in cases of contempt of court, shall be sentenced to the county jail, nor shall serve any time therein. The jail in such county shall function only as a holdover or station house for the retention of persons awaiting trial, sentence or transfer, and shall be administered by the sheriff by his appointment of a superintendent therefor experienced in penal administration. The sheriff shall receive the same fees as jailers receive for the care and maintenance of said persons so confined and said fees and the other fees of his office shall be available for the operation thereof. It shall be the duty of the fiscal court of such county to appropriate money from the general funds for the operation of such jail or holdover in event the fees of his office are insufficient properly to care for the persons confined therein. Any city within the county may use such jail upon payment of the fees set *by agreement with the fiscal court* [~~out in KRS 64.150~~].

Section 44. KRS 441.420 is amended to read as follows:

(1) No political subdivision of this commonwealth, or no combination of such subdivision shall build a new jail unless the facility meets the approval or complies with the standards and regulations of *the bureau promulgated pursuant to Section 5 of this Act* [~~, as appropriate:~~

~~(a) The state fire marshal,~~

~~(b) The department for human resources,~~

~~(c) The bureau of corrections, and,~~

~~(d) Has sufficient design features to assure secure confinement of the prisoners therein as determined by the bureau of corrections~~].

(2) Final authority for approval of plans for the construction of a jail, or an addition or renovation of a jail shall rest with the bureau [~~of corrections~~].

Section 45. KRS 441.430 is amended to read as follows:

(1) Any political subdivision, or combination of such subdivision, desiring to build a jail shall make application, in writing, for approval of the plans for such jail not less than 90 days before the advertising for bids for construction of the facility, or if bids are not to be let, 90 days before the construction commences.

(2) The bureau [~~of corrections~~] shall review the plans and within 30 days render a decision as to whether the plans are approved. If the plans are not approved then construction shall not commence until the requisite approval is obtained.

Section 46. KRS 441.440 is amended to read as follows:

All construction of jails pursuant to approved plans shall be done as provided under those plans and no alterations to the plans or construction shall be made unless prior approval is obtained from the bureau [~~of corrections~~].

Section 47. KRS 441.500 is amended to read as follows:

(1) If an accused is confined in a detention facility, he shall be transported as necessary in accordance with the following provisions, unless otherwise ordered by the court:

(a) If he is lodged in a city jail in the county where the trial is to be held, the city police shall carry out this duty.

(b) If he is lodged in an urban-county facility in the county where the trial is to be held, the jailer shall carry out this duty.

(c) In all other cases the sheriff of the county where the *prisoner is incarcerated* [~~trial is to be held~~] shall carry out this duty.

(2) If an accused is sentenced to confinement, the sheriff shall deliver him to the proper detention facility, with these exceptions:

(a) If he is sentenced to a facility which is operated by a city within the county where the trial is held, the city police shall deliver him to the proper facility.

(b) In the case of a sentence to an urban-county detention facility, the jailer shall carry out this duty.

(3) In the event that a county contracts with another county for the incarceration of its prisoners, the jailer of the county where the trial is to be held shall be responsible for transporting prisoners to and from the county where prisoners are incarcerated, except as otherwise agreed by contract. Any expense of such transportation shall be paid from the jail operating budget as provided in Section 3 of this Act.

Section 48. In addition to amounts appropriated for jailer fees in House Bill 295 and Senate Bill 124, to implement the provisions of this Act there is hereby appropriated for the fiscal year 1982-1983 the sum of $1,500,000 and for the fiscal year 1983-1984 the sum of $1,000,000.

Section 49. The following KRS sections are repealed:

64.150	Jailers' fees.
64.170	Crediting jailers.
304.34-150	Jail access — Notice to court clerks of bondsmen's names.
441.210	"Station house" defined.
441.220	Female prisoners in city of first class — Mayor to designate places of detention.
441.230	Matron for county jail — Appointment salary and quarters.
441.240	Assistant matrons for station houses — Appointment, salary and quarters.
441.250	Qualifications and term of matrons.
441.260	Hours and duties of matrons.
441.270	Matron to attend court — Be present when female searched.
441.280	Notification of matron on receipt of female or child.
441.290	Jail visiting board in cities of first class.
441.300	Jail physician in counties containing 150,000 population.
441.310	Chaplain for jail in counties containing city of first class.
441.320	City jailer and deputy in cities of second class.
441.410	Definition.

Section 50. Section 3 of this Act is repealed effective July 15, 1984.

Section 51. Section 36 of this Act shall become effective July 1, 1983. Whereas, it is increasingly difficult to fund and administer jails, an emergency is declared to exist and Sections 1 to 35 and 37 to 50 shall become effective July 1, 1982.

Committee Substitute to **HB 440** is as follows:

HB 440, AN ACT relating to jails and jailers and making an appropriation therefor and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.005 is amended to read as follows:

As used in KRS *Chapter 441* [~~441.005 to 441.200, 64.070 and 64.150,~~] unless the context otherwise requires:

(1) "Jail" means *county jails and correctional or detention facilities, including correctional facilities defined in KRS 67B.020 and juvenile detention facilities, operated by and under the supervision of any county, city or urban county government* [~~a jail as defined in KRS 441.410~~].

(2) "Prisoner" means any person confined in jail pursuant to any code, ordinance, law, or statute of any unit of government and who is:

(a) Charged with or convicted of an offense; or

(b) Held for extradition or as a material witness; or

(c) Confined for any other reason.

(3) "Unit of government" means that unit of government including the United States government whose law, statute, ordinance, or code a prisoner is charged with violating. In the event of a person imprisoned for contempt of court, the state shall be deemed the responsible unit of government.

(4) "Bureau" means the bureau of corrections.

(5) "Jail personnel" means deputy jailers, matrons, cooks and other food service personnel and other jail employes involved in the supervision, custody, care or treatment of prisoners in jails but does not include maintenance or clerical personnel.

SECTION 2. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The fiscal court of each county shall provide for the incarceration of prisoners arrested in the county or sentenced or held by order of the courts in the county.

(2) The fiscal court shall provide for the incarceration of prisoners by:

(a) Providing and maintaining a jail in the county; or

(b) Contracting with another county or a city for the incarceration and care of its prisoners and providing for the transportation of prisoners, including the provision of vehicles, drivers and guards.

(3) Nothing in this section shall prohibit a county from providing facilities for holding prisoners for limited periods of time and contracting with another county or a city for longer periods of incarceration.

(4) Any county may enter into an agreement pursuant to KRS 65.210 to 65.300 to provide or to use jail facilities.

SECTION 3. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) For the care and maintenance of prisoners charged with or convicted of violations of state law, each county shall receive a contribution from the state treasury for the incarceration of state prisoners in an amount equal to the total amount paid to the jailer in fiscal year 1980-81 for fees pursuant to KRS 64.150 plus the product of the number of permanent beds in the jail, as determined by the bureau of corrections, times three hundred dollars ($300).

(2) Payments of the state contribution for jail operating expenses shall be made monthly by the department of finance to the county treasurer. The election by a county to close its jail and to contract with another county for the incarceration of prisoners, as permitted by Section 2 of this Act, shall not affect the state contribution provided for in subsection (1) of this section.

(3) All state funds paid to a county under this section, any funds paid to a county by the United States government, a city or another county for the incarceration of prisoners and any interest earned on such funds shall be expended on the incarceration of prisoners, as provided in Section 2 of this Act. Any funds paid under subsection (1) of this section and any interest earned on such funds not so expended shall be returned to the state treasury.

(4) In the event that a jail was closed during fiscal year 1980-81 or for other reasons the fees earned by the jailer were not representative of the usual jail population, the secretary of finance may, upon proper documentation by the county, permit a prior fiscal year to be used as a basis for calculating the state's contribution to the jail operating expenses.

(5) The number of permanent beds in each jail shall be established by information supplied and certified by the bureau of corrections.

SECTION 4. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) KRS 64.345 and 64.350 notwithstanding, by July 1, 1982, and by May 1 of each year thereafter, the fiscal court in consultation with the jailer shall adopt an operating budget for the jail which shall provide for the expenditure of all state, county and other funds for jail operations.

(2) The county treasurer shall disburse jail operating funds at the direction of the jailer, provided the expenditures are within authorized budget categories, and shall keep books of accounts of all receipts and disbursements and make such reports as are required by the state local finance officer.

SECTION 5. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The jailer shall receive a monthly salary from the county jail operating budget.

(2) In recognition of the increased duties and responsibilities of the office of jailer, jailers holding office on the effective date of this Act shall be entitled to a level of compensation in calendar year 1982 which shall be equal to the compensation of jailer in calendar year 1981 as adjusted for the change in the consumer price index during calendar year 1981 or $12,000 whichever is greater. The fiscal court may establish a higher level of compensation for the jailer, provided, however, that in no event shall the jailer's compensation exceed the maximum compensation allowable for county officials under KRS 64.527.

(3) The jailer's monthly salary for the period July, 1982 through December, 1982 shall be the jailer's compensation for calendar year 1982 as provided in subsection (2) of this section less the jailer's earnings for January through June, 1982 divided by six (6).

(4) The jailer's compensation for 1983 and subsequent years shall equal the prior year's compensation and may be adjusted by the fiscal court for the change in the prior year's consumer price index.

(5) If a county jail is closed for any reason, the jailer shall serve as a transportation officer and shall be responsible for transporting prisoners, as provided in KRS 441.500.

SECTION 6. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The bureau shall:

(a) By January 1, 1983, adopt the recommendations of the jail standards commission created pursuant to executive order number 81-1026 and promulgate regulations pursuant to KRS Chapter 13 establishing minimum standards for jails. Such standards shall include, but not be limited to, rules governing the following areas:

1. Health and safety conditions;
2. Fire safety;
3. Jail operations, recordkeeping and administration;
4. Curriculum of basic and continuing annual training for jailers and jail personnel;
5. Custody, care and treatment of prisoners;
6. Medical care; and
7. Jail equipment, renovation and construction.

(b) Develop a jail standards review process, which shall include the participation of persons knowledgeable of jail operations to review and amend the standards as necessary.

(c) Provide technical assistance and consultation to local governments in order to facilitate compliance with standards.

(2) The bureau may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

SECTION 7. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The bureau shall employ such jail consultants, inspectors and other employes as are necessary to administer and enforce the provisions of Sections 6 to 8 of this Act.

(2) The bureau shall inspect each jail biannually and may inspect jails more frequently.

(3) The bureau shall be granted access at any reasonable time to any jail facility or part of any jail facility and shall be granted access to all books, records, and data pertaining to any jail which the bureau deems necessary for the administration and enforcement of the provisions of Sections 6 to 8 of this Act.

(4) The bureau shall submit an annual written report of the findings of its inspections and the condition of the jail to the jailer and the fiscal court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) Whenever the bureau finds that a violation of its regulations, or the laws or other state regulations pertaining to the protection of persons and property, exists in any jail, the commissioner of the bureau shall order that the violation be corrected immediately.

(2) In order to enforce an order made pursuant to subsection (1) of this section the commissioner may:

(a) Order the jail or portions thereof to be vacated and closed until the violation is eliminated.

(b) Order the jail to cease to house certain classes of prisoners or limit the length of time prisoners or certain classes of prisoners may be housed in the jail.

(c) Order the state contribution made pursuant to Section 3 of this Act to be used, in whole or in part, to contract with another county for the incarceration of prisoners.

(3) An order issued under this section shall be in writing, incorporating the findings of the bureau and other agencies, if appropriate, and shall be delivered or mailed by certified mail, return receipt requested, to the county jailer and county judge/executive within twenty-four (24) hours of the issuance of said order. The county jailer or county judge/executive may within seventy-two (72) hours of receipt of said notification, request in writing a public hearing before the commissioner of the bureau or his designee on the matters covered by said order. The commissioner of the bureau or his designee may issue, modify or repeal the order at the conclusion of the hearing.

SECTION 9. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) No person responsible for the supervision or maintenance of a jail shall knowingly cause or permit such a facility to be operated in violation of the regulations and laws of this state pertaining to the health, safety and security and operation of jails.

(2) When the bureau, pursuant to this Act, orders a county jailer, if it is determined he is responsible, or the fiscal court, to correct or eliminate a violation of any state regulation or law pertaining to the operations and maintenance of jails and the county jailer or fiscal court does not take corrective action to the satisfaction of the bureau within the time specified in the bureau's order, then the commissioner of the bureau or his designee may request the Franklin County Circuit Court to enforce the orders of the bureau. Any person who refuses to obey the orders of the court shall be held in civil contempt.

SECTION 10. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

Appeals from any order issued pursuant to Sections 6 to 8 of this Act shall be granted as a matter of right, and shall be taken to the Franklin County Circuit Court within thirty (30) days from the date the order is issued by the bureau.

SECTION 11. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

The jailer shall:

(1) Submit a quarterly report to the fiscal court concerning the physical condition of the jail, the number of jail personnel and personnel needs and other matters requested by the fiscal court.

(2) Submit a monthly report to the bureau, on forms supplied by the bureau, containing but not limited to, the following information on each prisoner:

(a) The unit of government whose law the prisoner is charged with violating, the statute or ordinance the prisoner is charged with violating and whether the charge is a felony or misdemeanor;

(b) The status of the prisoner, whether pending trial or post conviction;

(c) The age and sex of the prisoner; and

(d) The county responsible for the incarceration of the prisoner.

SECTION 12. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the bureau shall maintain a local corrections training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to Section 6 of this Act and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. A curriculum advisory committee composed of jailers, their representatives and recognized professionals in the field of jail administration shall advise the bureau concerning the training needs of jailers and jail personnel.

(2) Beginning in August, 1982 each jailer shall receive an expense allowance to help defray the costs of his and his staff's participation in the local corrections training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the state treasury, provided, however, that such payments shall be discontinued if the jailer fails to complete basic training within one (1) year of taking office. Thereafter, expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of such training.

(3) The allowance authorized in subsection (2) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

Section 13. KRS 24A.191 is amended to read as follows:

(1) The department of finance shall determine from certified audits provided by the cities and counties, the reasonable cost of which shall be reimbursed by the department of finance, the base court revenue for each city and county which had a local court as of June 30, 1976. In the event that any city or county believes that unusual circumstances have adversely affected the resulting computation of base court revenues, then the county or city may appeal to the department of finance and the department of finance may adjust such computation accordingly.

(2) In the determinations of net court revenue and base court revenue under KRS 24A.190 to 24A.193 the department of finance shall not deduct moneys or otherwise penalize a city or county for moneys received by the city, the county, or the county jailer from any source for:

(a) *Amounts paid under Section 3 of this Act for the care and maintenance of prisoners* [~~Keeping and dieting of prisoners under KRS 64.150~~]; or

(b) Reimbursement for medical bills of prisoners confined in the county jail.

Section 14. KRS 35.285 is amended to read as follows:

(1) A sentence of confinement adjudged by a military court may be carried into execution by confinement in any place of confinement under the control of the national guard or active militia, or in any jail, penitentiary or prison designated for that purpose as prescribed in KRS 35.055; and persons so confined in such a jail, penitentiary or prison shall be subject to the same discipline and treatment as persons confined or committed to such jail, penitentiary or prison by the courts of the state.

(2) The omission of the words "hard labor" in any sentence of a court-martial adjudging confinement shall not be construed as depriving the authority executing such sentence of the power to require hard labor as a part of the punishment.

(3) The jailers, officers and wardens of all jails, penitentiaries or prisons designated pursuant to KRS 35.055 shall receive the bodies of persons ordered into confinement prior to trial and of persons committed to confinement by the process or mandate of a military court and shall confine them according to law, and no such jailer, officer or warden shall demand or require payment of any fee or charge of any nature for receiving or confining a person in such jail, penitentiary or prison [~~except that county jailer may be entitled payment for keeping and dieting prisoners in jail as provided in KRS 64.150~~].

Section 15. KRS 64.090 is amended to read as follows:

Sheriffs may charge and collect for the following services the following fees:

Executing and returning process	$3.00
Serving an order of court and return	3.00

Summoning each witness	2.00
Summoning an appraiser or reviewer	2.00
Attending a surveyor, when ordered by a court, per deputy or sheriff assigned	20.00
Taking any bond that he is authorized or required to take in any action	5.00

Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond given and not complied with, six per cent (6%) on the first three hundred dollars ($300) and three per cent (3%) on the residue; when he levies an execution or distress warrant, and the defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the plaintiff and collected as costs in the case.

Taking a recognizance of a witness	$3.00
Levying an attachment	5.00

When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of attached property shall be allowed by order of court.

Summoning a garnishee	3.00
Summoning a jury in a misdemeanor case, attending the trial, and conducting the defendant to jail to be paid by the party convicted	8.00
Serving process or arresting the party in misdemeanor cases, to be paid by the plaintiff	10.00
Serving an order or process of revivor	3.00
Executing a writ of possession against each tenant or defendant	7.00

Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission.

Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses	8.00

Collecting militia fines and fee-bills, ten per cent (10%), to be deducted out of the fee-bill or fine.

Levying for a fee-bill	3.00
Serving a notice	2.00
Serving summons, warrants or process of arrest in bastardy cases	6.00
Serving each order appointing surveyors of roads, to be paid out of the county levy	5.00
Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant	5.00
Like services in cases of private passways to be paid by the applicant	5.00
Executing each writ of habeas corpus, to be paid by the petitioner	3.00
All services under a writ issued under KRS 381.460 to 381.570	10.00

[~~Performing the duties of jailer, the same fees and allowances that are prescribed for jailers.~~]

For services in summoning grand and petit jurors and performing his duties under KRS Chapter 29A the sheriff shall be allowed, for each person so summoned, and paid out of the state treasury for constructive service the sum of $1.50 and for personal service the sum of $3.00.

Section 16. KRS 64.345 is amended to read as follows:

(1) The county clerk *and* [~~,~~] sheriff [~~and jailer~~] of each county having a population of 75,000 or over shall receive an annual salary of fourteen thousand three hundred dollars ($14,300).

(2) In counties containing a city of the first class and in counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by an order entered upon the order book of the circuit court, and signed by the chief judge thereof. In all other counties with a population of 75,000 or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department of finance.

(3) Each officer shall, on the first day of each month, send to the department of finance a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the department of finance the amount so collected or received. The department of finance may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the state treasurer upon the warrant of the department of finance made payable to the officer. If seventy-five percent (75%) of the amount paid into the state treasury in any month by any of such

officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the department of finance to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the department of finance by the officer during his official term.

(5) In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by an order entered upon the order book of the circuit court and signed by the chief judge thereof. In all other counties with a population of 75,000 or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department of finance.

Section 17. KRS 64.350 is amended to read as follows:

(1) In counties having a population of seventy-five thousand (75,000) or more, the salaries of the county clerks *and* [,] sheriffs [~~and jailers~~] and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining and operation of the offices, shall be paid out of the state treasury in amounts not to exceed seventy-five percent (75%) of the fees collected by the officers respectively, and received into the treasury; and twenty-five percent (25%) of the fees collected by the officers respectively, and received into the state treasury shall be paid in the manner provided by law for the payment of other claims against the state to the fiscal courts or urban- county government of the respective counties. The amount of twenty-five percent (25%) of the fees collected by the officers respectively during each calendar year shall be paid to the fiscal courts or urban-county government of the respective counties by April 1 of each year succeeding the calendar year during which the fees were received by the department of finance. After payment of the salaries and expenses specified in this subsection, any remaining balance of the seventy-five percent (75%) of the fees collected by the officers respectively at the end of their official term shall be paid by the state treasurer to the fiscal courts or urban-county government of the respective counties, subject to the provisions of subsection (2) of this section.

(2) Notwithstanding the provisions of subsection (1), all sums received into the state treasury and representing seventy-five percent (75%) of the fees collected by the sheriffs [~~and jailers~~] specified in subsection (1) from any county in which a metropolitan correctional services department has been established shall be expended from the state treasury for the payment of the salaries and costs specified in subsection (1), and in Section 106 of the Constitution of Kentucky. After payment of the salaries and costs specified in this subsection, the remaining balance representing fees collected by sheriffs [~~and jailers~~] shall be paid by the state treasury to the fiscal court of the county in which a metropolitan correctional services department has been established by April 1 of each year succeeding the calendar year in which the fees were received by the department of finance.

Section 18. KRS 64.355 is amended to read as follows:

It is hereby declared to be the intent of the general assembly that all fees of the office of county clerk *and* [,] sheriff [~~and jailer~~] in counties having a population of 75,000 or more that are paid into the state treasury pursuant to the provisions of Section 106 of the Constitution of Kentucky are the property of the respective county and these fees along with those collected by the circuit clerk shall be computed as part of the county's total tax effort for the purpose of determining credit for any federally funded program.

Section 19. KRS 64.365 is amended to read as follows:

Clerks *and* [,] sheriffs [~~and jailers~~] who are required under Const., Section 106 to pay the fees collected by them into the state treasury are relieved from all liability as insurers of funds that come into their hands or subject to their control after the funds are deposited in good faith in a depository or depositories in the county approved by the fiscal court, and the obligors in the bonds shall not be responsible for loss of, or delay in payment of such funds by reason of the failure or suspension of such depository.

Section 20. KRS 64.527 is amended to read as follows:

In order to equate the compensation of county judges/executive, county clerks, sheriffs, justices of the peace, county commissioners *and* [,] coroners [~~and jailers~~] with the purchasing power of the dollar, the department of finance shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum. The department of finance shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the department of finance, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the department of finance.

Section 21. KRS 64.528 is amended to read as follows:

In order to equate the current rate of compensation of commonwealth's attorneys, county clerks, county judges/executive, county attorneys, sheriffs, [~~jailers,~~] justices of the peace, and commissioners with the present value and purchasing power of the dollar, the court required by law to fix the compensation of the officials named in this section may, on or before September 1, 1974, adjust said officials' compensation within the limits set forth in Acts 1974, chapter 254 and may provide that said officials be entitled to the maximum amount of compensation for the entire 1974 calendar year.

Section 22. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, the fiscal court of each county shall fix the compensation of every county officer and employe except the officers named in KRS 64.535 and the county attorney *and jailer*. The fiscal court may provide a salary for the county attorney.

(2) For the purposes of this section, justices of the peace and constables in all counties shall be deemed to be county officers and deputies or assistants of county officers shall be deemed to be county employes, but employes of county boards or commissions which are now authorized by law to fix the compensation of their employes shall not be deemed to be county employes for the purposes of this section.

(3) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive from both sources. The fiscal court may also fix the number of deputies and assistants, and, the compensation thereof, and the maximum amount that the officer may expend each year for expenses of his office.

(4) In the case of county officers elected by popular vote and the county attorney, in the event the fiscal court provides him a salary, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

(5) Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county clerk, sheriff, jailer, and their deputies, assistants and expenses, in counties having a population of 75,000 or more.

(6) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed the maximum compensation allowable under KRS 64.527. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed nine thousand six hundred dollars ($9,600) per year, in counties containing cities of the second class it shall not exceed nine thousand dollars ($9,000) per year and in counties containing cities of the third or fourth class it shall not exceed twenty percent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding 1974, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; nor shall they receive any compensation for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.

Section 23. KRS 64.535 is amended to read as follows:

The county clerk, county judge/executive, sheriff *and* [~~,~~] county attorney [~~and jailer~~] of each county shall receive a maximum monthly salary of one-twelfth (1/12) of fourteen thousand three hundred dollars ($14,300,) to be paid solely out of the statutory fees and salaries received by him during the calendar year.

Section 24. KRS 64.690 is amended to read as follows:

(1) Except as provided in KRS 64.610 and in this section, KRS 64.480 to 64.740 are intended to supersede any existing statute, fixing the compensation, or authorizing any public officer or body to fix the compensation, of any public officer or employe covered by KRS 64.480 to 64.740.

(2) Any public officer or body which has authority to fix the compensation of any state officer or employe covered by KRS 64.640 shall exercise such authority, subject to the schedule and limits of compensation for the particular office or position prescribed under KRS 64.640.

(3) KRS 64.480 to 64.740 are not intended to supersede any existing statute, with respect to the compensation of circuit clerks, county clerks, sheriffs, [~~jailers,~~] master commissioners and receivers, and their deputies and assistants, in counties containing a population of 75,000 or more, or property valuation administrators, their deputies and assistants, in any county.

Section 25. KRS 67.080 is amended to read as follows:

(1) The fiscal court may:

(a) Appropriate county funds according to the provisions of KRS 68.210 through 68.360 for lawful purposes;

(b) Sell and convey any real estate belonging to the county, and buy land for the use of the county, when necessary, for the purpose of erecting thereon public buildings. The fiscal court may appoint one (1) or more commissioners to sell or buy real estate under this subsection, subject to the approval of the fiscal court, and convey it to the purchaser, under the direction of the court, or have it conveyed to the court, by deed properly executed and recorded;

(c) Regulate and control the fiscal affairs of the county;

(d) Cause correct accounts and records to be kept of all receipts and disbursements of the public funds of the county, and have the accounts of all county officers audited, when necessary; employ a competent person to keep such accounts and records, and make such audits, and pay such person a reasonable compensation for such services;

(e) Exercise all the corporate powers of the county unless otherwise provided by law;

(f) Establish all appointive offices, set the duties of those offices, and approve all appointments to those offices;

(g) Investigate all activities of the county government.

(2) The fiscal court shall:

(a) Appropriate county funds, according to the provisions of KRS 68.210 through 68.360, for purposes required by law;

(b) As needed, cause the construction, operation and maintenance of all county buildings and other structures, grounds, roads and other property;

(c) Adopt an administrative code for the county*;*

(d) Provide for the incarceration of prisoners according to the provisions of Section 2 of this Act.

(3) The fiscal court shall not exercise executive authority except as specifically assigned by statute.

Section 26. KRS 67B.030 is amended to read as follows:

(1) A metropolitan correctional services department may be established by order of the fiscal court of any county containing a city of the first class, in which the constitutional offices of sheriff and jailer have been consolidated as provided in section 105 of the Constitution of the Commonwealth of Kentucky. Said department shall, upon its creation, constitute a de jure department and division of county government, having and possessing all of the enumerated powers, responsibilities, and duties hereinafter specifically set forth.

(2) Upon the creation of a metropolitan correctional services department by the fiscal court of a county containing a city of the first class, in which the constitutional offices of sheriff and jailer have been consolidated pursuant to section 105 of the Constitution of the Commonwealth of Kentucky, all of the duties, responsibilities, and liabilities of the sheriff and jailer as set forth and contained in the Kentucky Revised Statutes, with reference to the operation and maintenance of the county jail and all county correctional facilities shall immediately be vested in the department [~~which department shall thereupon, in the performance of its duties and responsibilities, charge and collect all fees, imposts and charges otherwise provided to be charged and collected by sheriffs and jailers, and deposit same with the treasurer of said county,~~] and thereupon the sheriff and jailer shall have no further responsibility, duty and liability for the performance of said statutory duties on a personal basis; provided, however, that said Sheriff shall be required to annually inspect all county correctional facilities and render reports as hereinafter provided.

Section 27. KRS 71.020 is amended to read as follows:

Each jailer shall have the custody, rule and charge of the jail in his county and of all persons in the jail and shall keep the same himself or by his deputy or deputies. [~~He or one (1) of his deputies shall reside not more than four hundred (400) yards from the jail and~~] Where *the jail* [~~it is such as~~] admits the residence of the same therein he or one (1) of his deputies *may* [~~shall~~] reside in the jail.

Section 28. KRS 71.060 is amended to read as follows:

(1) [~~Subject to the provisions of KRS 64.345,~~] Any jailer may appoint not more than two (2) deputies, and, with the approval of the *fiscal court* [~~county judge/executive~~], may appoint additional deputies *at any time during the jailer's term of office*. The jailer shall be liable on his official bond for the conduct of his deputies. The deputies shall have all the powers and be subject to the same penalties as the jailer. They may be removed at any time by the jailer.

(2) [~~Subject to the provisions of KRS 441.230,~~] Any jailer may appoint a respectable woman to care for and have supervision over the female prisoners in the jail, subject to the orders of the jailer. The woman so appointed shall be called jail matron and shall receive a salary to be paid in the same manner as deputy county jailers. *With the approval of the fiscal court, the jailer may appoint additional matrons at any time during the jailer's term of office.*

Section 29. KRS 196.030 is amended to read as follows:

(1) The bureau shall, unless otherwise provided by law, exercise all functions of the state in relation to:

(a) Management of penal, reform and correctional institutions;

(b) Supervision of probation and parole;

(c) The giving of assistance to other departments, agencies and institutions of the state and federal government when requested by performing services in conformity with this section;

(d) Acting as the agent of the federal government in matters of mutual concern, and in the administration of any federal funds granted to the state to aid in the performance of any function of this bureau;

(e) Administration and enforcement of the provisions of KRS Chapter 441 relating to the development and enforcement of jail standards, training of jailers and jail personnel and jail planning and construction.

(2) The provisions of this section shall not apply to any institution, home or agency which does not receive aid from the state, or a county or municipality.

Section 30. KRS 211.920 is amended to read as follows:

As used in KRS 211.925 to 211.945, unless the context otherwise requires:

(1) "Department" shall mean the department for human resources.

(2) "State confinement facility" shall mean a penal or correctional facility or juvenile detention or treatment facility operated by or under the supervision of the commonwealth of Kentucky.

(3) [~~"Local confinement facility" shall mean a penal or correctional facility or juvenile detention or treatment facility operated by or under the supervision of any county, city, or metropolitan government or any other subdivision of the commonwealth of Kentucky.~~

~~(4)~~] "Public health and health" shall mean and include, but shall not be limited to, all environmental, dental, mental, medical, and nutritional aspects of the health of persons confined in a state [~~or local~~] confinement facility.

Section 31. KRS 211.925 is amended to read as follows:

In addition to all other powers and duties vested in it by law, the department shall have the authority, power, and duty to:

(1) Adopt, modify, and repeal rules, regulations, and standards relating to the public health or health aspects of the operation of state [~~and local~~] confinement facilities, and exercise general supervision over the administration of KRS 211.920 to 211.945 and assist in the enforcement of all rules, regulations, and standards promulgated pursuant to it;

(2) Collect, evaluate, and disseminate information from state [~~and local~~] confinement facilities as it relates to the public health of the people of the commonwealth;

(3) Develop comprehensive plans for the elimination of conditions in state [~~and local~~] confinement facilities which adversely affect the public health or the health of those persons confined or likely to be confined in any state [~~or local~~] confinement facility;

(4) Enter upon the premises and inspect any state [~~or local~~] confinement facility for the purpose of determining the extent of compliance with KRS 211.920 to 211.945 investigating the effect of the operation of state [~~and local~~] confinement facilities upon the public health or the health of those persons confined or likely to be confined in any state [~~or local~~] confinement facility;

(5) Advise, consult, and cooperate with other agencies of the commonwealth, including the bureau of corrections [~~and office of local government~~], other jurisdictions, the federal government, interstate and interlocal agencies, and local governments regarding the effects of the operation of confinement facilities upon the public health;

(6) Accept, receive, and administer grants or other funds or gifts from public and private agencies for the purpose of implementing KRS 211.920 to 211.945.

Section 32. KRS 211.930 is amended to read as follows:

[~~Six months after June 21, 1974,~~] No person responsible for the supervision or maintenance of a state [~~or local~~] confinement facility shall knowingly cause or permit such facility to be operated in violation of rules, regulations, or standards promulgated by the department pursuant to KRS 211.920 to 211.945.

Section 33. KRS 211.935 is amended to read as follows:

If, upon the inspection of [~~either~~] a state [~~or local~~] confinement facility, the department finds that conditions exist which endanger the health of those confined or likely to be confined in the facility, or the public health of the citizens of the commonwealth of Kentucky, the department shall advise the supervising and maintaining authorities, and those persons confined in the facility, that the facility does not meet the rules, regulations, or standards duly established by the department pursuant to KRS 211.920 to 211.945.

Section 34. KRS 211.945 is amended to read as follows:

All laws of the Commonwealth [~~and its subdivisions~~] that relate to the supervision and maintenance of state [~~or local~~] confinement facilities shall be administered in a manner consistent with the provisions of KRS 211.925 to 211.940 and the rules, regulations, and standards promulgated pursuant to it.

SECTION 35. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The department shall cooperate with the bureau of corrections in the development of regulations concerning the public health or health aspects of jails as defined in Section 1 of this Act and shall assist in the training of jail inspectors employed by the bureau of corrections.

SECTION 36. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The state fire marshal shall cooperate with the bureau of corrections in the development of fire safety regulations for jails and assist in the training of jail inspectors employed by the bureau of corrections.

(2) Effective January 1, 1983, the bureau of corrections shall possess all authority and responsibility for fire prevention and reduction of loss by fire in jails as defined in Section 1 of this Act; provided, however, that upon the request of the commissioner of the bureau of corrections, the state fire marshal shall investigate the cause and circumstances of fires or explosions in jails.

Section 37. KRS 439.179 is amended to read as follows:

(1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

(a) Seeking employment; or

(b) Working at his employment; or

(c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or

(d) Attendance at an educational institution; or

(e) Medical treatment.

(2) Unless such privilege is expressly granted by the court, the prisoner is sentenced to ordinary confinement. The prisoner may petition the sentencing court for such privilege at the time of sentence or thereafter, and, in the discretion of the sentencing court, may renew his petition. The sentencing court may withdraw the privilege at any time by order entered with or without notice. *The jailer shall advise the court in establishing criteria in determining a prisoner's eligibility for work release.*

(3) The jailer shall notify the department for human resources which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the district court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. Such wages or salary are not subject to garnishment of either the employer or the district court during the prisoner's term, and shall be disbursed only as provided in this section, but for tax purposes they are the income of the prisoner.

(4) Every prisoner gainfully employed is liable for the cost of his board in the jail, at *a reasonable* [~~the~~] amount, *not to exceed ten dollars ($10) per day,* established by *the fiscal court* [~~law~~]. If he defaults his privilege under this section is automatically forfeited. All moneys shall be collected by the district court and paid to the *county treasury for use on the jail as provided in Section 3 of this Act* [~~state treasury~~]. The fiscal court may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment *and require that such costs be repaid by the prisoner.*

(5) Unless otherwise ordered by the sentencing court, the wages or salaries of employed prisoners shall be disbursed by the district court on a monthly basis for the following purposes and in the order stated:

(a) The board of the prisoner *and transportation costs incurred by the county*;

(b) Support of the prisoner's dependents, if any;

(c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;

(d) The balance, if any, to the prisoner upon his discharge.

(6) [~~If the prisoner was convicted in a justice or a police court, the district judge shall have authority and jurisdiction to make all determinations and orders under this section as might otherwise be made by the sentencing court after the prisoner is received at the jail.~~

~~(7)~~] The sentencing court may direct that its functions under subsections (3) or (5) or both be performed by any bonded public official. Such order shall remain in force until rescinded by the district court.

(7)[~~(8)~~] The bureau of corrections shall, at the request of the district judge, investigate and report on the amount necessary for the support of the prisoner's dependents, *and periodically review the prisoner's progress while on leave from the jail and report its findings to the district judge.*

(8)[~~(9)~~] The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed five (5) days.

[~~(10) Nothing in this statute shall be construed to affect KRS 64.150 which provides for the payment of fees to the jailer. In this section "jail" refers to all misdemeanant institutions, and "jailer" to the superintendent thereof, but, in counties of the first class, "jailer" designates the sheriff who serves as superintendent of the jail.~~]

(9)[~~(11)~~] In counties containing an urban-county form of government, the duties, responsibilities and obligations vested herein in the bureau of corrections shall be performed by the adult misdemeanant probation and work release agency of the urban-county government.

Section 38. KRS 441.010 is amended to read as follows:

(1) The county governing body *may* [~~shall~~] prescribe rules for the government and cleanliness of the county jail and the comfort and treatment of prisoners, *provided such rules are consistant with state law.* The county judge/executive *may* [~~shall~~] inspect the jail at *any reasonable time* [~~least once each month~~].

(2) Wilful violation of the rules promulgated pursuant to subsection (1) of this section shall be deemed a violation.

(3) If a prisoner in the county jail needs medical care and is a needy person, the unit of government shall pay for his medical expenses, except that any payment for medical care for prisoners of the United States government shall be governed by federal law. The determination of whether or not a person is a needy person shall be made pursuant to KRS 31.120. Such determination may be made after medical care is given if a licensed physician determines that medical care should not be delayed. The unit of government shall not pay for medical care which could be postponed until after the period of confinement without hazard to the needy person except for the initial examination by the physician to determine whether medical care is needed. Only a licensed physician may determine that medical care can be postponed without hazard. The amount and nature of payments under this subsection shall be subject to the following terms and conditions:

(a) The physician or physicians attending the prisoner shall certify, under oath, that the prisoner's condition was such that medical care could not be postponed until after the period of confinement without hazard, that medical procedures were limited to those necessary to preserve the life or health of the prisoner and that they were not of an elective nature except for the initial examination by the physician to determine whether medical care is needed; and

(b) No payments to physicians, hospitals, laboratories, or other health care providers shall exceed the maximum payments allowed to similar persons or facilities for the same or similar services under the Kentucky medical assistance program. Such services shall not include psychological testing, evaluation or care; and

(c) Prisoners who are later determined not to have been indigent, or who at a time following treatment are no longer indigent, may be required to repay the costs of payments made pursuant to this section to the unit of government which made the payment; and

(d) The terms and conditions relating to any determination of nonindigency and demands for repayment shall be under the same terms and conditions as are provided under KRS Chapters 31 and 431 relating to similar circumstances in the program for defense of indigents by the public advocate.

Section 39. KRS 441.020 is amended to read as follows:

The United States may use the jail of any county, and any city may use the jail of the county in which the city is located *for the incarceration of prisoners charged with or convicted of violations of the city's ordinances*, by paying the *county* [~~jailer~~] the fees *set by agreement with the fiscal court* [~~allowed by KRS 64.150~~] for the type of services rendered. Any jailer shall receive and confine in jail, until lawfully discharged, persons committed under the laws of the United States or for a violation of the ordinances of any city within the county.

Section 40. KRS 441.030 is amended to read as follows:

If in any county there is no jail, or the jail is insecure, or there is danger or probable danger that any or all of the persons confined in the jail under any order or process of *a* [~~the circuit~~] court, or held to answer any charge in *a* [~~the circuit~~] court, will be removed from the jail by violence, the circuit judge shall, by an order made of record, direct that any or all of such persons be transferred to the jail of the nearest county in which the jail is secure and they can be safely kept. When any such order is made, and a copy thereof is furnished to the jailer of the county designated, he shall receive all such prisoners. If the circuit judge is not in the county, the order of transfer may be made by the district judge, who shall deliver the order, or a copy thereof, to the circuit clerk for revision by the circuit court.

Section 41. KRS 441.040 is amended to read as follows:

(1) Immediately upon the receipt of a copy of an order made pursuant to KRS 441.030, the sheriff, or if there is no sheriff, the coroner, shall transfer the prisoners to the jail of the county designated in the order. He shall deliver the prisoners to the jailer of that county at the jail, with a copy of the order, and take from him a receipt for the prisoners, which he shall return to the office of the circuit clerk of the county from which the removal was made. The clerk shall file the receipt in his office. The jailer shall receive the prisoners and safely keep them until they are properly discharged. If the jailer fails to accept and keep such prisoners, he and his sureties shall be liable in the same manner and to the same extent as if the prisoners had been regularly committed by an order of the circuit court of his county. [~~The jailer shall receive the same fees as he would receive for a prisoner committed by the circuit court of his county.~~] The officer conveying the prisoners to the designated jail, and such guards as the judge directs him to take, not exceeding the number of guards allowed in taking convicts to the penitentiary, shall receive the compensation and mileage

allowed by KRS 64.070 for taking convicts to the penitentiary. The compensation shall be allowed by the circuit judge directing the transfer and paid out of the State Treasury, unless there was no jail in the county or it was rendered insecure by the failure of the fiscal court to keep it in the requisite condition, in which case it shall be paid by the fiscal court of the county. The circuit judge, in making the allowance, shall state in the order out of which fund it shall be paid. The order of the judge directing the transfer shall be conclusive evidence that the transfer was proper and to the right jail, and shall be a justification to the jailer for holding any such prisoner in any action against him for false imprisonment.

(2) If a transfer of prisoners is necessary because there is no jail in the county or because the jail was rendered insecure by the failure of the fiscal court to keep it in the requisite condition, the cost of lodging the prisoners in the jail of the county to which they are transferred shall be borne by the fiscal court of the county from which the transfer was made at a rate set by agreement between the two (2) fiscal courts involved. If the fiscal courts are unable to reach an agreement, the circuit judge who ordered the transfer shall establish the rate based on prisoner and facility cost data provided by the receiving jailer. The order of transfer shall state the reasons of the transfer.

Section 42. KRS 441.060 is amended to read as follows:

(1) The expense of keeping and dieting a prisoner transferred to the penitentiary or reformatory pursuant to KRS 441.050 shall be borne by the unit of government.

2) The unit of government shall pay the expenses directly to the bureau of corrections.

(3) "Expenses" shall mean *the* [~~any~~] fee *set by the bureau of corrections* [~~provided by law to be allowed to a jailer for keeping and dieting a prisoner~~].

Section 43. KRS 441.065 is amended to read as follows:

Upon the consolidation of the offices of sheriff and jailer and the establishment of a workhouse or penal farm in any county containing a city of the first class, no person thereafter, except in cases of contempt of court, shall be sentenced to the county jail, nor shall serve any time therein. The jail in such county shall function only as a holdover or station house for the retention of persons awaiting trial, sentence or transfer, and shall be administered by the sheriff by his appointment of a superintendent therefor experienced in penal administration. The sheriff shall receive the same fees as jailers receive for the care and maintenance of said persons so confined and said fees and the other fees of his office shall be available for the operation thereof. It shall be the duty of the fiscal court of such county to appropriate money from the general funds for the operation of such jail or holdover in event the fees of his office are insufficient properly to care for the persons confined therein. Any city within the county may use such jail upon payment of the fees set *by agreement with the fiscal court* [~~out in KRS 64.150~~].

Section 44. KRS 441.420 is amended to read as follows:

(1) No political subdivision of this commonwealth, or no combination of such subdivision shall build a new jail unless the facility meets the approval or complies with the standards and regulations of *the bureau promulgated pursuant to Section 6 of this Act* [~~, as appropriate:~~

~~(a) The state fire marshal,~~

~~(b) The department for human resources,~~

~~(c) The bureau of corrections, and,~~

~~(d) Has sufficient design features to assure secure confinement of the prisoners therein as determined by the bureau of corrections~~].

(2) Final authority for approval of plans for the construction of a jail, or an addition or renovation of a jail shall rest with the *bureau's jail consultants* [~~bureau of corrections~~].

Section 45. KRS 441.430 is amended to read as follows:

(1) Any political subdivision, or combination of such subdivision, desiring to build a jail shall make application, in writing, for approval of the plans for such jail not less than 90 days before the advertising for bids for construction of the facility, or if bids are not to be let, 90 days before the construction commences.

(2) The *bureau's jail consultants* [~~bureau of corrections~~] shall review the plans and within 30 days render a decision as to whether the plans are approved. If the plans are not approved then construction shall not commence until the requisite approval is obtained.

Section 46. KRS 441.440 is amended to read as follows:

All construction of jails pursuant to approved plans shall be done as provided under those plans and no alterations to the plans or construction shall be made unless prior approval is obtained from the *bureau's jail consultants* [~~bureau of corrections~~].

Section 47. KRS 441.500 is amended to read as follows:

(1) If an accused is confined in a detention facility, he shall be transported as necessary in accordance with the following provisions, unless otherwise ordered by the court:

(a) If he is lodged in a city jail in the county where the trial is to be held, the city police shall carry out this duty.

(b) If he is lodged in an urban-county facility in the county where the trial is to be held, the jailer shall carry out this duty.

(c) In all other cases the sheriff of the county where the *prisoner is incarcerated* [~~trial is to be held~~] shall carry out this duty.

(2) If an accused is sentenced to confinement, the sheriff shall deliver him to the proper detention facility, with these exceptions:

(a) If he is sentenced to a facility which is operated by a city within the county where the trial is held, the city police shall deliver him to the proper facility.

(b) In the case of a sentence to an urban-county detention facility, the jailer shall carry out this duty.

(3) In the event that a county contracts with another county for the incarceration of its prisoners, the jailer of the county where the trial is to be held shall be responsible for transporting prisoners to and from the county where prisoners are incarcerated, except as otherwise agreed by contract. Any expense of such transportation shall be paid from the jail operating budget as provided in Sections 3 and 4 of this Act.

Section 48. In addition to amounts appropriated for jailer fees in House Bill 295 and Senate Bill 124, to implement the provisions of this Act there is hereby appropriated for the fiscal year 1982-1983 the sum of $1,500,000 and for the fiscal year 1983-1984 the sum of $1,000,000.

Section 49. The following KRS sections are repealed:

64.150 Jailers' fees.
64.170 Crediting jailers.
304.34-150 Jail access — Notice to court clerks of bondsmen's names.
441.210 "Station house" defined.
441.220 Female prisoners in city of first class — Mayor to designate places of detention.
441.230 Matron for county jail — Appointment salary and quarters.
441.240 Assistant matrons for station houses — Appointment, salary and quarters.
441.250 Qualifications and term of matrons.
441.260 Hours and duties of matrons.
441.270 Matron to attend court — Be present when female searched.
441.280 Notification of matron on receipt of female or child.
441.290 Jail visiting board in cities of first class.
441.300 Jail physician in counties containing 150,000 population.
441.310 Chaplain for jail in counties containing city of first class.
441.320 City jailer and deputy in cities of second class.
441.410 Definition.

Section 50. Section 3 of this Act is repealed effective July 15, 1984.

Section 51. Sections 30 to 34 shall become effective January 1, 1983.

Section 52. Section 35 of this Act shall become effective January 1, 1983. Whereas, it is increasingly difficult to fund and administer jails, an emergency is declared to exist and Section 4 shall become effective June 15, 1982, and Sections 1 to 3 and Sections 5 to 29 and Sections 35 to 50 shall become effective July 1, 1982.

HB 442, AN ACT relating to jails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The jailer may maintain a canteen for the benefit of prisoners lodged in the jail and may assign such jail employes and prisoners to operate the canteen as are necessary for efficient operation.

(2) All profits from the canteen shall be used exclusively for the benefit and recreation of the prisoners. The jailer shall keep books of accounts of all receipts and disbursements from the canteen and shall annually report to the county treasurer on the canteen account.

The Committee on Health and Welfare reported **HB 1** and **HB 484** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT relating to mental health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;

(2) "Danger" or "threat of danger to self, family or others" means substantial physical harm or threat of substantial physical harm upon self, family or others, including actions which deprive self, family or others of the basic means of survival including provision for reasonable shelter, food or clothing;

(3) "Department" means the Kentucky department for human resources;

(4) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing in-patient evaluation, care and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(5) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health care facility, or part thereof, other than designated forensic psychiatric facilities, approved by the Kentucky department for human resources as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution or health care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(6) "Judge" means any judge or justice of the court of justice or a trial commissioner of the district court acting under authority of SCR 5.030;

(7) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve his level of functioning, consistent with accepted professional practice in the least confining setting available;

(8) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment or discretion in the conduct of his affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior or emotional symptoms can be related to physiological, psychological or social factors;

(9) "Patient" means a person under observation, care or treatment in a hospital pursuant to the provisions of this chapter;

(10) "Petitioner" means a person who institutes a proceeding under this Chapter;

(11) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of his official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of his official duties, who is certified or eligible to apply for certification by the American board of psychiatry and neurology, inc.;

(c) A psychologist licensed at the doctoral level or certified at the master's level under the provisions of KRS chapter 319 who has been designated by the Kentucky board of examiners of psychology as competent to make examinations under this Act;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons; or

(e) A certified social worker licensed for the independent practice of clinical social work under the provisions of KRS 335;

(12) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(13) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill or mentally retarded person;

(14) "Secretary" means the secretary of the department for human resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) An authorized staff physician of a hospital may admit for observation, diagnosis, care and treatment any person who is mentally ill or who has symptoms of mental illness and who applies voluntarily therefor. An unemancipated person under eighteen (18) years of age may only be admitted under this section following application in his behalf by his parent or guardian, the application being signed by his parent or guardian in the presence of two (2) witnesses.

(2) An authorized staff physician of a hospital shall discharge any voluntary patient, including an unemancipated person under eighteen (18) years of age, who has recovered or whose hospitalization he determines to be no longer necessary or advisable.

(3) If a voluntary patient requests in writing his release, or if his release is requested in writing by his parent or guardian who signed the application for his admission, he shall be released unless further detained under the applicable provisions of this chapter.

(4) Any unemancipated person under eighteen (18) years of age admitted under this section shall be released or discharged after a period of sixty (60) days from the date of admission unless the court finds the continued voluntary hospitalization is in the best interest of the child and such further voluntary hospitalization shall not be in excess of periods of sixty (60) days without further court review.

SECTION 3. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

All proceedings for the involuntary hospitalization of mentally ill persons shall be initiated in the district court of the county where the person to be hospitalized resides or in which he may be at the time of the filing of a petition.

SECTION 4. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

No person shall be involuntarily hospitalized unless such person is a mentally ill person:

(1) Who presents a danger or threat of danger to self, family or others as a result of the mental illness;

(2) Who can reasonably benefit from treatment; and

(3) For whom hospitalization is the least restrictive alternative mode of treatment presently available.

SECTION 5. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) An authorized staff physician may order the admission of any person who is present at, or is presented at, a hospital. Within twenty-four (24) hours (excluding weekends and holidays) of the admission under this section, the authorized staff physician ordering the admission of the individual shall certify in the record of the individual that in his opinion the individual should be involuntarily hospitalized.

(2) Any individual who has been admitted to a hospital under subsection (1) of this section shall be released from the hospital within seventy-two (72) hours (excluding weekends and holidays) unless further detained under the applicable provisions of this chapter.

SECTION 6. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) Any peace officer who has reasonable grounds to believe that an individual is mentally ill and presents a danger or threat of danger to self, family or others if not restrained shall detain that person without a warrant. The peace officer shall, if no other party can be found, swear out a warrant and take the arrested person without unnecessary delay before a judge. Only in exceptional cases should the delay exceed twelve (12) hours. The judge shall release the individual if no warrant has been taken out. The judge shall order the person arrested to be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom shall be a physician. The qualified mental health professionals shall certify to the court within twenty-four (24) hours of the examination, their findings and opinions as to whether the person should be involuntarily hospitalized.

(2) If the criteria for involuntary hospitalization are certified by two (2) qualified mental health professionals, the court shall set a preliminary hearing within five (5) days from the date of arrest (excluding weekends and holidays) to determine if there is probable cause to believe the person should be involuntarily hospitalized.

(3) Prior to the preliminary hearing, the court shall notify the respondent, his legal guardian, if any and if known, and his spouse, parent(s), or nearest known relative or friend concerning the involuntary hospitalization proceedings and the date and purpose of the preliminary hearing; and the name, address and telephone number of the attorney appointed to represent the respondent.

(4) If upon completion of the preliminary hearing, the court finds there is probable cause to believe the person should be involuntarily hospitalized, the court shall order a final hearing within twenty-one (21) days from the date of the arrest to determine if the person should be involuntarily hospitalized for a period of sixty (60) days.

(5) Prior to the final hearing, the county attorney shall file in the record and serve a copy thereof upon the respondent, a statement setting forth the alleged factual reasons or basis upon which the Commonwealth intends to rely in seeking the involuntary hospitalization of the respondent. The required statement shall be served upon the respondent at the earliest practical time, in any event, sufficiently in advance of the final hearing to permit preparation for the hearing by respondent.

(6) If upon completion of the final hearing, the court finds the person should be involuntarily hospitalized, the court shall order the person hospitalized in a hospital where treatment is available for a period not to exceed sixty (60) consecutive days from the date of the court order.

SECTION 7. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) Proceedings for sixty (60) days or three hundred sixty (360) days involuntary hospitalization of an individual shall be initiated by the filing of a verified petition in district court.

(2) The petition shall be filed by a qualified mental health professional, peace officer, county attorney, commonwealth attorney, spouse, relative, friend or guardian of the individual concerning whom the petition is filed.

(3) The petition shall set forth:

(a) Petitioner's relationship to the respondent;

(b) Respondent's name, residence and current location, if known;

(c) The name and residence of respondent's parents, if living and if known, or respondent's legal guardian, if any and if known;

(d) The name and residence of respondent's husband or wife, if any and if known;

(e) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or that such person is unknown;

(f) Petitioner's belief, including the factual basis therefor, that the respondent is mentally ill and presents a danger or threat of danger to self, family or others if not restrained; and

(g) If the petition seeks a three hundred sixty (360) days involuntary hospitalization of the respondent, the petition shall further set forth that the respondent has been hospitalized for a period of thirty (30) days under the provisions of this chapter or KRS chapter 504 within the preceding six (6) months.

(4) Upon receipt of the petition the court shall examine the petitioner under oath as to the contents of the petition. If the petitioner is a qualified mental health professional, the court may dispense with such examination.

(5) If after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be involuntarily hospitalized, the court shall:

(a) Set a date for a preliminary hearing;

(b) Notify the respondent, his legal guardian, if any, and if known, and his spouse, parent(s), or nearest relative or friend concerning the allegations and contents of the petition and the date and purpose of the preliminary hearing; and the name, address and telephone number of the attorney appointed to represent the respondent;

(c) Cause the respondent to be examined without unnecessary delay, by two (2) qualified mental health professionals, at least one (1) of whom is a physician. The qualified mental health professional shall certify within twenty-four (24) hours (excluding weekends and holidays) their findings.

(6) (a) If the respondent is being presently detained under the provisions of this chapter, the court may order further detention of the respondent to accomplish the examination ordered by the court.

(b) If the respondent is not being presently detained under the provisions of this chapter, the court may issue a warrant for the arrest of the respondent commanding therein that the respondent be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom is a physician.

(7) When the court is authorized to issue a warrant for the arrest of the respondent, the court may, in its discretion, issue a summons. A summons so issued shall be directed to the respondent, shall command the respondent to appear at a time and place therein specified where the respondent shall be there examined by two (2) qualified mental health professionals, at least one (1) of whom is a physician, and shall command the respondent's appearance at the preliminary hearing. If a respondent who has been summoned fails to appear for such examination or at the preliminary hearing, a warrant may then be issued.

(8) If upon completion of the preliminary hearing, the court finds there is probable cause to believe the respondent should be involuntarily hospitalized, the court shall order a final hearing to determine if the respondent should be involuntarily hospitalized.

(9) If the court finds there is no probable cause, the proceedings against the respondent shall be dismissed, and the respondent shall be released from any detention.

(10) If upon completion of the final hearing, the court finds the respondent should be involuntarily hospitalized, the court shall order the respondent hospitalized in a hospital for the period of time that was requested in the petition.

SECTION 8. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

Upon the appearance of the person detained pursuant to Section 6 of this Act or upon the filing of a petition pursuant to Section 7 of this Act, the court shall appoint an attorney to represent the respondent with such appointment and representation to continue unless the respondent retains private counsel. The appointed attorney shall be forthwith notified by the clerk of the allegations in the petition and the date and purpose of the preliminary hearing.

SECTION 9. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

In any proceeding for involuntary hospitalization under the applicable provisions of this chapter, if the criteria for involuntary hospitalization are not certified by at least two (2) examining qualified mental *health professionals, the court shall, without taking any further action, terminate the proceedings and order the release of the person. The qualified mental health professionals shall certify to the court within twenty-four (24) hours (excluding weekends and holidays) of the examination, their findings and opinions as to whether the person shall be involuntarily hospitalized.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) Following the preliminary hearing but pending the final hearing, the court may order the person detained in jail, or in a hospital approved by the secretary for such purpose for the committing judicial district, or released for the purpose of community-based outpatient treatment.

(2) A hospital shall discharge a patient there detained and notify the court and attorneys of record if any authorized staff physician determines that the patient no longer meets the criteria for involuntary hospitalization.

(3) If a patient is discharged by the hospital pursuant to subsection (2), then the proceedings against the patient shall be dismissed.

(4) The release of the person pursuant to subsection (1) for the purpose of community-based outpatient treatment does not terminate the proceedings against the person, and the court ordering such release may order the immediate detention of the person at any time with or without notice if the court believes that it is to the best interest of the person or others that the person be detained pending the final hearing.

SECTION 11. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) The preliminary hearing shall be held not later than five (5) days (excluding weekends and holidays) from the time of respondent's detention under these proceedings. If the respondent is not detained under these proceedings, the preliminary hearing shall be held not later than five (5) days (excluding weekends and holidays) from the time of the examination of the respondent.

(2) The final hearing shall be held within twenty-one (21) days of the date of the detention or from the date of the examination, if not detained.

SECTION 12. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

The respondent shall be present at all hearings unless the respondent and his attorney intelligently waive respondent's right to be present, or unless the court makes a specific finding after the respondent has been brought to the place of the hearing that the respondent should be removed from the hearing because his conduct is so disruptive that the proceedings cannot continue in any reasonable manner.

SECTION 13. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

A qualified mental health professional retained by the respondent shall be permitted to witness and participate in any examination of the respondent.

SECTION 14. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) The preliminary hearing need not be formal and may include the receiving of the qualified mental health professional's reports as evidence. The hearing may be held by the court in chambers, at a hospital, or other suitable place. The respondent shall be afforded an opportunity to testify, to present, and cross-examine witnesses who appear and testify against him. The court may exclude all persons not necessary for the conduct of the hearing. The respondent and his attorney may waive respondent's right to a preliminary hearing.

(2) The final hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental or physical health of the respondent. The hearing may be held by the court in chambers, at a hospital, or other suitable place. The respondent shall be afforded an opportunity to testify, to present, and cross-examine witnesses against him. The manner of proceeding and rules of evidence shall be the same as those in any criminal proceeding including the burden of proof beyond a reasonable doubt. The court shall impanel a jury for the final hearing unless the respondent and his attorney waive respondent's right to a jury trial.

SECTION 15. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

Appeals from the final orders or judgments of the district court made and entered in proceedings under this chapter shall be taken in the same manner as other appeals from district court to circuit court. This appeal shall be advanced on the circuit court docket without motion or notice.

SECTION 16. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

At any time, and without notice, a person detained at a facility, or a relative, friend, guardian, representative, or attorney on behalf of such person, may petition for a writ of habeas corpus to question the cause and legality of such detention and request that the circuit court issue a writ for release.

SECTION 17. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) The court records of a respondent made in all proceedings pursuant to KRS Chapter 202A are hereby declared to be confidential and shall not be open to the general public for inspection except when such disclosure is provided in Section 18 of this Act.

(2) Following the discharge of a respondent from a treatment facility or the issuance of a court order denying a petition for a commitment, a respondent may at any time move to have all court records pertaining to the proceedings expunged from the files of the court. The county attorney shall be given notice of any such motion and shall have five (5) days in which to respond to same or request a hearing thereon.

(3) Any person seeking information contained in the court files or the court records of proceedings involving persons under this chapter may file a written motion in the cause setting out why the information is needed. A district judge may issue an order to disclose the information sought if he finds such order is appropriate under the circumstances and if he finds it is in the best interest of the person or of the public to have such information disclosed.

SECTION 18. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

In all proceedings under this chapter, it shall be the duty of the county attorney to assist the petitioner and represent the interest of the Commonwealth and to assist the court in its inquiry by the presentation of evidence.

SECTION 19. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) The certificate referred to in this chapter shall be in the form prescribed by the department. The certificate shall state that the respondent has been examined by each of the qualified mental health professionals making the certificate within twenty-four (24) hours (excluding weekends and holidays) prior to the date of the certificate. It shall state the facts and circumstances upon which the judgment of the examining physician is based and shall be sworn to before a notary or the clerk or judge of the court.

(2) The examiner shall be entitled to a fee for such examination and certification, to be paid by the county in which the petition is filed, upon a certified copy of an order of allowance made by the court holding the hearing.

SECTION 20. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) The court which orders any person to a hospital, under the provisions of this chapter, shall at once notify the department that such order has been made, advising of the sex and condition of the person.

(2) After the department has been so notified, the court shall order the sheriff of the county to transport the patient within forty-eight (48) hours (excluding weekends and holidays) from the county in which the person is located to the hospital designated by the department. The actual traveling expenses of persons transporting the patient to the institution shall be paid by the department. Each female committed to an institution shall be accompanied by a female attendant, unless accompanied by her mother, father, sister, brother, husband, daughter, or son.

(3) In returning any patient to the county from which he is sent, the cost of returning him shall be paid in the same manner, when necessary.

(4) Whenever an individual is involuntarily hospitalized by a court order the patient shall be transported to the hospital designated by the department and accompanied by the following documents:

(a) A copy of the petition for involuntary hospitalization, unless hospitalization takes place pursuant to Section 6 of this Act;

(b) The certificate of qualified mental health professionals; and

(c) The order of involuntary hospitalization.

(5) The hospital may refuse to receive any person who has been ordered to be involuntarily hospitalized by a court order if the papers presented with such person at the hospital do not comply with the provisions of this chapter or if it does not receive notification of the order of involuntary hospitalization as required by this chapter.

SECTION 21. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

Any person admitted to a hospital pursuant to the provisions of this chapter shall be initially examined by an authorized staff physician of the hospital as soon as practicable but not later than thirty-six (36) hours (excluding weekends and holidays) and a report entered into the medical record not later than forty-eight (48) hours (excluding weekends and holidays) after his admission.

SECTION 22. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

An authorized staff physician of a hospital shall discharge an involuntary patient when he no longer meets the criteria for involuntary hospitalization.

SECTION 23. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) An authorized staff physician may release an involuntary patient on convalescent leave status when the physician concludes that the patient would not present a danger or a threat of danger to self or others if provided with continued medical supervision in a less restrictive alternative mode of treatment. Release on convalescent leave status shall include notification to the hospitalizing court. Release on convalescent leave status does not terminate the involuntary hospitalization order and shall include provisions for a continuing responsibility by the hospital, and will include a plan of treatment by the hospital.

(2) The hospital from which such patient is given convalescent leave status may at any time readmit the patient without additional court proceedings. If there is reason to believe that it is to the best interest of the patient to be rehospitalized, the secretary or an authorized staff physician of the hospital may issue an order for the immediate rehospitalization of the patient. Such an order, if not voluntarily complied with, shall upon the endorsement by a judge of any court of the county in which the patient is a resident or is present, authorize any health or police officer to take the patient into custody and transport him to the responsible hospital. Notice of rehospitalization under this section shall be given to the originating court as soon as practicable and simultaneously with the order directing the rehospitalization if possible.

(3) Release on convalescent leave status shall not apply to persons held under hospitalization orders arising out of criminal charges unless consent of the appropriate court is obtained.

SECTION 24. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) Legal residents of the state who have become public charges in other states and have been returned to Kentucky because they have been involuntarily hospitalized may be immediately admitted to a hospital at the request of the secretary or his designated representative.

(2) Within seventy-two (72) hours (excluding weekends and holidays) of the admission date, the staff of the hospital shall determine the need of the person for further hospitalization. If two (2) qualified mental health professionals, at least one (1) of whom is a physician, conclude that the patient shall be involuntarily hospitalized, they shall file in the appropriate court a certification requesting involuntary hospitalization procedures be initiated under the provisions of this chapter unless the patient has agreed to remain voluntarily.

SECTION 25. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) If an individual ordered to be hospitalized pursuant to this chapter is eligible for hospital care or treatment by any agency of the United States, the court, upon receipt of certificate from such agency showing that facilities are available and that the individual is eligible for care or treatment therein, may order him to be placed in the custody of such agency for hospitalization. When any such individual is admitted pursuant to the order of such court to any hospital or institution operated by any agency of the United States within or without the state, he shall be subject to the rules and regulations of such agency. The authorized staff physician of any hospital or institution operated by such agency and in which the individual is so hospitalized shall with respect to such individuals be vested with the same powers as the authorized staff physicians of hospitals within the state with respect to detention, custody, transfer, conditional release or discharge of patients. Jurisdiction is retained in the appropriate courts of this state at any time to inquire into the mental condition of an individual so hospitalized and to determine the necessity for continuance of the hospitalization, and every order of hospitalization issued pursuant to this section is so conditioned.

(2) An order of court of competent jurisdiction of another state or the District of Columbia authorizing hospitalization of an individual by any agency of the United States shall have the same force and effect as to the individual while in this state as in the jurisdiction in which is situated the court entering the order; the courts or the district issuing the order shall be deemed to have retained jurisdiction of the individual so hospitalized for the purpose of inquiring into his mental condition and determining the necessity for continuance of his hospitalization as is provided in subsection (1) of this section with respect to individuals ordered hospitalized by the courts of this state. Consent is hereby given to the application of the law of the district in which is located the court issuing the order for hospitalization with respect to the authority of the chief officer of any hospital or institution operated in this state by any agency of the United States to retain custody, transfer, conditionally release, or discharge the individual hospitalized.

SECTION 26. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) Upon receipt of a certificate of the United States public health service or such other agency of the United States government that facilities are available for the care or treatment of any person heretofore hospitalized in any mental hospital or other institution in this state for the care of mentally ill persons and that such person is eligible for such care or treatment, the secretary, upon recommendation by any such hospital or institution in this state, is hereby authorized to cause the transfer of any such person to the United States public health service or other agency of the United States government for care or treatment. Upon effecting any such transfer, the hospitalizing court shall be notified thereof by the secretary.

(2) Any person transferred as provided in this section shall be deemed to be placed in the custody of the United States public health service or other agency of the United States government pursuant to the original hospitalization the same as if he had been originally so hospitalized.

(3) No person shall be transferred to any agency of the United States if he be confined pursuant to conviction of any felony or misdemeanor or if he has been acquitted of the charge solely on the ground of mental illness unless prior to transfer the court issuing the confining order shall enter an order to transfer after the motion and hearing. Any person transferred as provided in this section to any agency of the United States shall be hospitalized by such agency pursuant to the original order of hospitalization.

SECTION 27. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) Each and every patient hospitalized under this chapter shall have the following rights:

(a) The right to be adequately informed as to their individual treatment program;

(b) The right to assist in the planning of their treatment program;

(c) The right to refuse treatment subject to the provisions of Section 28 of this Act;

(d) The right to maintain, keep, and use personal possessions and money;

(e) The right to receive visitors;

(f) The right to receive payment for work performed on behalf of the hospital;

(g) The right to refuse intrusive treatment subject to the provisions of Section 28 of this Act;

(h) The right to be free from unreasonable use of seclusion and restraint;

(i) The right to seek relief from participating in their treatment plan.

(2) The secretary shall adopt rules and regulations for the proper administration and enforcement of this chapter. Such regulations shall be filed with the legislative research commission as provided in KRS Chapter 13.

SECTION 28. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) Every hospital approved under the provisions of this chapter shall have a review committee of three (3) qualified mental health professionals appointed by the hospital director. This review committee shall have the authority to review the appropriateness of a patient's individual treatment plan.

(2) Upon the refusal of an involuntary patient to participate in any or all aspects of his treatment plan, the review committee shall examine the appropriateness of the patient's individual treatment plan. Within three (3) days of the refusal, the review committee shall meet with the patient and his counsel or other representative to discuss their recommendations.

(3) If the patient still refuses to participate in any or all aspects of his individual treatment plan, the hospital may petition the district court for a de novo determination of the appropriateness of the proposed treatment. Within seven (7) days, the court shall conduct a hearing, consistent with the patient's rights to due process of law, and shall utilize the following factors in reaching its determination:

(a) Whether the treatment is necessary to protect other patients or the patient himself from harm;

(b) Whether the patient is incapable of giving informed consent to the proposed treatment;

(c) Whether any less restrictive alternative treatment exists; and

(d) Whether the proposed treatment carries any risk of permanent side effects.

(4) Upon the completion of the hearing, the court shall enter an appropriate judgment.

SECTION 29. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) Whenever an inmate of any penal and correctional institution is reported by the staff of that institution to the bureau of corrections as being so mentally ill that he cannot be properly treated with the facilities at the disposal of the staff, the bureau of corrections shall have an examination conducted on such inmate by a physician.

(2) If this examination reveals that the inmate is mentally ill and appropriate treatment cannot be properly carried out in the institution in which he is incarcerated or within the facilities at the disposal of the bureau of corrections, the secretary may then order his transfer to a hospital or forensic psychiatric facility, where he shall remain until the staff of the facility which received him advises the secretary that his condition has so improved that he may be returned to the institution from which he came. The secretary shall then authorize his return. If the prisoner's sentence expires during his stay in the facility, and he is still in need of involuntary hospitalization, then the staff of the facility shall petition the applicable district court for further involuntary hospitalization of the patient under provisions of this chapter.

(3) During the time of the prisoner's stay in a facility his legal status as a prisoner shall remain unchanged until the termination of his sentence. The facility staff shall have no authority to parole, grant permission to visit relatives or friends outside the facility, or discharge the individual unless otherwise agreed to by the bureau of corrections. The time the prisoner spends in the facility shall be counted as a part of the prisoner's sentence.

SECTION 30. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

Persons carrying out duties or rendering professional opinions as provided in this chapter shall be free of personal liability for such actions, provided that such activities are performed in good faith within the scope of their professional duties and in a manner consistent with accepted professional practices.

SECTION 31. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

There shall be no privilege as to any relevant communications between qualified mental health professionals and patients. Qualified mental health professionals are authorized to disclose communications relating to diagnosis and treatment of the patient's mental condition in proceedings under this chapter.

SECTION 32. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Kentucky Mental Health Hospitalization Act."

SECTION 33. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) Any person who willfully causes or conspires with or assists another in causing:

(a) The unwarranted hospitalization of any individual under the provisions of this chapter; or

(b) The denial of any individual of any of the rights accorded to him under the provisions of this chapter;

shall be guilty of a class A misdemeanor.

(2) Any person who violates the confidentiality of any mental health record under the provisions of this chapter shall be guilty of a class B misdemeanor.

Section 34. KRS 23A.200 is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70); however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters [~~202A,~~] 202B and *387* [~~203~~]. The filing fee shall be paid to the clerk at the time the case is filed.

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a)	Filing a third-party complaint	$10.00
(b)	Preparing a certification	1.00
(c)	Providing a copy of a document (per page)	.25
(d)	Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e)	Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk at the disposition of the action by the party against whom the costs have been assessed as follows:

(a)	For a jury of more than six (6) persons	$25.00
(b)	For a jury of six (6) persons	12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

(a)	Service of process (per process)	$ 3.00

(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

Section 35. KRS 24A.170 is amended to read as follows:

(1) The filing fee for a civil case in district court shall be paid to the clerk at the time the case is filed and shall be twenty-five dollars ($25), except as provided below:

(a) Where the amount in controversy is five hundred dollars ($500) or less, the fee shall be ten dollars ($10).

(b) Where the case involves the probate of an estate, the fee shall be ten dollars ($10).

(c) Where the case involves the appointment of guardians, committees, and curators and is not related to a pending probate proceeding, the fee shall be ten dollars ($10) for each appointment.

(d) Where the matter involves a name change for a natural person, the fee shall be ten dollars ($10).

(e) Where the case involves a paternity determination under KRS Chapter 406, the fee shall be ten dollars ($10).

(f) *Where the case involves mental health proceedings under KRS Chapters 202A, 202B or 387, there shall be no fee.*

(g) Filing forcible detainer actions - - $10.00.

(2) Additional fees shall be charged in district court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	1.00
(c) Providing a copy of a document (per page)	.15
(d) Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e) Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) The jury fee shall be assessed as costs and shall be paid to the clerk by the party against whom the costs have been assessed as follows:

(a) For a jury of six (6) persons 12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request:

(a) Service of process (per process) 3.00

(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes.

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

(8) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

Section 36. KRS 202B.020 is amended to read as follows:

Hospitalization for the care and treatment of mentally retarded persons shall be provided by the same procedures as hospitalization of mentally ill persons as provided in KRS Chapters *387* [~~203~~] and 210 and as set forth in *Sections 2, 26, and 29 of this Act* [~~KRS 202A.020 to 202A.160 and 202A.190~~], except that:

(a) When the court appoints qualified persons to examine an allegedly mentally retarded respondent such persons shall, where possible, have made a special study of mental retardation;

(b) A qualified mental retardation professional may be substituted for one but not both physicians when certification is required for involuntary hospitalization under this chapter; and

(c) All functions of a hospital as set forth in KRS Chapter 202A may be carried out by a mental retardation residential treatment center.

Section 37. KRS 202B.040 is amended to read as follows:

When a person who is alleged to be mentally retarded is involuntarily committed, there shall be a determination that:

(a) He is a mentally retarded person;

(b) He presents *(a)* [~~an immediate~~] danger or *a* [~~an immediate~~] threat of danger to self or others;

(c) The least restrictive alternative mode of treatment requires placement in a hospital or mental retardation residential treatment center; and

(d) Treatment that can reasonably benefit the individual is available in the hospital or mental retardation residential treatment center.

Section 38. KRS 203.010 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Mentally ill person," "patient," "physician," and "hospital" have the same meaning as defined in KRS *Chapter 202A* [~~202A.010~~];

(2) "Incompetency" or "incompetent person" shall apply to a person of unsound mind who from confirmed bodily infirmity is unable to make known to others by speech, sign or otherwise his thoughts or desires and by reason thereof is unable to manage his estate, or one whose mind because of mental illness or infirmity or old age has become so disabled as to render him unable to manage his estate.

Section 39. KRS 208.460 is amended to read as follows:

If it appears that a child committed to the department is mentally ill or *retarded* [~~defective~~], the department may use state mental hospital facilities or other resources for observation of mental conditions. This period of observation shall not exceed thirty (30) days. After thirty (30) days, the child shall be removed or a mental inquest proceeding through *district* [~~circuit~~] court shall be obtained pursuant to the appropriate provisions of KRS Chapters 202A and 202B. If it appears from such observations that the child requires treatment or hospitalization for mental illness or *retardation* [~~defect~~], the department shall cause proceedings to be instituted pursuant to the appropriate provisions of KRS Chapters 202A and 202B.

Section 40. KRS 210.140 is amended to read as follows:

(1) Pursuant to agreement entered into by the heads of the departments concerned, a patient or inmate of a state institution operated by one state department may be transferred to a state institution operated by another state department, except that:

(a) An inmate may be transferred from a penal or correctional institution only as provided in KRS Chapter 202A and KRS 431.240;

(b) No patient or inmate may be transferred to a penal or correctional institution unless he has been committed to such institution by judgment of a court;

(c) No patient or inmate may be transferred to an institution for the mentally ill or mentally retarded except for a period of observation not to exceed sixty (60) days, unless he has been hospitalized in accordance with *Section 7 of this Act* [~~KRS 202A.080~~]. However, this shall not apply to transfers under KRS [~~202A.190 or~~] 431.240 *or Section 29 of this Act.*

(2) When a patient or inmate hospitalized by court order to one institution is transferred to another institution pursuant to this section, the order of hospitalization shall be deemed to apply to the institution to which transferred.

Section 41. KRS 210.720 is amended to read as follows:

(1) Every patient admitted to a facility operated or utilized by the department, except prisoners transferred pursuant to *Section 29 of this Act* [~~KRS 202A.190~~], shall be charged for their board, maintenance and treatment pursuant to this section and the department may sue to recover from the patient or person responsible for the patient for liability as established by this section.

(2) The secretary shall fix the patient cost per day for board, maintenance and treatment for each facility operated by the department at frequent intervals which shall be the uniform charge for all persons receiving such services.

(3) The liability of any patient, or person responsible for the patient, for payment of the charge for board, maintenance and treatment shall be based upon ability to pay by ascertaining the entire financial resources available to the patient, or to the person responsible for the patient, and shall include, but shall not be limited to: insurance, all third party coverage including medicare and medicaid and other governmental programs, cash, stocks, bonds, and all other property owned by the patient or controlled by the person responsible for the patient. The secretary shall establish a reasonable means test for determining payment liability of patients and persons responsible for patients. In no event shall liability be in excess of the cost patient per day established by the secretary.

(4) Nothing in KRS 210.710 to 210.760 shall be construed to limit any liability of insurance companies or other third party payors including medicare and medicaid and other governmental programs.

Section 42. KRS 504.030 is amended to read as follows:

(1) When a defendant is acquitted of an offense for lack of criminal responsibility by reason of mental disease or defect, as defined in KRS 504.020, the court may on motion of the prosecuting attorney or on its own motion proceed immediately to have the defendant committed for examination and possible detention pursuant to the provisions of KRS Chapter 202A or 202B.

(2) To facilitate the procedure established in subsection (1), the court *may order the detention of the defendant for a period of ten (10) days to allow for proceedings to be initiated against the defendant for examination and possible detention pursuant to the provisions*[~~, if it has reasonable grounds to believe that the defendant will cause injury to himself or others if not immediately restrained, may order him to be hospitalized in a state hospital for a period not to exceed seven consecutive days. The order of commitment under this subsection shall be pursuant to and under the authority~~] of KRS Chapter 202A or 202B.

Section 43. Section 152 of 1980 Acts Chapter 280 is amended to read as follows:

The following sections of the Kentucky Revised Statutes are repealed:

199.335 Specified persons to report child abuse or neglect — Report to law enforcement agency — Search warrant — Protective custody — Immunity from liability.
199.341 Interstate compact on placement of children.
199.343 Definitions of terms in interstate compact.
199.345 Financial responsibility for child placed and agreements under interstate compact.
199.347 Court may place child in foreign state under compact.
199.350 Importation of dependent children.
199.370 Exceptions to regulations on importation — Waiver.
199.375 Voluntary commitment of children to department — Support — Care — Release.
199.460 Duties of department concerning child welfare.
199.463 Mandatory examinations for foster children.
199.465 Review of children placed in foster homes.
199.601 Voluntary termination of parental rights — Petition — Hearing.
199.603 Involuntary termination of parental rights of parent of dependent, neglected or abused child.
199.605 Termination of parental rights on birth of illegitimate children.
199.607 Termination of parental rights of father of child born out of wedlock.
199.609 Proceedings to terminate parental rights to be in circuit court — Contents of petition for involuntary termination.
199.611 Order of termination.

199.613. Parents not to be named in termination order — All rights terminated except right to inherit.
199.615 Records of proceeding to terminate parental rights confidential.
199.617 Appeal from order for involuntary termination of parental rights.
208.010 Definitions for KRS 208.010 to 208.540 and 208.990.
208.020 Jurisdiction of juvenile session of district court — Jury trial.
208.030 Juvenile record — Juvenile docket.
208.060 Conduct of hearings.
208.070 Preliminary inquiry — Style and contents of petition.
208.080 Issuance of summons and notice — Temporary custody of child.
208.083 Mandatory examinations for children in temporary placement.
208.090 Method of serving summons and notice.
208.100 Enforcement of summons — Warrant.
208.110 Law of arrest applicable to children.
208.120 Child not to be detained in police station, lockup, jail or prison — Exception.
208.130 Detention facilities — Agreement for use of state reception-diagnostic centers — Department operation of detention facilities.
208.140 Investigation before disposition of case.
208.150 Examination of child found to be mentally ill or defective.
208.160 Physical examination and disposition of child not in normal health.
208.170 Proceedings against children suspected of felony.
208.180 Disposition of child convicted of felony or misdemeanor.
208.190 Decree in proceedings concerning children who are charged with crime.
208.192 Detention hearing — Right to counsel.
208.194 Adjudication of felony offense — Institutionalization — Shock probation.
208.196 Physical evidence — How obtained and utilized — Disposition.
208.198 Notification of disposition and placement of child.
208.200 Probation of commitment of child convicted of public offense.
208.205 Modification or termination of order of commitment, protective supervision, or probation.
208.220 Department for human resources may assist juvenile courts in placing children — County contributions.
208.230 Court may coerce cooperation of parents or other persons in support of order or decree.
208.235 Bond of parent or guardian of delinquent child, required when — Conditions — Forfeiture.
208.240 Restitution or reparation by child committing public offense.
208.250 Religious faith of parents to be considered in placing child in home or committing to an institution or agency.
208.260 Girls to be accompanied by woman attendant or relative — Reports of violations.
208.270 Commitment order and information to be furnished department.
208.275 Unconditional release from custody of department — Expungement of record — Penalty.
208.280 Parents or estate to contribute to support and education of child when able.
208.300 Reports by persons in charge of homes or institutions to which a child is probated — Power of department to make visitation and inspections.
208.310 Advisory boards of juvenile courts.
208.320 Chief probation officers and assistants in county having city of first or second class or urban-county government — Volunteer probation officers.
208.330 Duties of probation officers.
208.340 Information obtained by probation officers confidential — Exceptions.
208.350 Use of evidence in subsequent actions prohibited.
208.360 Tax levies and appropriations by cities and counties for purposes of KRS 208.010 to 208.540.
208.370 Fees allowed in juvenile court proceedings.
208.380 Appeals.
208.400 Duties of department concerning existing institutions and development of additional facilities.
208.403 Rehabilitation center for delinquent girls constructed by women's clubs, powers of department.
208.410 Program of care, treatment and rehabilitation of children committed to department.
208.420 Regional reception-diagnostic centers — Use.
208.430 Powers of department during period of commitment.
208.440 Receipt and disbursement of funds for board, lodging and care of children on probation — Department may accept gifts, devises or bequests.

208.450 Medical and surgical care for children committed to department.
[~~208.460 Disposition of mentally ill or defective child committed to department.~~]
208.470 Disposition of child incapable of benefiting from treatment by department facilities.
208.510 Violation of supervised placement conditions.
208.520 Design and operation of institutional facilities — Vocational education — Employment of children — Use or disposal of farm or other products.
208.530 Education of children in institutions.
208.540 Mileage and expense allowance to officer conveying child to institution or facility.
208.600 Text of compact.
208.610 Juvenile compact administrator.
208.620 Supplementary agreements.
208.630 Financial arrangements.
208.640 Responsibilities of state departments, agencies and officers.
208.650 Additional procedures not precluded.
208.660 Execution of additional article.
208.670 Execution of amendment.
208.990 Penalties.

Section 44. The following sections of the Kentucky Revised Statutes are repealed:
202A.010 Definitions.
202A.020 Voluntary admission to hospital — Application — Discharge — Release.
202A.030 Involuntary admission to hospital without court order.
202A.040 Detention of suspected mentally ill person without warrant.
202A.050 Restraining complaint — Warrant — Examination — Commitment — Hearing.
202A.060 Court determination of mental condition.
202A.070 Proceedings for 60-day involuntary hospitalization.
202A.080 Proceedings for 360-day involuntary hospitalization.
202A.085 Proceedings deemed mental inquests — Commonwealth attorney and county attorney to represent Commonwealth.
202A.090 Form of certificate — Fee — Three-day limit.
202A.100 Notification of department — Transportation of patient.
202A.110 Examination by physician required within thirty-six hours.
202A.120 Conditions for discharge of involuntary patient.
202A.130 Conditions for release of involuntary patient on convalescent status — Rehospitalization.
202A.140 Return of public charges from other states.
202A.150 Hospital care or treatment by agency of United States.
202A.160 Transfer to United States public health service or other agency.
202A.170 Patients to be informed of rights.
202A.180 Rules and regulations on patients' rights, use of seclusion and restraints, transfer and release.
202A.190 Transfer of inmate to hospital or psychiatric facility.
202A.200 Exemption from personal liability.
202A.210 Title.
202A.220 Applicability, 1980 Acts Chapter 280, Section 150, effective 7-1-82.
202A.990 Penalties.
23A.200 Fees for civil cases, 1980 Acts Chapter 396, Section 30, effective 7-1-82.
202B.020 Hospitalization for mentally retarded — Court examination, 1980 Acts Chapter 396, Section 37, effective 7-1-82.

Section 45. This Act shall become effective on July 1, 1982.

HB 484, AN ACT relating to saving people from choking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 219 IS CREATED TO READ AS FOLLOWS:

(1) Each food service establishment, having an on premises seating capacity of twenty-five (25) persons or more, shall post inside the establishment, in a location conspicuous to employes, a choke-saving techniques poster meeting the following requirements.

(2) The choke-saving techniques poster shall meet the following specifications:

(a) The dimensions of the poster shall not be less than fifteen (15) inches by twenty (20) inches;

(b) The poster shall depict through illustration and description procedures for the removal of food which is lodged in a person's throat; and

(c) The techniques illustrated and described shall include, but need not be limited to, the procedures whereby the choking person is grasped around the lower chest and upper abdomen and given a quick jerk; thereby putting increased interabdominal pressure on the lungs and expelling the foreign matter.

(3) The department for human resources shall produce or requisition the production of the choke-saving techniques poster as provided in this Act and shall supply the posters to the local health departments for distribution without cost to food establishments.

The Committee on Transportation reported **HB 312** and **HB 463** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 312, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.480 is amended to read as follows:

(1) No tow truck shall be operated upon the highways of the Commonwealth unless there is painted or otherwise firmly affixed to the vehicle on both sides thereof, in a color or colors vividly contrasting to the color of the vehicle, the name and address of the owner, in letters at least two inches (2") high. For the purposes of this section, "tow truck" shall mean any motor vehicle which is constructed and used primarily for towing, lifting, or otherwise moving disabled vehicles.

(2) Tow trucks registered under the provisions of KRS 186.050 shall be issued a tow truck permit decal by the department and shall display same on the driver's side of the front bumper in accordance with such regulations as the department may promulgate in the furtherance of this section.

(3) No vehicle shall haul with a towline more than one (1) other vehicle. The towline shall not be over fifteen (15) feet in length, and a white cloth or flag shall be fastened to the towline at or near the center of the line, during both day and night so as to make it plainly discernible. No vehicle shall at one (1) time haul more than two (2) vehicles connected in such a manner as to keep them uniformly spaced.

HB 463, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.412 is amended to read as follows:

(1) Every person seeking a license, or a renewal of a license for the operation of a motor vehicle, motorcycle, moped or a non-driver identification card shall apply in person to the circuit court clerk of the county in which the applicant resides and shall make application upon a form furnished by the department of transportation. The application form shall contain and shall require the full and legal name and signature, date of birth, social security number, sex, present resident address of the applicant and briefly describe the applicant. It shall also state whether the applicant has previously been licensed as an operator and if so, when and by what state or county, whether any license has ever been canceled, suspended, revoked or refused, and if so, the date of and reason for the cancellation, suspension, revocation or refusal, and such other information as may be required.

(2) The department of transportation shall issue a plastic laminated operator's license bearing thereon a color photograph of the licensee, which photograph shall be taken by the circuit clerk in such a manner that one exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413.

(3) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(4) The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. Such temporary license shall be valid in lieu of the permanent license during the certification period and must be destroyed upon receipt of the permanent operator's license.

(5) Every person seeking a color photo non-driver identification card may apply in person to the circuit clerk in the county in which he resides. Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained on the form.

(6) Military personnel and other licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo."

(7) The department shall provide on each license to operate motor vehicles or motorcycles issued *the licensed driver's blood type and* a statement whereby the owner of such license may certify in the presence of two witnesses his willingness to make an anatomical gift under KRS 311.195.

The Committee on Counties and Special Districts reported **HB 379,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 379, AN ACT relating to misdemeanants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.140 is amended to read as follows:

When *a defendant has been duly convicted of a crime and* the punishment for *the* [~~a~~] crime is imprisonment in the county jail, the *defendant may be worked at some community service related project in the county where he is imprisoned* [~~jury may, in its discretion, in those cases in which it is authorized to fix the punishment, provide in its verdict that the defendant shall work at hard labor during the time of his sentence of imprisonment, and the presiding judge at such a trial shall inform the jury by an instruction that it may so provide in its verdict. When such a verdict is returned, or when the case is tried by the court or the punishment is authorized to be fixed by the court, a judgment shall be rendered directing that the defendant shall work at hard labor during the time of his sentence of imprisonment, as the verdict provides~~].

SECTION 2. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section community service related project means work for a county, a city or a special district or an agency thereof. Prisoner work on community service related projects shall not confer a private benefit on a person except as may be incidental to the public benefit.

(2) Pursuant to a written policy adopted by the fiscal court on the advice of the jailer, the jailer may permit certain prisoners to work on community service related projects. Before a prisoner is permitted to work in this type project, the county judge/executive shall sign his approval to the prisoner's participation.

(3) In determining which prisoners may be worked on community service related projects and the nature of work to which a prisoner may be assigned, the jailer and the county judge/executive shall consider the physical ability of the prisoner and the security of the jail and the general public.

(4) The place of working such prisoners shall be determined by the county judge/executive and he shall enter an order on the order book of the county judge/executive, specifying the manner in which the prisoner may be worked.

(5) Participation in community services related projects shall not be deemed employment for any purpose.

Section 3. KRS 441.005 is amended to read as follows:

As used in KRS 441.005 to *441.060* [~~441.200~~], 64.070 and 64.150, unless the context otherwise requires:

(1) "Jail" means a jail as defined in KRS 441.410.

(2) "Prisoner" means any person confined in jail pursuant to any code, ordinance, law, or statute of any unit of government and who is:

(a) Charged with or convicted of an offense; or

(b) Held for extradition or as a material witness; or

(c) Confined for any other reason.

(3) "Unit of government" means that unit of government including the United States government whose law, statute, ordinance, or code a prisoner is charged with violating. In the event of a person imprisoned for contempt of court, the state shall be deemed the responsible unit of government.

Section 4. The following sections of the Kentucky Revised Statutes are repealed:

441.065 Use and administration of jail in county containing city of first class, after establishment of workhouse or penal farm.

441.070 Fiscal court or urban-county council may establish workhouse.

441.080 Joint construction, management and use of workhouse.

441.090 Manager of workhouse — Appointment — Duties.

441.110 Physician for workhouse.
441.120 Place prisoners to work — County judge/executive to designate.
441.130 Cost of keeping working prisoners — Who pays — Housing for work crews.
441.140 Rules governing working prisoners.
441.150 Managers and guards for work crews.
441.160 Prisoners transferred to workhouse — Procedure.
441.170 Capias pro fine — Persons arrested on may be delivered to workhouse.
441.200 Disposition of prisoners — Jailer to report.
441.205 Workhouse or penal farm in county containing city of first class.

Committee Substitute to **HB 379** is as follows:

HB 379, AN ACT relating to misdemeanants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.140 is amended to read as follows:

When *a defendant has been duly convicted of a crime and* the punishment for *the* [~~a~~] crime is imprisonment in the county jail, the *defendant may be worked at some community service related project in the county where he is imprisoned* [~~jury may, in its discretion, in those cases in which it is authorized to fix the punishment, provide in its verdict that the defendant shall work at hard labor during the time of his sentence of imprisonment, and the presiding judge at such a trial shall inform the jury by an instruction that it may so provide in its verdict. When such a verdict is returned, or when the case is tried by the court or the punishment is authorized to be fixed by the court, a judgment shall be rendered directing that the defendant shall work at hard labor during the time of his sentence of imprisonment, as the verdict provides~~].

SECTION 2. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section community service related project means work for a county, a city or a special district or an agency thereof. Prisoner work on community service related projects shall not confer a private benefit on a person except as may be incidental to the public benefit.

(2) Pursuant to a written policy adopted by the fiscal court on the advice of the jailer, the jailer may permit certain prisoners to work on community service related projects. Before a prisoner is permitted to work in this type project, the county judge/executive or his designee shall sign his approval to the prisoner's participation.

(3) In determining which prisoners may be worked on community service related projects and the nature of work to which a prisoner may be assigned, the jailer and the county judge/executive shall consider the physical and mental ability of the prisoner and the security of the jail and the general public. No prisoner shall be assigned to unduly hazardous work that would endanger the life or health of the prisoner or others.

(4) Any prisoner may, for a valid medical reason, decline to work on community service related projects. No prisoner shall be punished or otherwise penalized for such refusal.

(5) The sentencing judge may consider a prisoner's participation in community service related projects in determining whether to grant parole pursuant to KRS 439.177.

(6) The place of working such prisoners shall be determined by the county judge/executive and he shall enter an order on the order book of the county judge/executive, specifying the manner in which the prisoner may be worked.

(7) Participation in community services related projects shall not be deemed employment for any purpose.

Section 3. KRS 441.005 is amended to read as follows:

As used in KRS 441.005 to *441.060* [~~441.200~~], 64.070 and 64.150, unless the context otherwise requires:

(1) "Jail" means a jail as defined in KRS 441.410.

(2) "Prisoner" means any person confined in jail pursuant to any code, ordinance, law, or statute of any unit of government and who is:

(a) Charged with or convicted of an offense; or

(b) Held for extradition or as a material witness; or

(c) Confined for any other reason.

(3) "Unit of government" means that unit of government including the United States government whose law, statute, ordinance, or code a prisoner is charged with violating. In the event of a person imprisoned for contempt of court, the state shall be deemed the responsible unit of government.

Section 4. The following sections of the Kentucky Revised Statutes are repealed:

441.065 Use and administration of jail in county containing city of first class, after establishment of workhouse or penal farm.
441.070 Fiscal court or urban-county council may establish workhouse.
441.080 Joint construction, management and use of workhouse.
441.090 Manager of workhouse — Appointment — Duties.
441.110 Physician for workhouse.
441.120 Place prisoners to work — County judge/executive to designate.
441.130 Cost of keeping working prisoners — Who pays — Housing for work crews.
441.140 Rules governing working prisoners.
441.150 Managers and guards for work crews.
441.160 Prisoners transferred to workhouse — Procedure.
441.170 Capias pro fine — Persons arrested on may be delivered to workhouse.
441.200 Disposition of prisoners — Jailer to report.
441.205 Workhouse or penal farm in county containing city of first class.

Orders of the Day

SB 8 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **SB 8** be passed.

On the roll call the vote was yeas 82-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Yates. Nays 0.

SB 8 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 8** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 14 taken from the Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved that **SB 14** be passed.

On the roll call the vote was yeas 80-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Ford, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, White. Nays 7-Bruce, Dawahare, Deskins, Farrow, Foster, Little, Van Horn.

SB 14 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 14** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 99, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stone moved the adoption of the Committee Substitute to **HB 99.** Agreed.

Representative Stone moved that **HB 99,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 66-Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Holloway, T. Jones, Kidd, List, Long, Mann, McBee, McNutt, Morris, Nett, Noe, O'Brien, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Seum, B. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 21-Allen, Arnold, Barrows, Caldwell, Deskins, Farrow, R. Jones, Layman, LeMaster, Lile, Little, Lundergan, Maggard, Meyer, Moberly, Moore, Noland, Pearman, Perkins, Priddy, Thomason.

HB 99, by way of Committee Substitute, was passed and the title agreed to.

Representative Stone moved that the vote by which **HB 99,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 140, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Amendment No. 1 to **HB 140.** Agreed.

Representative Long moved that **HB 140,** as amended, be passed.

On the roll call the vote was yeas 79-Arnold, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington,Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Layman, LeMaster, Lile, List, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Pearman, Perkins, Petty, Rapier, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, Worthington, Yates. Nays 7-Allen, Blevins, Dunn, Mann, Noe, Priddy, Thomas.

HB 140, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 140,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 374, with Committee Amendments and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Amendment No. 1 to **HB 374.** Agreed.

Representative Richards moved the adoption of the Committee Amendment No. 2 to **HB 374.** Agreed.

Representative Richards moved that **HB 374,** as amended, be passed.

On the roll call the vote was yeas 77-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, LeMaster, Lile, Little, Long, Maggard, Mann, McBee, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Schmidt, B. Smith, Stone, Stumbo, Thomason, Van Horn, White, Worthington, Yates. Nays 7-Cyrus, Gray, Hancock, List, Meyer, Pearman, Seum.

HB 374, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 374,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 386, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Substitute to **HB 386.** Agreed.

Representative LeMaster moved that **HB 386,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 67-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Burch, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Freibert, Gray, Hancock, Handy, Harper, Hines, Holloway, R. Jones, T. Jones, Kenton, Kidd, LeMaster, List, Little, Long, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, O'Brien, Patrick, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Seum, Stone, Thomas, Thomason, Tobin, Todd, Worthington, Yates. Nays 22-Allen, Brinkley, Brown, Bruce, Burnette, Cline, Ford, Foster, Haering, Head, Heleringer, Holbrook, Layman, Lile, Noland, Pearman, Rattliff, B. Smith, Stumbo, Turner, Van Horn, White.

HB 386, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 386,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 445 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 445** be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kidd, Layman, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Blevins.

HB 445 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 445** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 383, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of the Committee Amendment No. 1 to **HB 383.** Agreed.

Representative Brown moved that **HB 383,** as amended, be passed.

Representative Williams moved that **HB 383,** as amended, be laid on the Clerk's desk. Agreed.

HR 30, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Amendment No. 1 to **HR 30.** Agreed.

Representative LeMaster moved that **HR 30,** as amended, be adopted.

HR 30, as amended, was adopted by voice vote.

SB 61, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 61** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0.

SB 61 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 61** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

The following meetings were announced.

Committee on Rules: On adjournment, Room 316.

Committee Chairmen: Thirty minutes after adjournment today, Room 105.

State Government: Special meeting, Wednesday, 10:00 a.m., Room 105.

Judiciary-Civil: Wednesday, 8:15 a.m., Room 104.

Labor and Industry: Special meeting, on adjournment, Room 104.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 2 to **SB 47,** by Representative Deskins:

Amend printed copy of **SB 47,** page 1, line 17, by inserting at the beginning of the paragraph before the sentence beginning "Nothing herein" the following language: "*However, any information obtained by the department relating to hazardous waste shall be available to the federal Environmental Protection Agency without restriction, provided that the federal Environmental Protection Agency treat information designated confidential by the owner in accordance with federal laws and regulations pertaining to confidential information.*"

Floor Amendment No. 3 to **SB 47,** by Representative Blandford:

Amend printed copy of **SB 47,** page 1, line 13, after the partial word "tion" the following language: "*but not designated as such by the department due to the failure of the owner to make a satisfactory showing of confidentiality*"

Representative Todd moved the adoption of the following Legislative Citation No. 19:

The House of Representatives of the Commonwealth of Kentucky hereby commends you, the Rescue Squad of Pulaski County, for your benevolent spirit and your excellent service in providing help in various and immediate emergencies. Your humanitarian acts, so vital to the well-being of your fellowman, prove your ultimate concern and compassion. Your badge of "Ready and Willing to Serve" is most evident at schools, civic and recreational activities and projects. In the midst of disasters, accidents, catastrophies, calamities and tragedies, it is comforting to know that you are available and in the line of service. Your self-sacrifice and self-denial will help build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Todd)

Agreed.

Representative Ford moved the adoption of the following Legislation Citation No. 16:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Eubank Fire Department of Pulaski County, for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training including EMT, all a demonstration of your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Ford)

Agreed.

Representative Ford moved the adoption of the following Legislative Citation No. 17:

The House of Representatives of the Commonwealth of Kentucky hereby commends you, the Rescue Squad of Crab Orchard, Lincoln County, for your benevolent spirit and your excellent volunteer service in providing help in various and immediate emergencies. Your humanitarian acts, so vital to the well-being of your fellowman, prove your ultimate concern and compassion. Your badge of "Ready and willing to Serve" is most evident at school, civic and recreational activities and projects. In the midst of disasters, accidents, catastrophies, calamities and tragedies, it is comforting to know that you are available and in the line of service. Your self-sacrifice and self-denial will help build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Ford)

Agreed.

Representative Ford moved the adoption of the following Legislative Citation No. 18:

The House of Representatives of the Commonwealth of Kentucky hereby commends you, the Rescue Squad of Waynesburg, Lincoln County, for your benevolent spirit and your excellent volunteer service in providing help in various and immediate emergencies. Your humanitarian acts, so vital to the well-being of your fellowman, prove your ultimate concern and compassion. Your badge of "Ready and willing to Serve" is most evident at school, civic and recreational activities and projects. In the midst of disasters, accidents, catastrophies, calamities and tragedies, it is comforting to know that you are available and in the line of service. Your self-sacrifice and self-denial will help build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Ford)

Agreed.

Representative Todd moved the adoption of the following Legislative Citation No. 20:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the White Lily Fire Department of Pulaski County for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Todd)

Agreed.

Representative Todd moved the adoption of the following Legislative Citation No. 21:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Bronston Fire Department of Pulaski County for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Todd)

Agreed.

Representative Todd moved the adoption of the following Legislative Citation No. 22:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Mt. Victory Fire Department of Pulaski County for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, and you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless effort. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Todd)

Agreed.

Representative Todd moved the adoption of the following Legislative Citation No. 23:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Tateville Fire Department of Pulaski County for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Todd)

Agreed.

Representative Todd moved the adoption of the following Legislative Citation No. 24:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Science Hill Fire Department of Pulaski County for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Todd)

Agreed.

Representative Todd moved the adoption of the following Legislative Citation No. 25:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Nancy Fire Department of Pulaski County for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Todd)

Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Pearman filed a request to have his name added as co-sponsor of **HB 564.**

Senate Message

Letter in regard to Proposed Regulation 810 KAR 1:018 as follows: The Senate has adopted the committee report from the Business Organizations and Professions Committee rejecting the Proposed Regulation 810 KAR 1:018 because it does not conform to legislative intent. The Senate respectfully requests the same action from this Honorable Body.

Letter in regard to Proposed Regulation 810 KAR 1:009 as follows: The Senate has adopted the committee report from the Business Organizations and Professions Committee rejecting the Proposed Regulation 810 KAR 1:009 because it does not conform to legislative intent. The Senate respectfully requests the same action from this Honorable Body.

Representative LeMaster moved that the rules be suspended to allow Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 42, by Representatives Guenthner and Farrow: A RESOLUTION honoring Edith Schwab, Statute Reviser.

HB 589, by Representative Moberly: AN ACT changing the classification of the City of Richmond, in Madison County.

HB 590, by Representatives Moberly, Williams, and Thomason: AN ACT relating to the execution of persons sentenced to death.

HB 591, by Representatives Donnermeyer, McBee, Petty, Mann, Schmidt, Harper, Caldwell, and Meyer: AN ACT relating to exceptional children.

HB 592, by Representatives Van Horn and Bennett: AN ACT relating to the sale of gasoline and petroleum products.

HB 593, by Representatives Burch and Yates: AN ACT relating to unemployment compensation.

HB 594, by Representatives Brinkley, Allen, Boswell, Arnold, Barrows, Bennett, Blandford, Bronger, Brown, Bruce, Burnette, Clark, Cowan, Crupper, Cyrus, Dawahare, Deskins, Endicott, Farrow, Ford, Foster, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holloway, R. Jones, Kenton, Kidd, Layman, Lile, Little, Long, Lundergan, Maggard, Mann, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, Perkins, Petty, Rapier, Richards, Riner, Robinson, Seum, R. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, and Worthington: AN ACT relating to revenue and taxation and declaring an emergency.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 467, HB 513, HB 514, HB 515, HB 528, HB 529, HB 534, HB 526, HB 527.**

Counties and Special Districts: **HB 141, HB 290, HB 325.**

Agriculture and Small Business: **SB 200.**

Business Organizations and Professions: **HB 421, HB 438, HB 444, HB 555, HB 507.**

The Clerk announced **HB 451** has been withdrawn from consideration by the Committee on Agriculture and Small Business.

Report of Committees

The Committee on Energy reported **HB 486, HB 492, SB 104,** and **SB 171** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 486, AN ACT relating to public utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.020 is amended to read as follows:

(1) No person, partnership, public or private corporation or combination thereof shall begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until such person has obtained from the appropriate commission a certificate that public convenience and necessity require such construction. Upon the filing of an application for such a certificate, and after *any public hearing which the commission may in its discretion conduct for all interested parties* [~~a public hearing of all parties interested~~], the commission may issue or refuse to issue the certificate, or issue it in part and refuse it in part. Unless exercised within one year from the grant thereof, exclusive of any delay due to the order of any court or failure to obtain any necessary grant or consent, the authority conferred by the issuance of the certificate of convenience and necessity shall be void, but the beginning of any new construction or facility in good faith within the time prescribed by the commission and the prosecution thereof with reasonable diligence shall constitute an exercise of authority under the certificate.

(2) No utility shall exercise any right or privilege under any franchise or permit, after the exercise of that right or privilege has been voluntarily suspended or discontinued for more than one year, without first obtaining from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity authorizing the exercise of that right or privilege.

(3) No utility shall apply for or obtain any franchise, license or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.

(4) All carriers or conveyors of electricity or electric power are declared to be common carriers and subject to the obligations incident thereto.

HB 492, AN ACT relating to utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.180 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no change shall be made by any utility in any rate except upon twenty (20) days' notice to the [~~appropriate~~] commission, stating plainly the changes proposed to be made and the time when the changed rates will go into effect. The commission may order a rate change only after giving an identical notice to the utility. *The commission may order the utility to give notice of its proposed rate increase to that utility's customers in the manner set forth in its regulations* [~~, and any aggrieved party petitioning within the period for a hearing shall be entitled thereto before said order is entered~~].

(2) The commission, upon application of any utility, may prescribe a less time within which a reduction of rates may be made.

Section 2. KRS 278.190 is amended to read as follows:

(1) Whenever any utility files with the [~~appropriate~~] commission any schedule stating new rates, the commission may, upon its own motion, or upon complaint as provided in KRS 278.260, and upon reasonable notice, enter upon a hearing concerning the reasonableness of the new rates.

(2) Pending such hearing and the decision thereon, and after notice to the utility, the commission may, at any time before said schedule becomes effective, suspend the operation of said schedule and defer the use of such rate, charge, classification or service, but not for a longer period than five (5) months beyond the time when it would otherwise go into effect; and after such hearing, either completed before or after the rate, charge, classification or service goes into effect, the commission may make such orders with reference thereto as it deems proper in the matter. If the proceeding has not been concluded and an order made at the expiration of such five (5) months the utility may place the proposed change of rate, charge, classification or service in effect at the end of such period after notifying the commission, in writing, of its intention so to do. Where increased rates or charges are thus made effective, the commission may, by order, require the interested utility or utilities to maintain their records in such manner as will enable them, or the commission, or any of its customers, to determine the amounts to be refunded and to whom due in the event a refund is ordered, and upon completion of the hearing and decision may, by further order, require such utility or utilities to refund to the persons in whose behalf such amounts were paid such portion of such increased rates or charges as by its decision shall be found unreasonable. Provided, however, if the commission, at any time, during said five (5) months' suspension period, finds that [~~an emergency exists or that~~] the company's credit or operations will be materially impaired or damaged by the failure to permit said rates to become effective during said five (5) months' period, said commission may, after any hearing or hearings, permit all or a portion of said rates to become effective under such terms and conditions as the commission may, by order, prescribe.

(3) At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility and the commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible, and in any event not later than ten (10) months after the filing of such schedules.

(4) In the event the commission, by order, directs any utility to make a refund, as hereinabove provided, of all or any portion of such increased rates or charges, the utility shall make the same within sixty (60) days after a final determination of the proceeding by an order of the court or commission with or without interest in the discretion of the commission. If the utility fails to make such refund within sixty (60) days after such final determination, any party entitled to such refund may, after ten (10) days' written demand, bring an action therefor in any court of competent jurisdiction of this state, and may recover, in addition to the amount of the refund due, legal interest, court costs and reasonable attorney's fees. No such action may be maintained unless instituted within one (1) year after such final determination. Any number of persons entitled to such refunds may join in as plaintiffs in a single action and the court shall render a judgment severally for each plaintiff as his interest may appear.

Section 3. KRS 278.260 is amended to read as follows:

(1) The commission shall have original jurisdiction over complaints as to rates or service of any utility, and upon a complaint in writing made against any utility by any *person* [~~mercantile, agricultural or manufacturing society, or by any body politic or municipal organization, or by any utility, or by any ten (10) patrons of the utility complained of, or by any ten (10) complainants of all or any of the aforementioned classes,~~] that any rate in which the complainant is directly interested is unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act affecting or relating to the service of the utility or any service in connection therewith is unreasonable, unsafe, insufficient or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission shall proceed, with or without notice, to make such investigation as it deems necessary or convenient. The commission may also make such an investigation on its own motion. No order affecting the rates or service complained of shall be entered by the commission without a formal public hearing.

(2) The commission shall fix the time and place for each hearing held by it, and shall serve notice thereof upon the utility and the complainant not less than twenty (20) days before the time set for the hearing. The commission may discuss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest or for the protection of substantial rights.

(3) The complainant and the person complained of shall be entitled to be heard in person or by an attorney and to introduce evidence.

Section 4. KRS 278.310 is amended to read as follows:

[~~(1) Each commission shall fix the time and place for each hearing held by it, and shall serve notice thereof upon the utility and the complainant not less than twenty (20) days before the time set for the hearing. The commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest or for the protection of substantial rights.~~

~~(2)~~] All hearings and investigations before the commission or any commissioner shall be governed by rules adopted by the commission, and in the conduct thereof neither the commission nor the commissioner shall be bound by the technical rules of legal evidence.

[~~(3) The complainant and the person complained of shall be entitled to be heard in person or by attorney and to introduce evidence.~~]

Section 5. KRS 278.485 is amended to read as follows:

Every gas pipeline company obtaining gas from producing wells located within this state, upon the request of the owner of the property on or over which any producing well or gas gathering pipeline is located or the owner of real estate whose property and point of desired service is located within one-half (½) air-mile of said company's producing gas well or gas gathering pipeline, shall furnish gas service to such owner and applicant, subject to and upon the following terms, conditions and provisions, to-wit:

(1) The gas service shall be furnished at rates and minimum monthly charges determined by the energy commission.

(2) The applicant for such gas service shall construct or cause to be constructed, and shall maintain and keep in good repair, the service lines, and shall provide and install or cause to be installed, and keep in good repair, the necessary automatic gas regulators, and shall pay the entire cost thereof. The company, at its own expense, shall provide, install and maintain the necessary gas meters.

(3) The construction of each service line, the installation, type and number of automatic gas regulators and gas meter or meters and the connection thereof with the gas producing well or pipeline shall be under the supervision of the energy commission or an agent thereof; and, shall conform to such standards of safety, location and convenience as may be prescribed by said commission.

(4) Neither the gas producer nor the gas pipeline company shall be responsible for maintaining any fixed or specified gas pressure. Neither the gas producer nor the gas pipeline company shall be liable for any accident or accidental injuries or damages which may result from any defect or failure of any automatic gas regulator or for any leakage or other defect or failure of any service line installed or constructed by the applicant.

(5) Nothing in this section shall be construed as requiring any gas pipeline company to serve any such owner of property or applicant from any line or lines *that have been held to be subject to federal jurisdiction by order of the federal energy regulatory commission or a court of competent jurisdiction* [~~established on the discharge side of any compressor station, or from any line or lines serving or connecting with any gas storage field~~]. The provisions of this section shall apply only to producing gas wells and to gas pipelines commonly known as gathering lines.

(6) Nothing in this section shall be construed to restrict the right of any gas pipeline company to abandon any gas well or any gathering pipeline, or any part thereof, and to remove any such abandoned pipeline or lines.

(7) Subject to the rules and regulations of the energy commission, any service may be disconnected and discontinued by the company for failure of the customer to pay any bill as and when due and payable.

Section 6. KRS 424.300 is amended to read as follows:

Notices of hearings by the *public service* [~~energy regulatory commission or the utility regulatory~~] commission upon applications by public utilities for rate increases or reduction or discontinuance of service, *except where advertised by mail,* shall be advertised by the *applicant utility in accordance with such reasonable regulations as the commission may prescribe* [~~commission~~] by newspaper publication in the areas that will be affected.

SB 104, AN ACT relating to energy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.200 is amended to read as follows:

As used in KRS 152.200 to 152.250, unless the context requires otherwise:

(1) "Compact" means the southern *states energy* [~~interstate nuclear~~] compact;

(2) "Board" means the southern *states energy* [~~interstate nuclear~~] board.

Section 2. KRS 152.210 is amended to read as follows:

The southern *states energy* [~~interstate nuclear~~] compact is enacted into law and entered into by the Commonwealth of Kentucky as a party, and is of full force and effect between the Commonwealth and any other states joining therein in accordance with the terms of the compact. The compact is substantially as follows:

ARTICLE I. POLICY AND PURPOSE.

The party states recognize that the proper employment *and conservation* of [~~nuclear~~] energy *and employment of energy-related* [~~,~~] facilities, materials, and products, *within the context of a responsible regard for the environment,* can assist substantially in the industrialization of the south and the development of a balanced economy for the region. They also recognize that optimum benefit from the acquisition of *energy* [~~nuclear~~] resources and facilities *require* [~~requires~~] systematic encouragement, guidance, and assistance from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis; it is the purpose of this compact to provide the instruments and framework for such a cooperative effort to improve the economy of the south and contribute to the individual and community well being of the region's people.

ARTICLE II. THE BOARD.

(a) There is hereby created an agency of the party states to be known as the "Southern *States Energy* [~~Interstate Nuclear~~] Board" (hereinafter called the board). The board shall be composed of *three (3) members* [~~one member~~] from each party state, *one of whom shall be appointed or designated in each state to represent the governor, the state senate, and the state house of representatives, respectively. Each member shall be* designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. *Members from the Commonwealth of Kentucky shall be appointed pursuant to Section 3 of this Act.* Any member of the board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provision therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) *Each* [~~The board members of the~~] party *state* [~~states~~] shall [~~each~~] be entitled to one vote on the board, *to be determined by majority vote of each member or member's representative from the party state present and voting on any question.* No action of the board shall be binding unless taken at a meeting at which a majority of all [~~members representing the~~] party states are *represented* [~~present~~] and unless a majority of the total number of votes on the board are cast in favor thereof.

(c) The board shall have a seal.

(d) The board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The board shall appoint an executive director who shall serve at its pleasure and who shall also act as secretary, and who, together with the treasurer, shall be bonded in such amounts as the board may require.

(e) The executive director, with the approval of the board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The board may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employes. Employes of the board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The board may establish and maintain or participate in such additional programs of employe benefits as may be appropriate.

(g) The board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same.

(i) The board may establish and maintain such facilities as may be necessary for the transacting of its business. The board may acquire, hold, and convey real and personal property and any interest therein.

(j) The board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules and regulations. The board shall publish its bylaws, rules and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The board annually shall make to the governor and legislature of each party state, a report covering the activities of the board for the preceding year, and embodying such recommendations as may have been adopted by the board. The board may issue such additional reports as it may deem desirable.

ARTICLE III. FINANCES.

(a) The board shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. One-half of the total amount of each budget of estimated expenditures shall be apportioned among the party states in equal shares; one-quarter of each such budget shall be apportioned among the party states in accordance with the ratio of their populations to the total population of the entire group of party states based on the last decennial federal census; and one-quarter of each such budget shall be apportioned among the party states on the basis of the relative average per capita income of the inhabitants in each of the party states based on the latest computations published by the federal census-taking agency. Subject to appropriation by their respective legislatures, the board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the board.

(c) The board may meet any of its obligations in whole or in part with funds available to it under Article II (h) of this compact, provided that the board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the board makes use of funds available to it under Article II (h) hereof, the board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) [~~Any expenses and any other costs for each member of the board in attending board meetings shall be met by the board.~~

~~(e)~~] The board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the board shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the board.

(e)[~~(f)~~] The accounts of the board shall be open at any reasonable time for inspection.

ARTICLE IV. ADVISORY COMMITTEES.

The board may establish such advisory and technical committees as it may deem necessary, membership on which to include but not to be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, state and federal government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

ARTICLE V. POWERS.

The board shall have power to:

(a) Ascertain and analyze on a continuing basis the position of the south with respect to *energy* [~~nuclear~~] and *energy*-related industries, *and environmental concerns.*

(b) Encourage the development, *conservation,* and *responsible* use of [~~nuclear~~] energy *and energy-related* facilities, installations, and products as part of a balanced economy *and healthy environment.*

(c) Collect, correlate and disseminate information relating to civilian uses of [~~nuclear~~] energy, *and energy-related* materials and products.

(d) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

(1) *Energy, environment, and application of energy, environmental, and related concerns to* [~~Nuclear~~] industry, medicine, or education or the promotion or regulation thereof.

(2) The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of [~~nuclear~~] energy, *and energy-related* materials, products, installations, or wastes.

(e) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations of *energy* [~~nuclear~~] product, material, or equipment use and disposal and of proper techniques or processes for the application of *energy* [~~nuclear~~] resources to the civilian economy or general welfare.

(f) Undertake such nonregulatory functions with respect to *sources* [~~nonnuclear resources~~] of radiation as may promote the economic development and general welfare of the region.

(g) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to *energy and environmental* [~~nuclear~~] fields.

(h) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or ordinances of the party states in any of the fields of its interest and competence as in its judgment may be appropriate. Any such recommendation shall be made through the appropriate state agency with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(i) Prepare, publish and distribute, (with or without charge) such reports, bulletins, newsletters or other material as it deems appropriate.

(j) Cooperate with the *United States department of energy* [~~atomic energy commission~~] or any agency successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interests.

(k) Act as licensee of the United States government or any party state with respect to the conduct of any research activity requiring such license and operate such research facility or undertake any program pursuant thereto.

(l) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of *energy and environmental* [~~nuclear~~] incidents in the area comprising the party states, to coordinate the nuclear, *environmental and other energy-related* incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with *energy and environmental* [~~nuclear~~] incidents. The board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with *energy and environmental* [~~nuclear~~] incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

Article VI. Supplementary Agreements

(a) To the extent that the board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify its purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the board. The board shall give such approval unless it finds that the supplementary agreement or the activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

Article VII. Other Laws and Relationships.

Nothing in this compact shall be construed to:

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the *United States department of energy* [~~atomic energy commission~~], any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of congress.

(c) Alter the relations between the respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the board to exercise any regulatory authority or to own or operate any nuclear reactor for the generation of electric energy; nor shall the board own or operate any facility or installation for industrial or commercial purposes.

Article VIII. Eligible Parties, Entry into Force and Withdrawal.

(a) Any or all of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, [~~and~~] West Virginia, *the Commonwealth of Puerto Rico, and the United States Virgin Islands* shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when adopted into law as provided by the law of the various party states; provided that it shall not become initially effective until enacted into law by seven states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until the governor of the withdrawing state shall have sent formal notice in writing to the governor of each other party state informing said governors of the action of the legislature in repealing the compact and declaring an intention to withdraw.

ARTICLE IX. SEVERABILITY AND CONSTRUCTION.

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

SECTION 3. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

The governor shall appoint three (3) persons to represent Kentucky on the southern states energy board. One member shall be chosen from a list of three (3) state representatives submitted by the speaker of the house of representatives; one (1) shall be chosen from a list of three (3) state senators submitted by the president pro tem of the senate, and one (1) shall be appointed by the governor to represent his office on the board. The member appointed to represent the governor shall serve at his pleasure. The members appointed from the general assembly shall serve a term of two (2) years and until a successor has been appointed in the manner prescribed above, except that if a member loses his seat in the general assembly the governor shall, in consultation with the speaker of the house of representatives or the president pro tem of the senate, respectively, appoint a successor for the remainder of his term.

Section 4. This Act shall become effective at such time as all party states to the Southern Interstate Nuclear Compact approve changes in the compact which are substantially the same as those of this Act, and the Congress of the United States consents to the compact, substantially as amended in this Act.

SB 171, AN ACT relating to utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasi-public and public corporations, and all boards, agencies and instrumentalities thereof, associations, joint-stock companies and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two or more persons having a joint or common interest;

(3) *"Utility" means any person except a city, who owns, controls or operates or manages any facility used or to be used for or in connection with:*

(a) The generation, production, transmission or distribution of electricity to or for the public, for compensation, for lights, heat, power or other uses;

(b) The production, manufacture, storage, distribution, sale or furnishing of natural or manufactured gas, or a mixture of same, to or for the public for compensation, for light, heat, power or other uses;

(c) The transporting or conveying of gas, crude oil or other fluid substance by pipeline to or for the public, for compensation;

(d) The diverting, developing, pumping, impounding, distributing or furnishing of water to or for the public, for compensation;

(e) The transmission or conveyance over wire, in air or otherwise, of any message by telephone or telegraph for the public, for compensation; or

(f) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district [~~The unmodified term "utility" means any person except a city who owns, controls, operates or manages an energy utility or a non-energy utility;~~

~~(4) "Energy utility" means any person except a city who owns, controls, operates or manages any facility used or to be used for or in connection with:~~

~~(a) The generation, production, transmission or distribution of electricity to or for the public, for compensation, for lights, heat, power or other uses;~~

~~(b) The production, manufacture, storage, distribution, sale or furnishing of natural or manufactured gas, or a mixture of same, to or for the public for compensation, for light, heat, power or other uses; or~~

~~(c) The transporting or conveying of gas, crude oil or other fluid substance by pipeline to or for the public, for compensation;~~

~~(5) "Non-energy utility" means any person except a city who owns, controls, operates or manages any facility used or to be used for or in connection with:~~

~~(a) The diverting, developing, pumping, impounding, distributing or furnishing of water to or for the public, for compensation;~~

~~(b) The transmission or conveyance over wire, in air or otherwise, of any message by telephone or telegraph for the public, for compensation; or~~

~~(c) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district~~];

(4)[~~(6)~~] "Retail electric supplier" means any person, firm, corporation, association or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5)[~~(7)~~] "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6)[~~(8)~~] "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7)[~~(9)~~] "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8)[~~(10)~~] "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(9)[~~(11)~~] "Facility" includes all property, means and instrumentalities owned, operated, leased, licensed, used, furnished or supplied for, by, or in connection with the business of any utility;

(10)[~~(12)~~] "Rate" means any individual or joint fare, toll, charge, rental or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement or privilege in any way relating to such fare, toll, charge, rental or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(11)[~~(13)~~] "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure and quantity of water, and in general the quality, quantity and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(12)[~~(14)~~] "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;

(13) "Commission" means the public service commission of Kentucky;

(14) "Commissioner" means one (1) of the members of the commission.

[~~(15) "Energy commission" means the energy regulatory commission;~~

~~(16) "Utility commission" means the utility regulatory commission;~~

~~(17) The unmodified term "commissions" means both the energy commission and the utility commission. The unmodified term "commission" means the commission with regulatory jurisdiction over the affected utility, as provided in this chapter;~~

~~(18) "Commissioner" means a member of either the energy commission or the utility commission.~~]

Section 2. KRS 278.012 is amended to read as follows:

Notwithstanding any other provisions of the Kentucky Revised Statutes, any water association formed for the purpose of furnishing water services to the general public pursuant to KRS Chapter 273 is deemed to be and shall be a *public* [~~non-energy~~] utility and shall be subject to the jurisdiction of the *public service* [~~utility~~] commission in the same manner and to the same extent as any other [~~non-energy~~] utility as defined in KRS 278.010.

Section 3. KRS 278.015 is amended to read as follows:

Notwithstanding any of the provisions of KRS chapter 74 any water district, combined water, *gas* or sewer district, or water commission shall be a *public* [~~non-energy~~] utility and shall be subject to the jurisdiction of the *public service* [~~utility~~] commission in the same manner and to the same extent as any other [~~non-energy~~] utility as defined in KRS 278.010.

Section 4. KRS 278.017 is amended to read as follows:

(1) Except as otherwise provided in this section, the boundaries of the certified territory of each retail electric supplier are hereby set as a line or lines substantially equidistant between its existing distribution lines and the nearest existing distribution lines of any other retail electric supplier in every direction, with the result that there is hereby certified to each retail electric supplier such area which in its entirety is located

substantially in closer proximity to one of its existing distribution lines than to the nearest existing distribution line of any other retail electric supplier.

(2) On or before one hundred twenty (120) days after June 16, 1972, or, when requested in writing by a retail electric supplier and for good cause shown, such further time as the [~~energy~~] commission may fix by order, each retail electric supplier shall file with the commission a map or maps showing all of its existing distribution lines. The commission shall prepare or cause to be prepared within one hundred twenty (120) days thereafter a map or maps of uniform scale to show, accurately and clearly, the boundaries of the certified territory of each retail electric supplier as established under subsection (1) of this section, and shall issue such map or maps of certified territory to each retail electric supplier. Any retail electric supplier who feels itself aggrieved by reason of a certification of territory pursuant to this section may protest the certification of territory within a one hundred twenty-day period after issuance of the map of certified territory by the commission; and the commission shall have the power, after hearing, to revise or vacate such certified territories or portions thereof.

(3) In such hearing, the commission shall be guided by the following conditions as they existed on June 16, 1972:

(a) The proximity of existing distribution lines to such certified territory.

(b) Which supplier was first furnishing retail electric service, and the age of existing facilities in the area.

(c) The adequacy and dependability of existing distribution lines to provide dependable, high quality retail electric service at reasonable costs.

(d) The elimination and prevention of duplication of electric lines and facilities supplying such territory. In its determination of such protest, the commission hearing shall be de novo; and neither supplier shall bear the burden of proof.

(4) In each area, where the commission shall determine that the existing distribution lines of two or more retail electric suppliers are so intertwined or located that subsection (1) of this section cannot reasonably be applied, the commission shall, after hearing, certify the service territory or territories for the retail electric suppliers under the provisions of subsection (3) of this section.

Section 5. KRS 278.020 is amended to read as follows:

(1) No person, partnership, public or private corporation or combination thereof shall begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until such person has obtained from the *public service* [~~appropriate~~] commission a certificate that public convenience and necessity require such construction. Upon the filing of an application for such a certificate, and after a public hearing of all parties interested, the commission may issue or refuse to issue the certificate, or issue it in part and refuse it in part. Unless exercised within one year from the grant thereof, exclusive of any delay due to the order of any court or failure to obtain any necessary grant or consent, the authority conferred by the issuance of the certificate of convenience and necessity shall be void, but the beginning of any new construction or facility in good faith within the time prescribed by the commission and the prosecution thereof with reasonable diligence shall constitute an exercise of authority under the certificate.

(2) No utility shall exercise any right or privilege under any franchise or permit after the exercise of that right or privilege has been voluntarily suspended or discontinued for more than one year, without first obtaining from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity authorizing the exercise of that right or privilege.

(3) No utility shall apply for or obtain any franchise, license or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.

(4) All carriers or conveyors of electricity or electric power are declared to be common carriers and subject to the obligations incident thereto.

Section 6. KRS 278.025 is amended to read as follows:

(1) Notwithstanding any other provision of the law to the contrary, no person, partnership, public or private corporation or combination thereof shall begin the construction of any facility to be used for the generation of electricity to or for the public for compensation without having first obtained from the *public service* [~~energy~~] commission a certificate of environmental compatibility. This requirement shall not apply to such facilities for which an application for a certificate of convenience and necessity has been filed with, or granted by, the public service commission prior to June 21, 1974.

(2) Prior to making application for such a certificate such person, partnership, public or private corporation or combination thereof shall submit to the department for natural resources and environmental protection or any local pollution control district exercising concurrent jurisdiction with the department a statement of environmental compatibility of the proposed site, accompanied by a fee for evaluation of the proposed facility set pursuant to KRS 224.033(20).

(3) The statement of environmental compatibility shall contain such information as the department (or local pollution control district) considers necessary in making its report to the commission including but not limited to the following:

(a) A complete description of the proposed project;

(b) Comments on the effects of air pollutants from the proposed facility on public health and welfare, the effects of the proposed facility on the waters of the Commonwealth, the treatment, handling and disposal of solid waste from the proposed facility, noise pollution if any, and other adverse environmental effects which cannot be avoided.

(4) The department for natural resources and environmental protection (or any local pollution control district exercising concurrent jurisdiction with the department) shall within sixty (60) days after receiving the statement of environmental compatibility report to the [~~energy~~] commission any recommendation on or objections to the proposed facility. The commission upon request by the department may extend said sixty (60) day period for an additional thirty (30) days.

(5) On receipt of the report from the department for natural resources and environmental protection (or the local pollution control district) or if the period for filing said report has expired without the receipt of such report, the commission shall conduct a public hearing on the application which shall be open to all interested persons. For the purpose of this paragraph an "interested person" shall mean any person whose living environment would be affected by the construction of the proposed facility.

(6) In granting or denying the application for a certificate of environmental compatibility, the commission shall consider the community needs, the industrial development, customer requirements and the economics of the facility, all of which shall be balanced against any adverse environmental factors.

Section 7. KRS 278.040 is amended to read as follows:

(1) The public service commission shall regulate utilities and enforce the provisions of this chapter. The commission shall be a body corporate, with power to sue and be sued in its corporate name. The commission may adopt a seal bearing the name "public service commission of Kentucky," which seal shall be affixed to all writs and official documents, and to such other instruments as the commission directs, and all courts shall take judicial note of the seal.

(2) The jurisdiction of the commission shall extend to all utilities in this state. The commission shall have exclusive jurisdiction over the regulation of rates and service of utilities, but with that exception nothing in this chapter is intended to limit or restrict the police jurisdiction, contract rights or powers of cities or political subdivisions.

(3) The commission may adopt, in keeping with KRS Chapter 13, reasonable regulations to implement the provisions of KRS Chapter 278 and investigate the methods and practices of utilities to require them to conform to the laws of this state, and to all reasonable rules, regulations and orders of the commission not contrary to law [~~The energy regulatory commission shall regulate energy utilities as defined in KRS 278.010(4) and enforce the provisions of this chapter with respect to such energy utilities. The utility regulatory commission shall regulate non-energy utilities as defined in KRS 278.010(5), and enforce the provisions of this chapter with respect to such non-energy utilities. Each commission shall be a body corporate, with power to sue and be sued in its corporate name. Each commission may adopt a seal bearing its name, which seal shall be affixed to all writs and official documents, and to such other instruments as such commission directs, and all courts shall take judicial notice of the seal.~~

~~(2) The jurisdiction of the commissions shall extend to all utilities in this state. The energy regulatory commission shall have exclusive jurisdiction over the regulation of rates and service of all energy utilities and the utility regulatory commission shall have exclusive jurisdiction over the regulation of rates and service of all non-energy utilities. If a utility which is an energy utility also renders service as a non-energy utility, it shall be regulated by the energy commission with respect to all of its rates and services. Provided however, that nothing in this chapter is intended to limit or restrict the police jurisdiction, contract right or powers of cities or political subdivisions.~~

~~(3) The commissions may adopt, in keeping with KRS Chapter 13, reasonable regulations to implement the provisions of KRS Chapter 278 and investigate the methods and practices of the utilities subject to their respective jurisdictions to require them to conform to the laws of this state, and to all reasonable rules, regulations and orders of the commissions not contrary to law~~].

Section 8. KRS 278.046 is amended to read as follows:

The [~~energy~~] commission by regulation may prescribe the form and require the appropriate authorities annually to report data relating to rates, finances, and operations of municipally owned electric utilities.

Section 9. KRS 278.050 is amended to read as follows:

(1) *The public service* [~~Each~~] commission shall consist of three (3) members appointed by the governor with the advice and consent of the senate. If the senate is not in session when a term expires or a vacancy occurs, the governor shall make the appointment to take effect at once, subject *to the approval of the senate when convened* [~~only to the approval of the joint interim committee on state government of the legislative research commission if such appointment is made more than ninety days prior to the commencement of a~~

~~session of the general assembly~~]. Each of the three (3) members of *the* [~~each~~] commission shall be appointed on or before the first day of *July, 1982* [~~April, 1979~~] for staggered terms as follows: one (1) shall serve until the first day of *July, 1983* [~~April, 1981~~], one (1) until the first day of *July, 1984* [~~April, 1982~~], and one (1) until the first day of *July, 1985* [~~April, 1983~~], and thereafter for a term of four (4) years and until a successor is appointed and qualified. Members of the [~~energy regulatory~~] commission shall devote their entire time to the duties of their offices.

(2) The governor shall appoint one (1) of the commissioners on *the* [~~each~~] commission to act as chairman thereof and the chairman shall be the chief executive officer of *the* [~~such~~] commission. The governor shall designate one (1) of the commissioners on *the* [~~each~~] commission to serve as vice chairman thereof and act for the chairman in the latter's absence.

(3) Vacancies for unexpired terms shall be filled in the same manner as original appointments, but the appointee shall hold office only to the end of the unexpired term.

Section 10. KRS 278.060 is amended to read as follows:

(1) Each commissioner shall be a resident and qualified voter of this state, not less than twenty-five (25) years of age at the time of his appointment and qualification, and shall have resided in this state for at least three (3) years prior to his appointment and qualification. Each commissioner shall take and subscribe to the constitutional oath of office, which shall be recorded in the office of the secretary of state.

(2) No person shall be appointed to or hold the office of commissioner who holds any official relationship to any utility, or who owns any stocks or bonds thereof, or who has any pecuniary interest therein.

(3) No commissioner shall receive any rebate, pass, percentage of contract or other thing of value from any utility.

(4) In addition to the restrictions on members of the [~~energy~~] commission set forth in KRS 278.050(1), no commissioner shall engage in any occupation or business inconsistent with his duties as such commissioner.

(5) If any commissioner becomes a member of any political party committee, his office as commissioner shall be thereby vacated.

(6) In making appointments to the commission, the governor shall consider the various kinds of expertise relevant to utility regulation and the varied interests to be protected by the commission, including those of consumers as well as utility investors, and *no more than two (2)* [~~not all~~] members *shall* [~~should~~] be of the same occupation or profession.

Section 11. KRS 278.080 is amended to read as follows:

A majority of *the commissioners* [~~each commission~~] shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of *the* [~~such~~] commission. No vacancy in *the* [~~a~~] commission shall impair the right of the remaining commissioners to exercise all of the powers of *the* [~~such~~] commission. Any investigation, inquiry, or hearing that *the* [~~a~~] commission has power to undertake or hold may be undertaken or held, and the evidence therein taken, by any one or more *commissioners* [~~members of such commission~~] or a hearing examiner designated for that purpose by *the* [~~such~~] commission, and every finding, opinion or order made by the commissioner or commissioners or hearing examiner so designated shall, when approved or confirmed by *the* [~~such~~] commission, become the finding, opinion or order thereof.

Section 12. KRS 278.090 is amended to read as follows:

(1) The principal office of *the* [~~each~~] commission shall be located at the state capital, and it shall be kept open during the usual business hours.

(2) *The* [~~Each~~] commission shall hold meetings at its principal office and at such other convenient places in the state as are expedient or necessary for the proper performance of its duties.

Section 13. KRS 278.100 is amended to read as follows:

(1) *The commission shall appoint an executive director and a secretary, who shall hold office during its pleasure and shall devote their entire time to the duties of their offices. The executive director shall be selected on the basis of experience and training demonstrating capacity to deal with the problems of management and governmental regulation and knowledge relatable to utility regulation. The executive director shall be the chief administrative officer of the office of the commission and shall provide the staff direction and coordination in implementing the program and discharging the duties of the commission. The secretary shall keep a full and true record of all the proceedings of the commission, of all books and papers ordered filed by the commission, and of all orders made by the commission or approved and confirmed by it and ordered filed, and shall be responsible to it for the safe custody and preservation of all such documents in its office* [~~There shall be one (1) executive director and one (1) secretary who shall serve both commissions and be jointly appointed by the chairman of each commission, and who shall hold office during the pleasure of the joint chairmen and shall devote their entire time to the duties of their offices. In the event that the chairmen of the commissions cannot agree within sixty (60) days of the initial or any subsequent vacancy therein on an appointee for either office, then the secretary of the public protection and regulation cabinet shall appoint a person to hold the appropriate office in accordance with the provisions of this section. The~~

~~executive director shall be selected on the basis of experience and training demonstrating capacity to deal with the problems of management and governmental regulation and knowledge relating to utility regulation. The executive director shall be the chief administrative officer of the offices of the commissions and shall provide the staff direction and coordination in implementing the program and discharging the duties of the commissions. The secretary shall keep a full and true record of all the proceedings of the commissions, of all books and papers ordered filed by the commissions, and of all orders made by the commissions or approved and confirmed by them and ordered filed, and shall be responsible to them for the safe custody and preservation of all such documents in their office~~].

(2) The *chairman* [~~chairmen~~] of the *commission* [~~commissions~~] shall designate from time to time staff persons to perform the duties of the executive director and secretary during their absence, and during the absence of either, the person so designated shall possess the same powers as their principal.

(3) The executive director with the approval of the *chairman* [~~chairmen~~] of the *commission* [~~commissions~~] may assign the secretary additional administrative duties.

Section 14. KRS 278.110 is amended to read as follows:

The *commission* [~~commissions~~] acting through the executive director may employ such clerks, stenographers, rate experts, agents, special agents, engineers, accountants, auditors, inspectors, lawyers, hearing examiners, experts and other classified service employes and the *commission* [~~commissions~~] may contract for services of persons in a professional or scientific capacity to make or conduct a hearing or a temporary or special inquiry, investigation or examination as *it deems* [~~they deem~~] necessary to carry out the provisions of this chapter, or to perform the duties and exercise the powers conferred by law upon the *commission* [~~commissions~~].

Section 15. KRS 278.115 is amended to read as follows:

The *commission* [~~commissions~~] by regulation shall organize *its* [~~their~~] offices for administration and management under the executive director to reflect *its* [~~their~~] functions. The organization may be changed from time to time and may include division directors subject to the exemption from the classified service as provided in KRS 18.140(1)(h).

Section 16. KRS 278.120 is amended to read as follows:

(1) The chairman and the other two (2) members of *the* [~~each~~] commission shall be paid a salary fixed under KRS 64.640 to be paid monthly.

(2) The executive director and the secretary of the commission shall be paid a salary to be fixed by the commission, with the approval of the governor.

(3) The commissioners, the executive director, the secretary and employes of the commission are entitled to all expenses, including hotel bills, incurred in traveling on business of the commission.

(4) The salaries and expenses provided for by this section, and all other expenses of the commission incurred in the administration of this chapter, shall be paid out of appropriations as provided by law out of the general expenditure fund.

Section 17. KRS 278.130 is amended to read as follows:

(1) For the purpose of maintaining the *commission* [~~commissions~~], including the payment of salaries and all other expenses, and the cost of regulation of the utilities subject to *its* [~~their~~] jurisdiction, the department of revenue shall each year assess the utilities in proportion to their earnings or receipts derived from intrastate business in Kentucky for the preceding calendar year, and shall notify each utility on or before July 1 of the amount assessed against it. The total amount so assessed shall not in any year exceed one and one-half mills on intrastate receipts, which shall be deposited into the state treasury to the credit of the general fund. The sum by each utility shall not be less than $50 in any one year.

(2) The assessments provided for in this section shall be in lieu of all other fees or assessments levied by any city or other political subdivision for the control or regulation of utilities.

Section 18. KRS 278.140 is amended to read as follows:

To ascertain the amount of the assessment provided for in KRS 278.130, each utility shall, on or before March 31 of each year, file with the commission [~~having jurisdiction over it~~] a report of its gross earnings or receipts derived from intrastate business for the preceding calendar year.

Section 19. KRS 278.150 is amended to read as follows:

(1) *The* [~~Each~~] commission shall, on or before June 1, certify to the department of revenue and the department of finance the amount of intrastate business of each utility in the state subject to its jurisdiction during the previous calendar year. The department of finance shall, on or before June 10, establish the assessment rate and give written notification thereof to the department of revenue and the *commission* [~~utility and energy regulatory commissions~~]. The department of revenue shall collect and pay the assessment into the state treasury to the credit of the general expenditure fund. All such assessments shall be paid into the state treasury through the department of revenue on or before July 31 of the year in which the assessments are made.

(2) If any amount in the special fund for the maintenance of the *commission* [~~commissions~~] remains unexpended at the end of any fiscal year, that amount shall not lapse, but shall remain credited to the account of the commission and may be used during any succeeding year.

Section 20. KRS 278.160 is amended to read as follows:

(1) Under rules prescribed by the *commission* [~~commissions~~], each utility shall file with the [~~appropriate~~] commission, within such time and in such form as the commission designates, schedules showing all rates established by it and collected or enforced. The utility shall keep copies of its schedules open to public inspection under such rules as the commission prescribes.

(2) No utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

Section 21. KRS 278.170 is amended to read as follows:

(1) No utility shall, as to rates or service, give any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage, or establish or maintain any unreasonable difference between localities or between classes of service for doing a like and contemporaneous service under the same or substantially the same conditions.

(2) Any utility may grant free or reduced rate service to its officers, agents or employes, and may exchange free or reduced rate service with other utilities for the benefit of the officers, agents and employes of both utilities. Any utility may grant free or reduced rate service to the United States, to charitable and eleemosynary institutions, and to persons engaged in charitable and eleemosynary work, and may grant free or reduced rate service for the purpose of providing relief in case of flood, epidemic, pestilence or other calamity. The terms "officers" and "employes," as used in this subsection, include furloughed, pensioned and superannuated officers and employes, and persons who have become disabled or infirm in the service of the utility. Notice must be given to the [~~appropriate~~] commission and its agreement obtained for such reduced rate service except in case of an emergency, in which case the commission shall be notified at least five (5) days after the service is rendered.

(3) The [~~appropriate~~] commission may determine any question of fact arising under this section.

Section 22. KRS 278.180 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no change shall be made by any utility in any rate except upon twenty (20) days' notice to the [~~appropriate~~] commission, stating plainly the changes proposed to be made and the time when the changed rates will go into effect. The commission may order a rate change only after giving an identical notice to the utility, and any aggrieved party petitioning within the period for a hearing shall be entitled thereto before said order is entered.

(2) The commission, upon application of any utility, may prescribe a less time within which a reduction of rates may be made.

Section 23. KRS 278.185 is amended to read as follows:

(1) The *public service* [~~utilities~~] commission shall require that all sewerage corporations under its jurisdiction shall, when submitting an application for a rate change, notify all its customers of the application.

(2) Notification to the customers of the rate change application shall be in writing and shall include an estimate of the probable financial impact upon the customers.

(3) The cost of notifying customers of a rate change shall be borne by the sewerage corporation.

(4) The [~~utilities~~] commission shall make such reasonable rules and regulations as are deemed necessary to further the purpose of this section.

Section 24. KRS 278.190 is amended to read as follows:

(1) Whenever any utility files with the [~~appropriate~~] commission any schedule stating new rates, the commission may, upon its own motion, or upon complaint as provided in KRS 278.260, and upon reasonable notice, enter upon a hearing concerning the reasonableness of the new rates.

(2) Pending such hearing and the decision thereon, and after notice to the utility, the commission may, at any time before said schedule becomes effective, suspend the operation of said schedule and defer the use of such rate, charge, classification or service, but not for a longer period than five (5) months beyond the time when it would otherwise go into effect; and after such hearing, either completed before or after the rate, charge, classification or service goes into effect, the commission may make such orders with reference thereto as it deems proper in the matter. If the proceeding has not been concluded and an order made at the expiration of such five (5) months the utility may place the proposed change of rate, charge, classification or service in effect at the end of such period after notifying the commission, in writing, of its intention so to do. Where increased rates or charges are thus made effective, the commission may, by order, require the interested utility or utilities to maintain their records in such manner as will enable them, or the commission, or any of its customers, to determine the amounts to be refunded and to whom due in the event a refund is ordered, and upon completion of the hearing and decision may, by further order, require such utility or utilities to refund to the persons in whose behalf such amounts were paid such portion of such increased rates or charges as by its decision shall be found unreasonable. Provided, however, if the commission, at any time, during said five (5) months' suspension period, finds that an emergency exists or that the company's credit or operations will be materially impaired or damaged by the failure to permit said rates to become effective

during said five (5) months' period, said commission may, after any hearing or hearings, permit all or a portion of said rates to become effective under such terms and conditions as the commission may, by order, prescribe.

(3) At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility and the commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible, and in any event not later than ten (10) months after the filing of such schedules.

(4) In the event the commission, by order, directs any utility to make a refund, as hereinabove provided, of all or any portion of such increased rates or charges, the utility shall make the same within sixty (60) days after a final determination of the proceeding by an order of the court or commission with or without interest in the discretion of the commission. If the utility fails to make such refund within sixty (60) days after such final determination, any party entitled to such refund may, after ten (10) days' written demand, bring an action therefor in any court of competent jurisdiction of this state, and may recover, in addition to the amount of the refund due, legal interest, court costs and reasonable attorney's fees. No such action may be maintained unless instituted within one (1) year after such final determination. Any number of persons entitled to such refunds may join in as plaintiffs in a single action and the court shall render a judgment severally for each plaintiff as his interest may appear.

Section 25. KRS 278.200 is amended to read as follows:

The commission [~~having jurisdiction over the affected utility~~] may, under the provisions of this chapter, originate, establish, change, promulgate and enforce any rate or service standard of any utility that has been or may be fixed by any contract, franchise or agreement between the utility and any city, and all rights, privileges and obligations arising out of any such contract, franchise or agreement, regulating any such rate or service standard, shall be subject to the jurisdiction and supervision of the commission, but no such rate or service standard shall be changed, nor any contract, franchise or agreement affecting it abrogated or changed, until a hearing has been had before the commission in the manner prescribed in this chapter.

Section 26. KRS 278.210 is amended to read as follows:

(1) The [~~appropriate~~] commission may provide instruments for, and carry on, the examination and testing of any meter or appliance used to measure the product or service of any utility, and the examination and testing of any instrument used by a utility to test the accuracy of any meter or appliance used to measure its products or services.

(2) Any patron of a utility may, upon request and payment of the fees fixed by the [~~appropriate~~] commission, have a test made of the meter or appliance by which his use of the products or services of the utility is measured.

(3) The [~~appropriate~~] commission may establish reasonable fees for testing such meters and appliances at the request of a patron of a utility. If the appliance is found to be commercially defective or inaccurate to the extent of more than two per cent (2%) to the disadvantage of the patron, the fees shall be repaid to the patron and paid by the utility.

Section 27. KRS 278.220 is amended to read as follows:

The [~~Each~~] commission may establish a system of accounts to be kept by utilities subject to its jurisdiction, or may classify utilities and establish a system of accounts for each class, and may prescribe the manner in which such accounts shall be kept. The system established shall conform as nearly as practicable to the uniform system of accounts prescribed by the National Association of Railway and Utilities Commissioners, except that the system established for telephone and telegraph companies shall conform as nearly as practicable to the system adopted or approved by the Interstate Commerce Commission or other federal agency regulating telephone and telegraph companies.

Section 28. KRS 278.230 is amended to read as follows:

(1) The commissioners and the officers and employes of *the* [~~each~~] commission may, during all reasonable hours, enter upon the premises of any utility subject to its jurisdiction for the purpose of examining any books or records, or for making any examination or test, or for exercising any power provided for in this chapter, and may set up and use on such premises apparatus and appliances necessary for any such examination or test. The utility shall have the right to be represented at the making of any such examination, test or inspection.

(2) The books, accounts, papers and records of the utility shall be available to the commission for inspection and examination. If the books, accounts, papers and records are not within the state, the commission may, by notice and order, require their production or the production of verified copies at such time and place as it designates, any expense incurred to be borne by the utility so ordered.

(3) Every utility, when required by the commission, shall file with it any reports, schedules, classifications or other information that the commission reasonably requires. The commission shall prepare and distribute to the utilities blank forms for any information required under this chapter. All such reports shall be under oath when required by the commission.

Section 29. KRS 278.240 is amended to read as follows:

Copies of official documents and orders filed or deposited according to law in the office of *the* [~~either~~] commission, certified by a commissioner, or by the secretary under the seal of the commission, to be true copies of the originals, shall be evidence in like manner as the originals in all matters before the commission and in courts of competent jurisdiction.

Section 30. KRS 278.250 is amended to read as follows:

Whenever it is necessary in the performance of its duties, *the* [~~either~~] commission may investigate and examine the condition of any utility subject to its jurisdiction. In conducting such investigation, the commission may proceed with or without a hearing as it deems best, but shall make no order without giving a hearing to the parties affected thereby.

Section 31. KRS 278.270 is amended to read as follows:

Whenever *the* [~~either~~] commission, upon its own motion or upon complaint as provided in KRS 278.260, and after a hearing had upon reasonable notice, finds that any rate [~~of a utility subject to its jurisdiction~~] is unjust, unreasonable, insufficient, unjustly discriminatory or otherwise in violation of any of the provisions of this chapter, the commission shall by order prescribe a just and reasonable rate to be followed in the future.

Section 32. KRS 278.280 is amended to read as follows:

(1) Whenever *the* [~~either~~] commission, upon its own motion or upon complaint as provided in KRS 278.260, and after a hearing had upon reasonable notice, finds that the rules, regulations, practices, equipment, appliances, facilities or service of any utility subject to its jurisdiction, or the method of manufacture, distribution, transmission, storage or supply employed by such utility, are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine the just, reasonable, safe, proper, adequate or sufficient rules, regulations, practices, equipment, appliances, facilities, service or methods to be observed, furnished, constructed, enforced or employed, and shall fix the same by its order, rule or regulation.

(2) The commission shall prescribe rules for the performance of any service or the furnishing of any commodity of the character furnished or supplied by the utility, and, on proper demand and tender of rates, the utility shall furnish the commodity or render the service within the time and upon the conditions provided in the rules.

(3) Any person or group of persons may come before the [~~appropriate~~] commission and by petition ask that any utility subject to its jurisdiction be compelled to make any reasonable extension. The commission shall hear and determine the reasonableness of the extension, and sustain or deny the petition in whole or in part.

Section 33. KRS 278.290 is amended to read as follows:

(1) Subject to the provisions of subsection (2) of this section, *the* [~~either~~] commission may ascertain and fix the value of the whole or any part of the property of any utility [~~subject to its jurisdiction~~] in so far as the value is material to the exercise of the jurisdiction of the commission, and may make revaluations from time to time and ascertain the value of all new construction, extensions and additions to the property of the utility. In fixing the value of any property under this subsection, the commission shall give due consideration to the history and development of the utility and its property, original cost, cost of reproduction as a going concern, capital structure, and other elements of value recognized by the law of the land for rate-making purposes.

(2) The commission shall not value or revalue the property of any utility unless the valuation or revaluation is necessary or advisable in order to determine the legality or reasonableness of any rate or service or of the issuance of securities, and then only after an investigation affecting the rate, service or securities has been instituted by the commission upon complaint or application or upon its own motion, and a hearing has been held on reasonable notice.

(3) In any rate investigation where the utility serves two (2) or more municipalities, the commission may, in computing the rate of return on the property used and useful, take as the base for the computation the valuation of the system as a whole, but may make a differential in the case of an individual municipality in proportion to the increased cost of service, if the utility can show that such a differential should be allowed.

Section 34. KRS 278.300 is amended to read as follows:

(1) No utility shall issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person until it has been authorized so to do by order of the [~~appropriate~~] commission.

(2) Application for authority to issue or assume securities or evidences of indebtedness shall be made in such form as the commission prescribes. Every such application shall be made under oath, and shall be signed and filed on behalf of the utility by its president, or by a vice president, auditor, comptroller or other executive officer having knowledge of the matters set forth and duly designated by the utility. Every such application shall be placed at the head of the docket of the commission and disposed of promptly within sixty days after it is filed with the commission, unless it is necessary for good cause to continue the application for longer time than sixty days, in which case the order making the continuance shall state fully the facts that make it necessary.

(3) The commission shall not approve any issue or assumption unless, after investigation of the purposes and uses of the proposed issue and the proceeds thereof, or of the proposed assumption of obligation or liability, the commission finds that the issue or assumption is for some lawful object within the corporate purposes of the utility, is necessary or appropriate for or consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.

(4) The commission may grant or deny the application in whole or in part, or may grant it with such modifications and upon such terms and conditions as the commission deems necessary or appropriate. The order of the commission shall specify that the securities or evidences of indebtedness, or the proceeds thereof, shall be used only for the lawful purposes specified in the application, and both the application of the utility and the order of the commission shall state in general terms the purpose of the issuance or assumption.

(5) A copy of any order made and entered by the commission under this section, duly certified by the secretary of the commission, shall be sufficient evidence for all purposes of full and complete compliance by the utility with all procedural and other matters required precedent to the entry of the order.

(6) Securities and evidences of indebtedness issued and obligations and liabilities assumed by a utility, for which, under the provisions of this section, the authorization of the commission is required, shall comply with the terms and conditions of the order of authorization entered prior to the issue or assumption, and where the order has been fully complied with the validity of the issue or assumption shall not be affected by a failure to comply with any provision of this section or rule of the commission relating to procedure or other matters preceding the entry of the order of authorization or order supplemental thereto.

(7) The commission may require periodical or special reports from the utility issuing any security or evidence of indebtedness. The report shall show, in such detail as the commission requires, the disposition made of such securities or evidences of indebtedness, and the application of the proceeds thereof.

(8) This section does not apply to notes issued by a utility, for proper purposes and not in violation of law, that are payable at periods of not more than two years from the date thereof, or to like notes, payable at a period of not more than two years from date thereof, that are issued to pay or refund in whole or in part any such notes, or to renewals of such notes from time to time, not exceeding in the aggregate six years from the date of the issue of the original notes so renewed or refunded.

(9) Nothing in this section implies any guarantee of securities or evidences of indebtedness by the state, or any obligation on the part of the state with respect thereto, and nothing in this section limits the power of any court having jurisdiction to authorize or cause receiver's certificates or debentures to be issued according to the rules and practice obtaining in receivership proceedings in courts of equity.

(10) This section does not apply in any instance where the issuance of securities or evidences of indebtedness is subject to the supervision or control of the federal government or any agency thereof, but the [~~appropriate~~] commission may appear as a party to any proceeding filed or pending before any federal agency if the issuance of the securities or evidences of indebtedness will materially affect any utility over which the commission has jurisdiction.

(11) This section also does not apply to the issuance of securities or evidence of indebtedness by a utility principally engaged in transportation of gas by pipeline in interstate commerce and subject to the supervision, control or jurisdiction of the federal government or any agency, board or commission thereof.

Section 35. KRS 278.310 is amended to read as follows:

(1) *The* [~~Each~~] commission shall fix the time and place for each hearing held by it, and shall serve notice thereof upon the utility and the complainant not less than twenty (20) days before the time set for the hearing. The commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest or for the protection of substantial rights.

(2) All hearings and investigations before the commission or any commissioner shall be governed by rules adopted by the commission, and in the conduct thereof neither the commission nor the commissioner shall be bound by the technical rules of legal evidence.

(3) The complainant and the person complained of shall be entitled to be heard in person or by attorney and to introduce evidence.

Section 36. KRS 278.320 is amended to read as follows:

The [~~Each~~] commission and each of the commissioners may issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings brought before or initiated by the commission, and such process shall extend to all parts of the state. Service of process in all proceedings brought before or initiated by the commission may be made by certified mail, return receipt requested or by registered mail, or in the same manner as other process in civil cases, as the commission directs.

Section 37. KRS 278.330 is amended to read as follows:

The [~~Each~~] commission and each of the commissioners, for the purposes mentioned in the preceding sections of this chapter, may administer oaths, examine witnesses, and certify official acts. If any person fails to comply with any lawful order of the commission or of any commissioner, or with process, or if any witness refuses to testify concerning any matter on which he may lawfully be interrogated, any circuit court judge, on application of the commission or of a commissioner, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court or a refusal to testify therein. Witnesses summoned before the commission, and witnesses whose depositions are taken pursuant to the provisions of the preceding sections of this chapter, and the officer taking the depositions, shall be entitled to the same fees as are paid for like services in circuit courts, the fees to be paid by the party in whose behalf the witness is subpoenaed.

Section 38. KRS 278.340 is amended to read as follows:

The [~~Each~~] commission or any commissioner, or any party to the proceeding, in any investigation or hearing before the commission or any commissioner, may cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for taking depositions in civil actions.

Section 39. KRS 278.350 is amended to read as follows:

No person shall be excused from testifying or from producing any book, paper or account at any inquiry by, or hearing before, *the* [~~either~~] commission or any commissioner, upon the ground that the testimony or the book, paper or account required of him may tend to incriminate him or subject him to penalty or forfeiture. No person shall be prosecuted or subjected to any forfeiture or penalty for, or on account of, anything concerning which he was compelled to testify under oath or to produce documentary evidence, except that no person so testifying shall be exempt from prosecution or punishment for perjury committed by him in his testimony.

Section 40. KRS 278.360 is amended to read as follows:

A full and complete record shall be kept of all contested proceedings had before *the* [~~each~~] commission or any commissioner on any formal hearing, and all testimony shall be taken down by a reporter appointed by the commission.

Section 41. KRS 278.370 is amended to read as follows:

Every order, finding, authorization or certificate issued or approved by *the* [~~either~~] commission under any of the preceding provisions of this chapter shall be in writing and shall be entered on the records of the commission. A certificate under the seal of the commission that any such order, finding, authorization or certificate has not been modified, stayed, suspended or revoked shall be received as evidence in any proceeding as to the facts stated therein.

Section 42. KRS 278.380 is amended to read as follows:

The [~~Each~~] commission shall deliver a certified copy of any order issued by it to each party to the proceeding in which the order was made, and to an officer or agent of the utility affected thereby.

Section 43. KRS 278.390 is amended to read as follows:

The [~~Each~~] commission may compel obedience to its lawful orders by mandamus, injunction or other proper proceedings in the Franklin circuit court or any other court of competent jurisdiction, and such proceedings shall have priority over all pending cases. Every order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in the order, or until revoked or modified by the commission, unless the order is suspended, or vacated in whole or in part, by order or decree of a court of competent jurisdiction.

Section 44. KRS 278.400 is amended to read as follows:

After a determination has been made by *the* [~~either~~] commission in any hearing, any party to the proceedings may, within twenty (20) days after the service of the order upon him, apply for a hearing with respect to any of the matters determined. The application shall specify the matters on which a rehearing is sought. The commission shall either grant or deny the application for rehearing within twenty (20) days after it is filed, and failure of the commission to act upon the application within that period shall be deemed a denial of the application. Notice of the hearing shall be given in the same manner as notice of an original hearing. Upon the rehearing any party may offer additional evidence that could not with reasonable diligence have been offered on the former hearing. Upon the rehearing, the commission may change, modify, vacate or affirm its former orders, and make and enter such order as it deems necessary.

Section 45. KRS 278.420 is amended to read as follows:

If an action is commenced against *the* [~~either~~] commission because of an order made in any proceedings before it, the commission shall promptly cause a certified transcript of all proceedings had and testimony taken therein to be made and filed with the clerk of the court in which the action is pending. The cost of preparing and certifying the record shall be paid to the commission by the party bringing the action, and taxed as part of the costs, to be paid as directed by the court upon final determination of the action. Copies of the transcript shall be furnished at cost to any party to the proceeding.

Section 46. KRS 278.430 is amended to read as follows:

In all trials, actions or proceedings arising under the preceding provisions of this chapter or growing out of *the* [~~either~~] commission's exercise of the authority or powers granted to it, the party seeking to set aside any determination, requirement, direction or order of the commission shall have the burden of proof to show by clear and satisfactory evidence that the determination, requirement, direction or order is unreasonable or unlawful.

Section 47. KRS 278.485 is amended to read as follows:

Every gas pipeline company obtaining gas from producing wells located within this state, upon the request of the owner of the property on or over which any producing well or gas gathering pipeline is located or the owner of real estate whose property and point of desired service is located within one-half (½) air-mile of said company's producing gas well or gas gathering pipeline, shall furnish gas service to such owner and applicant, subject to and upon the following terms, conditions and provisions, to-wit:

(1) The gas service shall be furnished at rates and minimum monthly charges determined by the *public service* [~~energy~~] commission.

(2) The applicant for such gas service shall construct or cause to be constructed, and shall maintain and keep in good repair, the service lines, and shall provide and install or cause to be installed, and keep in good repair, the necessary automatic gas regulators, and shall pay the entire cost thereof. The company, at its own expense, shall provide, install and maintain the necessary gas meters.

(3) The construction of each service line, the installation, type and number of automatic gas regulators and gas meter or meters and the connection thereof with the gas producing well or pipeline shall be under the supervision of the *public service* [~~energy~~] commission or an agent thereof; and, shall conform to such standards of safety, location and convenience as may be prescribed by said commission.

(4) Neither the gas producer nor the gas pipeline company shall be responsible for maintaining any fixed or specified gas pressure. Neither the gas producer nor the gas pipeline company shall be liable for any accident or accidental injuries or damages which may result from any defect or failure of any automatic gas regulator or for any leakage or other defect or failure of any service line installed or constructed by the applicant.

(5) Nothing in this section shall be construed as requiring any gas pipeline company to serve any such owner of property or applicant from any line or lines established on the discharge side of any compressor station, or from any line or lines serving or connecting with any gas storage field. The provisions of this section shall apply only to producing gas wells and to gas pipelines commonly known as gathering lines.

(6) Nothing in this section shall be construed to restrict the right of any gas pipeline company to abandon any gas well or any gathering pipeline, or any part thereof, and to remove any such abandoned pipeline or lines.

(7) Subject to the rules and regulations of the *public service* [~~energy~~] commission, any service may be disconnected and discontinued by the company for failure of the customer to pay any bill as and when due and payable.

Section 48. KRS 278.510 is amended to read as follows:

(1) No telephone company doing an exchange business in a city shall consolidate with any other telephone company doing an exchange business in the same city, or purchase, lease or operate the plant or line of any such company, until the proper city authorities have found, after such investigation as they deem necessary, that no substantial public benefits result from the separate existence of the companies and that actual competitive conditions do not exist, and have stated their finding in a resolution consenting to such consolidation, lease, sale or operating arrangement.

(2) No telephone company doing a toll line business shall consolidate with any other company doing a like business whose lines serve the same communities or localities, or purchase, lease or operate the plant or lines of any such company until the *public service* [~~utility~~] commission has found, after such investigation as it deems necessary, that no substantial public benefits result from the separate existence of the companies and that actual competitive conditions do not exist, and has stated its finding in a resolution consenting to such consolidation, lease, sale or operating arrangement. Whenever a joint application of two (2) or more such telephone companies requesting such finding and consent is filed with the *public service* [~~utility~~] commission, the commission shall make such investigation, hold such hearings, examine such witnesses and require the production of such books, papers, and records as it deems pertinent to the determination of the application, and shall grant or withhold such consent as the facts warrant.

(3) The *public service* [~~utility~~] commission shall have jurisdiction of those matters set out in section 201 of the constitution that relate to telephone companies, and shall enter in its minutes a record of its acts in relation thereto.

Section 49. KRS 278.530 is amended to read as follows:

(1) Whenever any telephone company desires to connect its exchange or lines with the exchange or lines of another telephone company and the latter refuses to permit this to be done upon reasonable terms, rates and conditions, the company desiring the connection may proceed as provided in subsection (2) or as provided in subsection (3) of this section.

(2) The company desiring the connection may file a written statement with the *public service* [~~utility~~] commission setting out the reasons why the connection is desired and the points at which the connection should be made, and giving the name and address of the owner or chief officer residing in this state of each company with which the connection is desired. The secretary of the commission shall thereupon cause a copy of the written statement to be served upon the companies owning or operating such lines or exchanges,

by mailing a copy to the owner or chief officer residing in this state, and shall fix a date, not earlier than ten (10) days from the date of mailing the notice, for the hearing of the application. Upon the day so fixed for the hearing, the companies may respond in writing to the application, and either side may introduce such testimony as it desires and be heard by attorneys. After the hearing is completed the commission shall make its finding and enter it in a book to be kept for that purpose, and shall mail a copy thereof to each side; and if the commission directs the connection to be made it shall indicate the points where the connection is to be made, the number of wires to be connected, the terms and conditions and the rates to be charged, and the division of the rates charged between the companies handling the messages. The cost of making the connection shall be borne equally by the parties. If any company refuses to make a connection for a period of thirty (30) days after the finding of the commission directing the connection to be made, the company desiring the connection may make the connection and may recover one-half (½) of the cost thereof from the company so refusing.

(3) In lieu of the procedure provided in subsection (2) of this section, the company desiring the connection may compel the connection upon reasonable terms by suit in equity in the Franklin Circuit Court or in the circuit court of the county in which the company making the demand resides or has its chief office in this state, and the court shall, by mandatory injunction, compel the physical connection of the wires and interchange of messages, and enforce the same by contempt proceedings and in the same manner that other mandatory injunctions are enforced.

Section 50. KRS 278.990 is amended to read as follows:

(1) Any officer, agent or employe of a utility, as defined in KRS 278.010, and any other person who willfully violates any of the provisions of KRS 278.010 to 278.450, or who procures, aids or abets any violation of those provisions by any such utility, shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than six (6) months, or both. If any such utility that is a private corporation violates any of the provisions of KRS 278.010 to 278.450, or does any act therein prohibited, or fails to perform any duty imposed upon it under those sections for which no penalty has been provided by law, or fails to obey any lawful requirement or order of the *public service* commission [~~having jurisdiction~~], the utility shall for each offense forfeit and pay to the state treasurer, to be credited to the general fund, a sum not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000). Each act, omission or failure by an officer, agent or other person acting for or employed by a utility and acting within the scope of his employment shall be deemed to be the act, omission or failure of the utility.

(2) Actions to recover the principal amount due and penalties under KRS 278.010 to 278.450 and this subsection shall be brought in the name of the commonwealth in the Franklin Circuit Court. Whenever any utility is subject to a penalty under KRS 278.010 to 278.450 or this subsection, the *public service* commission [~~having jurisdiction~~] shall certify the facts to its counsel, who shall bring an action for recovery of the principal amount due and the penalty. The commission may compromise and dismiss the action on terms approved by the court. The principal amount due shall be paid into the state treasury and credited to the account of the commission, and all penalties recovered in such actions shall be paid into the state treasury and credited to the general fund.

(3) Any utility that fails to pay an assessment as provided for by KRS 278.130 to 278.150 shall forfeit and pay to the state one thousand dollars ($1,000), and twenty-five dollars ($25.00) for each day it fails to pay the assessment, and shall not be released thereby from its liability for the assessment.

(4) Any utility that issues any securities or evidences of indebtedness, or assumes any obligation or liability in respect to the securities or evidences of indebtedness of any other person, or makes any sale or other disposition of securities or evidences of indebtedness, or the proceeds thereof, for purposes other than the purposes specified in the order of the commission made with respect thereto under KRS 278.300, shall be fined not more than ten thousand dollars ($10,000).

(5) Any utility that violates any of the provisions of KRS 278.460 shall be fined not less than one hundred dollars ($100) for each offense.

(6) Any company that willfully fails to receive, transport and deliver oil or gas as required by KRS 278.490 shall, in addition to being liable in damages to the injured person, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and each day of wilful failure shall constitute a separate offense.

(7) Any telephone company that refuses to make a connection with the exchange or lines of another company for a period of thirty (30) days after being ordered to do so by the *public service* [~~utility~~] commission under subsection (2) of KRS 278.530 shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), to be recovered by indictment in the Franklin Circuit Court or in the circuit court of the county where the company requesting the connection resides or has its chief office in this state. If the company desiring the connection proceeds to make the connection, as permitted by subsection (2) of KRS 278.530, and the company so connected with refuses to receive and transmit the toll messages offered to it by the company making the connection, or refuses to deliver messages from its own lines or exchanges to the lines or exchanges of the company making the connection, the company so refusing shall

be fined one hundred dollars ($100) for each day it refuses, to be recovered by indictment in the courts mentioned in the first sentence of this subsection; if it continues so to refuse for a period of six (6) months it shall forfeit its right to do business in this state, and any of its officers, agents or employes who does or attempts to do any business in this state for it after the expiration of the six (6) months' period shall be fined fifty dollars ($50.00) for each day he does or attempts to do such business.

(8) Any company that violates any of the provisions of KRS 278.520 or 278.530 for which there is no other penalty provided shall be fined five hundred dollars ($500) for each offense, and each day of such violation shall constitute a separate offense.

Section 51. KRS 278.992 is amended to read as follows:

Any person who violates any regulation adopted and filed pursuant to KRS chapter 13 by the *public service* [~~energy~~] commission governing the safety of pipeline facilities and/or the transportation of gas as those terms are defined in the natural gas pipeline safety act of 1968, U. S. congress, shall be subject to a civil penalty to be assessed by the *public service* [~~energy~~] commission not to exceed $1,000 for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed $200,000 for any related series of violations. Any civil penalty assessed for such a violation may be compromised by the commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of the violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the commonwealth of Kentucky to the person charged or may be recovered in a civil action in the Franklin Circuit Court.

Section 52. The statute reviser is directed to change the terms "energy regulatory commission" and "utility regulatory commission" to public service commission in statutes where one or both of these terms appear.

The Committee Amendment No. 1 to **SB 171** is as follows:

Amend printed copy of **SB 171,** page 16, line 3, after the period, by adding "*Appointments to the public service commission made more than ninety (90) days prior to a regular session of the General Assembly shall be subject to confirmation by the joint interim committee on energy.*"

The Committee on Counties and Special Districts reported **HB 116,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 116, AN ACT relating to metropolitan sewer districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 76.030 is amended to read as follows:

(1) The business, activities, and affairs of such district shall be managed, controlled and conducted by a board composed of *the following* [~~seven (7)~~] members, four (4) *persons* [~~of whom~~] shall be appointed by the mayor of such city subject to the approval of the city legislative body, and three (3) *persons* [~~of whom~~] shall be appointed by the county judge/executive of such county subject to the approval of the fiscal court, *and one (1) person shall be appointed by the mayor of each city of the fourth class in the county, subject to approval by the city legislative body* and which [~~seven (7)~~] members thus appointed shall constitute the board of such district. Not more than *one more than one-half of the* [~~four (4)~~] members of the board shall be affiliated with the same political party. After March 19, 1977, members shall be so selected and appointed so that no more than *two (2) members reside* [~~one (1) member resides~~] in any one state senatorial district.

(2) Each such member shall be at least twenty-five (25) years of age; each appointed by the mayor shall be a resident of such city and wherein he shall have actually continuously resided for at least three (3) years next prior to appointment; each appointed by the county judge/executive shall be a resident of such county and wherein he shall have actually continuously resided for at least three (3) years next prior to appointment. No officer or employe of such city or county, whether holding a paid or unpaid position, shall be eligible for appointment as a member of such board.

(3) [~~On the first day of July, 1946, or as soon thereafter as may be practicable, the mayor, subject to the approval of the city legislative body shall appoint one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, and one (1) member for a term of four (4) years, and the county judge/executive, subject to the approval of the fiscal court, shall appoint one (1) member for a term of three~~

~~(3) years and one (1) member for a term of four (4) years, and upon the expiration of each of said terms respectively and thereafter,~~] The term of each of such members shall be four (4) years, ending on July first. [~~After March 19, 1977, the county judge/executive, subject to the approval of the fiscal court, shall appoint one (1) member whose term shall expire on July 1, 1979; thereafter the term of this member shall be four (4) years, ending on July 1. The mayor, subject to the approval of the city legislative body shall appoint one (1) member whose term shall expire on July 1, 1979, and thereafter the term of this member shall be for four (4) years, ending July 1.~~] A member is eligible to succeed himself and shall continue in office until his successor has been appointed and qualified. Vacancies in the membership shall be filled for the unexpired portion of the term by the mayor or the county judge/executive as the case may be, subject to the same approval.

(4) Any member of the board appointed by the mayor may be removed by the mayor, for cause, after hearing by the mayor, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the mayor shall be final and removal results in vacancy in such office. Any member of the board appointed by the county judge/executive may be removed by the county judge/executive, for cause, after hearing by the county judge/executive, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the county judge/executive shall be final and removal results in vacancy in such office.

(5) The members of the board shall be paid ten dollars ($10.00) for each meeting of the board attended by such member, but no member of said board shall be paid more than two hundred and forty dollars ($240) during any fiscal year of the board, nor for more than twenty-four (24) meetings held during any fiscal year of said board.

Section 2. KRS 76.050 is amended to read as follows:

(1) Regular meetings of the board shall be held at least once in each calendar month, the time and place of which shall be fixed by the board.

(2) A majority of the members of the board shall constitute a quorum, and the affirmative vote of at least *five (5)* [~~three (3)~~] members of the board shall be necessary for the adoption of any motion, measure, or resolution.

The Committee Substitute to **HB 116** is as follows:

HB 116, AN ACT relating to metropolitan sewer districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 76.030 is amended to read as follows:

(1) The business, activities, and affairs of such district shall be managed, controlled and conducted by a board composed of seven (7) members, four (4) of whom shall be appointed by the mayor of such city subject to the approval of the city legislative body, and three (3) of whom shall be appointed by the county judge/executive of such county subject to the approval of the fiscal court, and which seven (7) members thus appointed shall constitute the board of such district. *In counties containing a city of the first class, one (1) additional person shall be appointed by the mayor of each city of the fourth class which uses metropolitan sewer district treatment facilities for treatment of all of the sewage generated within the city. Such appointments shall be subject to approval by the city legislative body.* Not more than *one more than one-half of the* [~~four (4)~~] members of the board shall be affiliated with the same political party. After March 19, 1977, members shall be so selected and appointed so that no more than one (1) member resides in any one (1) state senatorial district, *except that in counties containing a city of the first class in which members have been appointed to represent cities of the fourth class, no more than two (2) members shall reside in any one (1) state senatorial district.*

(2) Each such member shall be at least twenty-five (25) years of age; each appointed by the mayor shall be a resident of such city and wherein he shall have actually continuously resided for at least three (3) years next prior to appointment; each appointed by the county judge/executive shall be a resident of such county and wherein he shall have actually continuously resided for at least three (3) years next prior to appointment. No officer or employe of such city or county, whether holding a paid or unpaid position, shall be eligible for appointment as a member of such board.

(3) [~~On the first day of July, 1946, or as soon thereafter as may be practicable, the mayor, subject to the approval of the city legislative body shall appoint one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, and one (1) member for a term of four (4) years, and the county~~

~~judge/executive, subject to the approval of the fiscal court, shall appoint one (1) member for a term of three (3) years and one (1) member for a term of four (4) years, and upon the expiration of each of said terms respectively and thereafter,~~] The term of each of such members shall be four (4) years, ending on July first. *Members appointed to represent cities of the fourth class in counties containing a city of the first class shall be appointed on July 15, 1982, or whenever such city qualifies for board representation, whichever is later.* [~~After March 19, 1977, the county judge/executive, subject to the approval of the fiscal court, shall appoint one (1) member whose term shall expire on July 1, 1979; thereafter the term of this member shall be four (4) years, ending on July 1. The mayor, subject to the approval of the city legislative body shall appoint one (1) member whose term shall expire on July 1, 1979, and thereafter the term of this member shall be for four (4) years, ending July 1.~~] A member is eligible to succeed himself and shall continue in office until his successor has been appointed and qualified. Vacancies in the membership shall be filled for the unexpired portion of the term by the mayor or the county judge/executive as the case may be, subject to the same approval.

(4) Any member of the board appointed by the mayor may be removed by the mayor, for cause, after hearing by the mayor, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the mayor shall be final and removal results in vacancy in such office. Any member of the board appointed by the county judge/executive may be removed by the county judge/executive, for cause, after hearing by the county judge/executive, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the county judge/executive shall be final and removal results in vacancy in such office.

(5) The members of the board shall be paid ten dollars ($10.00) for each meeting of the board attended by such member, but no member of said board shall be paid more than two hundred and forty dollars ($240) during any fiscal year of the board, nor for more than twenty-four (24) meetings held during any fiscal year of said board.

Section 2. KRS 76.050 is amended to read as follows:

(1) Regular meetings of the board shall be held at least once in each calendar month, the time and place of which shall be fixed by the board.

(2) A majority of the members of the board shall constitute a quorum, and the affirmative vote of at least three (3) members of the board shall be necessary for the adoption of any motion, measure, or resolution, *except that in counties containing a city of the first class in which members have been appointed to represent cities of the fourth class, the affirmative vote of at least five (5) members of the board shall be necessary for such adoption.*

Announcements

The following meetings were announced.

Budget subcommittee: Wednesday, on adjournment, Room 106.

Majority Caucus: Thirty minutes after adjournment, Thursday, Room 109.

Board Election Contest (Jefferson 38): On adjournment, Speaker's conference room.

The following Floor Amendment was filed:

Floor Amendment No. 1 to **HB 402,** by Representative Clarke:

Amend printed copy of **HB 402,** page 2, line 17, by adding before the word "All" the paragraph number "*(1)*";

and on page 3, after line 7, by adding a new subsection to Section 3 as follows:

(2) Except for the provisions of KRS 141.044(2) and KRS 141.235(3), interest shall be allowed and paid upon any overpayment in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of the Kentucky Revised Statutes at a rate equal to 75% of the rate provided in subsection (1) above. Interest authorized under this subsection shall begin to accrue sixty (60) days after the due date of the return or the date the tax was paid, whichever is later, and in no case shall interest be paid in an amount less than five dollars ($5.00).

Representative LeMaster moved that no further business be conducted on this date other than Introduction of Bills and Resolutions and Report of Committees. Agreed.

Representative LeMaster moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative LeMaster moved that when the House adjourns, it do so by voice vote. Agreed.

Representative LeMaster moved that when the House adjourns, it do so until 2:00 p.m., Wednesday, February 24, 1982. Agreed.

Recess

Representative LeMaster moved that the House recess until 4:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Introduction of Bills and Resolutions

HR 43, by Representative Noland: A RESOLUTION urging members of the Congressional budget committees to reject any reorganization of the Railroad Retirement System provided for in the 1983 federal budget.

HB 595, by Representatives Bronger, Yates, Meyer, Priddy, Burnette, and Perkins: AN ACT relating to retirement systems in cities of the fourth and fifth class.

HB 596, by Representatives Riner and Moberly: AN ACT relating to crimes and punishments.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration.

Energy: **HJR 31.**

Report of Committees

The Committee on Transportation reported **HB 301,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 301, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.010 is amended to read as follows:

(1) *An automated motor vehicle and trailer registration and titling system shall be developed and implemented as expeditiously as practicable in all counties of the Commonwealth* [~~It is the intention of the general assembly that an automated motor vehicle and trailer registration system be developed and that pilot projects be instituted in selected counties, subject to the agreement of the county clerk of a selected county. The counties in which pilot projects shall be instituted shall be selected by the secretary of the department of transportation in consultation with the departments of revenue and justice~~]. The automated motor vehicle and trailer registration system shall be designed to enable Kentucky's county clerks to produce motor vehicle and trailer certificates of registration in their offices, and certificates of title in Frankfort, by automated means utilizing telecommunication terminals and associated devices supplied by the Commonwealth, to inhibit registration and transfer of stolen motor vehicles or trailers, to improve the capability of detecting and recovering such vehicles, to ensure development of a common vehicle information data base to improve efficiency

in auditing motor vehicle usage tax, [~~and~~] license fee collections, *and in collecting personal property tax* to provide information to the traffic record system, and to provide improved security interest protection to potential creditors throughout Kentucky while simultaneously reducing the number of forms that must be processed and stored each year in Kentucky.

(2) The department of transportation is hereby directed to, *as expeditiously as practicable,* develop an automated motor vehicle and trailer registration *and titling* system [~~design~~], having, as a minimum, the capabilities or functions described in this chapter, and to acquire and assure the installation of such equipment or services as are necessary to enable the system as described in this chapter to be *operated in all counties of the Commonwealth* [~~tested in selected counties~~].

(3) *All* [~~The department of transportation is directed to ensure that the system developed will produce the necessary reports in such manner and at such times as the departments of revenue and justice request, to enable these departments to audit the taxes and fees collected by the county clerk in connection with the registration of a motor vehicle or trailer required to be registered in this state, and that the system produces such other information as the department of justice may reasonably require in connection with the registration of a motor vehicle or trailer, in carrying out the duties of that department as they relate to the regulation of motor vehicles or a traffic records system.~~

~~(4) The~~] departments of *state government affected by the system* [~~revenue and justice~~] are hereby directed to cooperate with the department of transportation for purposes of assuring orderly implementation of this chapter.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) (a) The cabinet of personnel and management services shall have full responsibility and authority for day-to-day administration of the automated system described by this chapter; and

(b) May request the assistance of any department or bureau of state government in carrying out its responsibilities under this Act.

(2) The bureau of technical services shall assure, to the extent feasible, twenty-four (24) hour, year-round information support to the bureau of state police, and to other law enforcement agencies state and nationwide, regarding vehicles registered and, when required, titled in this state.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

In order to improve collection of personal property (ad valorem) taxes associated with motor vehicles and trailers, the bureau of vehicle regulation, in cooperation with the department of revenue, shall:

(1) Ensure that the automated system provided by this chapter is capable of properly assigning a value for each vehicle registered in a county, utilizing a value reference manual in machine readable form approved by the department of revenue, and a manually entered value for vehicles not shown in such "manual."

(2) Promptly study the feasibility of computing personal property (ad valorem) taxes associated with motor vehicles or trailers, and producing tax bills or notices of taxes due in such regard, and if shown feasible to its satisfaction, implement such capability, or any part thereof, as expeditiously as practicable.

(3) Ensure that the automated system is capable of receiving the record of a lien for unpaid personal property (ad valorem) taxes associated with a motor vehicle or trailer.

SECTION 4. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) All motor vehicles with a gross vehicular weight of 6,000 pounds or less, first registered, or for which the registration is renewed in this state on or after January 1, 1983, shall be placed in a system of year-round registration based upon the birth month of the owner, in order to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve (12) months of the year.

(2) If the owner of a motor vehicle is other than an individual, the month in which the owning entity came into being shall be used for purposes of this section. If a motor vehicle is jointly owned, the owners shall indicate to the county clerk the birth month of one (1) of them to be used for purposes of this section.

(3) The certificate of registration and license plate issued for a motor vehicle first registered, renewed, or titled in this state on or after January 1, 1983, shall be valid, unless cancelled by the department in accordance with KRS Chapter 186 or this chapter, upon payment of the required fee, for a period beginning on the first day of the month of the year in which registration is applied for, and expiring on the last of the next birth month of the owner following the month during which registration is applied for, provided however that, upon the owner's request, and after payment of the proper prorated fee, an owner may obtain a certificate of registration and license plate valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration.

(4) After a motor vehicle has been initially placed in the system of year-round registration, the owner shall renew the registration annually during the owner's birth month, by making application to the county clerk and paying the fee required for twelve (12) consecutive months of registration, which shall take

effect on the first day of the month succeeding the owner's birth month and shall expire on the last day of the owner's next birth month. The county clerk shall be entitled to a registration fee of one dollar ($1.00) per each twelve (12) month period of any portion thereof.

(5) Any owner who fails to renew the registration of a motor vehicle during the month in which the previous registration expired, shall, if he applies for renewal of the registration in some later month, pay the same fees that would have been required if the registration had been renewed in the month which the previous registration expired.

(6) Fees which must be prorated in carrying out the intent of this section shall be prorated on the basis of twelfths of the annual registration fee. Any vehicle which is registered at any time during a month, shall pay the fee required for that whole month plus any additional months of registration purchased consistent with the intent of the section.

(7) The county clerk shall ensure that the certificate of registration issued to an owner displays the month and year in which the registration period begins, and the month and year of its expiration, and shall issue to the owner a decal or decals corresponding to the month and year of expiration shown in the certificate of registration which shall be placed upon the corresponding license plate by the owner in the manner required by administrative regulations of the bureau of vehicle regulation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The department of insurance is hereby authorized to develop a program whereby that department shall provide information on the insurance status of vehicles registered in the Commonwealth of Kentucky to the bureau of technical services for inclusion in the AVIS data base.

(2) Upon the implementation of such a program, the requirement that a sticker or emblem evidencing security (insurance) be affixed to a motor vehicle shall be waived.

(3) Nothing in this section shall be construed as prohibiting the county clerk from registering or titling a vehicle because of insurance information.

SECTION 6. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The department of transportation shall ensure that each county in the Commonwealth is equipped with at least one (1), or more than one (1), as workload dictates, video telecommunications terminal and associated devices, linked to a computer in Frankfort maintained by the Commonwealth, and capable of enabling the county clerks to produce certificates of registration in their offices, and certificates of title in Frankfort, in a manner consistent with this chapter.

SECTION 7. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The certificate of title blanks required by this chapter shall be designed and printed to make difficult and to facilitate detection of counterfeit likenesses or fraudulent alteration of genuine documents. The bid specifications for the acquisition of the certificate of title blanks shall require, as a minimum:

(1) That bidders have a demonstrable reputation in the printing of currency or securities, and guarantee with an appropriate cash bond that, in addition to any other requirements, the document blanks to be supplied are printed in a secure printing facility, by intaglio steel plate printing process, from line engravings, utilizing a combination of the printing process, unique printing plates, paper, and inks to produce high quality documents designed to:

(a) Be readily recognizable as genuine by a layman and by extra visual techniques;

(b) Make extremely difficult the manufacture of counterfeit likenesses by direct engraving, photographic or color xerographic means;

(c) Visually reveal actual or attempted alteration or erasure by chemical or mechanical means.

(2) That bidders guarantee production of a specific number of uniquely numbered documents with guaranteed accounting for spoilage and a guaranteed list of document numbers supplied and those deleted.

(3) That the documents will be shipped to the Commonwealth by an agreed means to assure minimal risk of theft, loss or destruction.

(4) That the plates utilized in printing of the blanks will not be utilized for the printing of certificate of title blanks by other than the bidder pursuant to a lawful contract with the Commonwealth.

SECTION 8. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The bureau of vehicle regulation, in cooperation with the bureau of state police, shall ensure that the automated vehicle registration and titling system provided for by this chapter will be designed, equipped, and operated so that, under normal conditions, the system will withhold production of a certificate of title until the vehicle identification number of a vehicle for which a title is sought, and when present, its license number has been automatically compared against the law information network Kentucky (LINK) and, unless it refuses to permit such an arrangement, the national crime information center (NCIC) computerized listing of vehicles reported stolen, and a "no stolen report" or its equivalent is received.

SECTION 9. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The bureau of vehicle regulation is directed to develop, in cooperation with county clerks, auto dealers, and the departments of revenue and insurance and the bureau of state police, a combined vehicle transaction record form to permit, to the extent feasible, the recording of all information pertinent to the initial registration, or titling and taxation, or transfer of registration or title of a vehicle. The form shall be utilized by all applicable parties in connection with the registration, or titling of a vehicle in this state. The form shall have at least the following characteristics:

(1) An appropriate heading or title.

(2) A statement that the information required by the first or original of the form must be legibly printed in dark blue or black, permanent photoreproducing ink or indelible pencil, or typed in black, except as to signatures, which shall be originally signed in dark blue or black photoreproducing ink.

(3) A statement, prominently printed in boldface type, that any person who knowingly enters, or attests to the entry of, false or erroneous information upon the form shall be subject to the penalties of forgery in the second degree.

(4) A seller or transferror section containing space for the seller or transferror's full legal name, mailing address and telephone number, including telephone area code, and if the seller or transferror is a motor vehicle dealer licensed in this state, a space for recording the dealer license number.

(5) An owner or buyer section, containing space for the owner or buyer's full legal name, mailing address, social security account number, or, if the owner is other than a person, its state or federal employer identification number, telephone number including telephone area code, and owner's birth month.

(6) A vehicle description section with space for the vehicle identification number, and if the vehicle is a motorcycle, a motor number; the make; model name; model number; year model; number of cylinders; style of body; and spaces for designating two (2) colors, single or upper, and lower; and, if the vehicle is a truck, its gross weight.

(7) A section with spaces for recording prior registration and title information to include the previous owner's name, the state in which a vehicle was last registered or titled, and the title number, registration number, and year.

(8) An odometer disclosure section containing all information elements required by applicable federal law, except that, the language of the section shall incorporate by reference the transferror's address, the vehicle description, date of the statement and the transferee's name, address and acknowledgment, which shall appear on the same form, although not necessarily within the same section. Such section shall be imprinted with the warning that knowingly giving false or erroneous information is subject to the penalty of forgery in the second degree.

(9) A transferror's lien declaration section, containing the necessary means to obtain the following information: I —— warrant that the vehicle described above is not subject to an unterminated lien in the name of a prior owner.

(10) A tax computation section for both new and used cars, consistent with requirements of the department of revenue.

(11) A section for the seller or transferror's certificate of truth and accuracy of the information. The section shall be printed in boldface type and shall read: I —— (typed or printed name) hereby certify under penalty of forgery in the second degree and applicable federal and state law and regulations that the foregoing information upon this form is true and correct to the best of my knowledge and belief. —— (signature).

(12) This language shall be followed by the words and spaces required for a notarial certificate.

(13) An owner or transferee's lien declaration section, containing the necessary means to obtain the following information: (——, (owner, transferee) have not applied for a loan in connection with the vehicle described above, and do not expect to do so within thirty (30) days of submission of this application to the county clerk.

(14) A lien information section containing the necessary elements to obtain the following information:

(a) This vehicle shall be subject to lien or liens, not exceeding two (2), in the name of the applicant, owner or transferee;

(b) Spaces for recording as to a first and second lien, the lienholder's name and mailing address, including zip code; and county in which the financing statement is to be filed;

(c) A statement as to whether a loan has been or will be applied for in connection with the vehicle, and whether a financing statement is expected to be filed within thirty (30) days of submission of this application to the county clerk.

(15) A section for an owner's request for issuance of a regular or special plate.

(16) A section for an owner's request for registration of a vehicle under a special fee classification.

(17) A section for the owner's statement of application for registration or a certificate of title. The section shall state: I —— (typed or printed name) hereby apply for registration of the vehicle described

above, for a license plate of the type indicated, or a certificate of title. If I have requested that the vehicle be registered under a special use classification provided by statute, I certify that the vehicle will be operated consistent with the registration classification I have indicated. I certify under penalty of forgery in the second degree that the information I have supplied is true and correct to the best of my knowledge and belief, following by a space for the owner's signature. This language and space shall be followed by the words and spaces required for a notarial certificate.

(18) A section for the certified vehicle inspector's certificate of inspection of a vehicle which shall include words and spaces as indicated: I —— (printed or typed name and title) of —— (printed or typed county) telephone area code and telephone number, do hereby certify under penalty of forgery in the second degree that I have personally and physically inspected the vehicle described above, together with this application and its supporting documents,and the vehicle is as described hereon; the documents supporting this application are consistent with the vehicle description, including the vehicle identification numbers appearing upon this application, and that the vehicle identification number displayed upon the vehicle and supporting documents appear to be in order. The odometer reading at the time of my inspection was —— miles/kilometers (circle one). The driver's license number of the owner is ——, state of ——. I hereby certify under penalty of forgery in the second degree that the information I have given is true and correct to the best of my knowledge and belief. —— (signature) —— (date).

(19) County clerk's section with words and spaces as appropriate, requiring the county clerk to:

(a) Enter the type, name of the issuer, identifying number and date of issue, of the document supporting the application, together with its document control number (as distinguished from title number) and the taxes and fees to be collected, including the number of months of registration sold, the month and year of expiration, and such decal numbers as may be required to permit audit of fee collections;

(b) Words requiring, and spaces for entry of, the name of the county in which the application was received together with the date and time of receipt, and space for the signature of the clerk or deputy, which shall be preceded by the words "I certify under penalty of forgery in the second degree that I have reviewed this application and the documents supporting it; all supporting documents indicated hereon are present and consistent in pertinent part with this application, that I received the application on the date and at the time indicated hereon, and that I collected the fees as indicated." —— (signature of clerk or deputy clerk, date, county).

(20) A statement that "I certify under penalty of forgery in the second degree that this record was entered with due diligence into the automated system by me at or about —— (time) —— (date) —— (signature) —— (title)."

(21) Spaces for stamping the date and time of receipt of the application by the bureau of vehicle regulation and for the signature or prescribed symbol of the receipt clerk and for endorsements by processing clerks.

(22) A space for endorsement that title issuance was recommended to the bureau of vehicle regulation —— (date, time) by —— (signature) which shall be preceded by the words "I certify under penalty of forgery in the second degree that due diligence has been exercised in recommending issuance of title No. —— in the name of the applicant for the vehicle described above" —— (signature, date).

(23) The form may contain or require any other information deemed appropriate by the bureau of vehicle regulation in cooperation with the departments of revenue and insurance and the bureau of state police, and may be organized as efficiency dictates.

SECTION 10. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided, before the owner of a motor vehicle or trailer may operate it or permit its operation upon the highways of this state, he shall apply for and obtain a certificate of registration, a license plate and a certificate of title in his name.

SECTION 11. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided, the state resident owner of a motor vehicle or trailer which will not be operated upon the highways of this state must within fifteen (15) days apply for and obtain a certificate title in his name. He shall not, however, be required to obtain a certificate of registration until such time as the motor vehicle is to be operated upon the highways of this state.

SECTION 12. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of the department of transportation determines that each county in the Commonwealth cannot be equipped with operational terminals and associated devices consistent with this chapter, in sufficient time to efficiently implement the titling of vehicles of the year model 1984, or any year thereafter, he shall report such determination in writing, with reasons stated, to the governor not later than January 1, 1983.

(2) The governor may by executive order, extend by one (1) year, to 1985, the first year model of vehicles for which a certificate of title must be obtained in this state. Such order shall be made prior to June 30, 1983.

(3) The secretary of transportation shall, upon issuance of an executive order as provided in this section, give formal notice to appropriate agencies that such extension has been made.

SECTION 13. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

No Kentucky certificate of registration, license plate, or certificate of title need be applied for or obtained for:

(1) A vehicle owned by the United States unless it is registered in this state;

(2) A vehicle owned by a non-resident of this state, principally operated in another state, properly and currently registered and titled in another state;

(3) A vehicle regularly engaged in the interstate transportation of persons or property for which a currently effective lawful certificate of title has been issued in another state;

(4) A vehicle moved solely by animal power;

(5) An implement of husbandry;

(6) Special mobile equipment;

(7) A self-propelled wheelchair or invalid tricycle;

(8) A pole trailer;

(9) A motor vehicle engaged in the transportation of passengers for hire operating under a currently valid certificate of convenience and necessity; and

(10) A moped.

SECTION 14. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

No county clerk shall accept an application for a certificate of registration or title, or license plate, unless the vehicle bears an apparently legitimate vehicle identification number, and if required, an apparently legitimate motor and frame number, as indicated by an owner's application.

SECTION 15. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The owner of a vehicle required to be titled or registered in this state which:

(a) Does not have a legitimate vehicle identification number as affixed by a manufacturer regularly engaged in the original manufacture of the type vehicle for which registration is sought, or in accordance with the law of this or another state; or

(b) Has been built from parts;

shall, before making application for registration of the vehicle, apply to the bureau of vehicle regulation for issuance of a vehicle identification number plate, which shall be affixed to the vehicle in the manner prescribed by administrative regulations of the bureau of vehicle regulation.

(2) The bureau of vehicle regulation shall establish, in cooperation with the bureau of state police, regulations governing the form of application required by this section, and may require inspection of the vehicle before a vehicle identification number plate has been issued and after such plate has been affixed to the vehicle.

SECTION 16. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

An owner of a vehicle for which a certificate of registration or title, and license plate must be obtained shall be allowed a fifteen (15) day grace period from the date on which he purchased a vehicle or brings a vehicle into the Commonwealth from another state, during which time the owner shall apply for and obtain a certificate of registration or title and a license plate in his name.

SECTION 17. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state which has not previously been registered in this state, shall, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for fifteen (15) days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two dollars ($2.00), of which the clerk shall retain one dollar ($1.00). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the department of transportation.

(2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.

(3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application, and ensure that it reflects the numbers appearing on the tags issued with respect to such application.

SECTION 18. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Motor vehicle dealers and their agents, before equipping a vehicle with a temporary tag, shall print or stamp in waterproof ink, legibly, in the spaces provided on such tag:

(a) The month, day and year the vehicle was delivered to the purchaser;

(b) The month, day and year of expiration of the tag which shall be no more than fifteen (15) days following the date of delivery of the vehicle to the purchaser;

(c) The purchaser's name;

(d) The year model, make and vehicle identification number of the vehicle sold; and

(e) The dealer's name, city of principal place of business and the telephone number including telephone area code.

(2) The dealer's employe who executes the temporary tag shall place his signature in the space provided. A dealer who issues, or whose agents issue, temporary tags shall keep a log of each temporary tag obtained, and each such tag issued, showing all information entered by the dealer or dealer's agent on forms supplied by the department, and shall make such log available for inspection by any law enforcement officer upon request. Such log shall be retained by the dealer for a period of at least two (2) years following the date of issuance of the last dated tags whose issuance is indicated on any individual temporary tag log sheet.

SECTION 19. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Both the dealer and the dealer's salesman or agent shall be liable for separate penalties for issuance of a temporary tag prior to sale of the vehicle on which the tag is placed by the dealer, for placement of a tag on a vehicle other than one purchased by the purchaser shown on such tag, for failure to fully execute as provided in this section a temporary tag which is placed upon a vehicle, and for failure to maintain the records required by Section 18 of this Act.

SECTION 20. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state, shall, before submitting his application for title, to the county clerk, have the vehicle together with his application for title and its supporting documents inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk.

(a) The certified inspector shall be certified through the bureau of vehicle regulation following requirements set forth by the bureau by regulations and shall be an employe of the county clerk's office. The certified inspector will be held responsible for all certifications required pursuant to this chapter and will be liable for any and all penalties prescribed in this chapter.

(b) There shall be a three dollar ($3.00) fee for this certification, payable to the county clerk's office, upon completion of certification.

(c) There shall be an additional fee of seven dollars ($7.00) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the county clerk's inspection area.

(2) The following vehicles are excluded from the requirement of inspection by a certified inspector prior to titling in this state:

(a) New motor vehicles sold by a dealer licensed in this state;

(b) Vehicles required to be registered in this state by reason of lack of a reciprocity agreement with another state and for which a non-negotiable registration document is to be issued; and

(c) Motor vehicles operated by a motor carrier under a non-negotiable certificate or permit issued by the bureau of vehicle regulation;

(d) Motor vehicles owned by servicemen or servicewomen who are residents of Kentucky stationed outside of Kentucky, may be inspected by the post provost or similar officer of the camp, post or station. The post provost or similar officer shall submit an affidavit stating the name of the owner, the identification or serial number, the make, body style, current license or title number, if any, and state in which currently registered or titled, if any, of the motor vehicle.

(3) When presented to a certified inspector for inspection or to a county clerk for processing, the owner's application for a first certificate of registration or title in his name, shall be accompanied by one of the following documents as applicable:

(a) If the vehicle is a new vehicle not previously registered in this state, the properly assigned manufacturer's statement of origin for the vehicle for which registration or title is sought;

(b) If the vehicle was last registered in this state, and is a vehicle for which a title is not required in this state, a certificate of registration, or if the vehicle is one for which a certificate of title is required in this state, properly assigned certificate of title;

(c) If the vehicle was last previously titled in another state, a properly assigned certificate of title;

(d) If the application refers to a vehicle previously registered in another country, the documents of that country establishing ownership of the vehicle;

(e) If the application refers to a vehicle last previously registered in another country by a person on active duty in the armed forces of the United States, the county clerk may accept on behalf of the bureau of vehicle regulation evidence of ownership provided the applicant by the United States department of defense;

(f) If the application relates to a vehicle which has been specially constructed or reconstructed, that fact shall be stated in the application, and the application shall be accompanied by such documents as are specified by administrative regulations of the bureau of vehicle regulation.

(4) When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle when registration or title is sought in this state, together with the vehicle transaction record, and its supporting documentation, on the following points:

(a) He shall ensure that the vehicle transaction record and each of its copies are legible and properly executed to the extent required at the time of execution;

(b) He shall compare the vehicle identification number as appearing on both the vehicle identification number plate, and the federal safety standards label of the vehicle which is sought to be registered or titled, with the corresponding number inscribed on the vehicle transaction record, and its supporting documentation, and ensure that the vehicle identification number appearing at each described location appears legitimate and that they are consistent with each other;

(c) He shall examine the primary odometer of the vehicle and legibly record the reading in the space provided in the inspection section of the transaction record; and

(d) After exercising due diligence in inspecting the vehicle, the vehicle transaction record, and its supporting documentation, and finding that they appear to be in order, the certified inspector shall execute the preprinted certificate of inspection according to its terms by printing in the spaces provided, his first name, middle initial and last name, and his title, the name of the county in which he serves and the telephone number including the telephone area code of his agency, and sign in ink his signature in the space provided, and print the month, day and year in which his inspection was made, certifying under penalty of forgery in the second degree the character, accuracy and date of his inspection.

(5) The certified inspector shall refrain from executing the certificate of inspection if:

(a) He has not personally and physically inspected the vehicle in accordance with this section;

(b) He has reason to believe that the vehicle displays an unlawfuly altered vehicle identification number;

(c) The vehicle transaction record and any of its copies are illegible or otherwise improperly executed, or contain information reasonably believed to be inaccurate or fraudulent;

(d) The documentation required in support of any application is not present, or not consistent with the vehicle and the owner's application or appears fraudulent; or

(e) He has probable cause to believe the vehicle is stolen.

SECTION 21. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Application for a first certificate of registration or title and plate, shall be made by the owner to the county clerk of the county in which he resides, except that, if a vehicle is purchased from a dealer other than in the county in which the purchaser for use resides, the purchaser, or the dealer on behalf of the purchaser, may make application for registration to the county clerk in either the county in which the purchaser resides, or in the county in which the dealer's principal place of business is located.

(2) (a) When purchaser of a vehicle upon which a lien is to be recorded is a resident of a county other than that of the dealer, the application for registration or title may be made to the county clerk in either county. The lien must be recorded in the county of the purchaser's residence.

(b) If vehicle application for registration or title is presented to the county clerk of dealer's location rather than purchaser's residence, the clerk shall process documents in a manner similar to that of any application, with the exception that the AVIS system shall be programmed in a manner that the title shall not be issued from Frankfort until the lien information has been entered by the county clerk of the purchaser's residence.

(3) (a) A new vehicle, when first registered or titled in this state, shall be registered or titled in the name of the first owner for use rather than in the name of a dealer who held the vehicle for sale.

(b) Except as otherwise provided in this Act, a used vehicle not previously registered or titled in this state shall be registered or titled in the name of the first owner for use rather than in the name of a dealer who held the vehicle for resale.

(4) If the owner of a vehicle required to be registered or titled in this state does not reside in the Commonwealth, the vehicle shall be registered or titled with the county clerk of the county in which the vehicle is principally operated.

(5) If the owner of a vehicle is other than an individual and resides in the Commonwealth, the vehicle shall be registered or titled with the county clerk in either the county in which the owner resides or in the county in which the vehicle is principally operated.

SECTION 22. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Application for a first certificate of registration, or title, in the name of an owner shall be made on forms prescribed by the bureau of vehicle regulation consistent with this chapter, which shall be available from any county clerk.

(2) Application forms shall be completed, except as to required signatures, by legibly printing in ink, or typing all required information. When a signature is required, such signature shall be given attesting under penalty of forgery in the second degree to the truth and accuracy of the information supplied.

(3) The application, when presented to the county clerk, shall contain all required information and be fully executed with all required signatures present, and be accompanied by all required supporting documentation and fees.

(4) The county clerk shall reject any application upon which the information provided is not legibly printed or typed, the required information is not supplied, not accompanied by required supporting documents, not properly executed with required signatures, or when the clerk determines that the application is improper or that the applicant is not entitled to registration or title of the vehicle for which registration or title is sought, or in the absence of the required fees.

SECTION 23. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

There shall be paid for issuing and processing documents required by this chapter fees according to the following schedule:

(1) Each application for a certificate of title shall be six dollars ($6.00), of which the county clerk shall retain sixty-six and two-thirds percent (66 ⅔%) and the department of transportation shall receive thirty-three and one-third percent (33 ⅓%).

(2) Each application for a replacement or corrected certificate of title shall be two dollars ($2.00) of which, the county clerk shall retain fifty percent (50%) and the department of transportation shall receive fifty percent (50%) provided, however, that if a corrected certificate must be issued because of an error of the county clerk or the bureau of vehicle regulation, there shall be no charge.

SECTION 24. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) When the commissioner of the bureau of vehicle regulation determines that the automated vehicle registration and titling system is operational in a county, he shall so notify the county clerk of such county by a notarized statement sent to the county clerk by certified mail.

(2) After receiving the notice provided for by this section, the county clerk shall issue only those certificates of title and registration or certificates of registration that have been produced through automated vehicle registration and titling system, unless otherwise authorized by the administrative regulations of the bureau of vehicle regulation.

SECTION 25. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The bureau of vehicle regulation shall provide by administrative regulations, procedures for registration or titling, for a vehicle in a county not equipped with automated facilities provided for by this chapter, or whose facilities have been rendered useless for a period exceeding one (1) day by reason of calamity.

(2) Procedures developed under this section shall be consistent with concepts that liens associated with motor vehicles shall be filed with the county clerk, and that a title shall be issued centrally from Frankfort, after careful review of an application to determine correctness and legitimacy of it.

SECTION 26. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Upon receiving an application of an owner for a first certificate of registration or title in his name, the county clerk or deputy clerk shall review the form, and each copy thereof, for legibility, completeness, and consistency of information. The clerk shall ensure that all documents required in support of the application accompany the application and that they are consistent in pertinent part with the statements upon the application.

(2) Upon determining that an application is in proper form, the county clerk or his deputy shall complete those elements of the form reserved to the county clerk, endorse the application in the manner directed upon the form, and then enter designated information from the application into the automated system, in the manner required by administrative regulations of the bureau of vehicle regulation consistent with this chapter.

SECTION 27. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

In the event that, at the time an application for a certificate of registration or title is presented to the county clerk, the automated system is not capable of accepting entry of the record of an application and producing a certificate of registration, the county clerk shall advise the applicant of the outage, and after accepting the owner's application, and collecting the required taxes and fees, indicate receipt of the application in the required manner, and issue to the applicant, a temporary receipt which shall serve as a temporary certificate of registration until the certificate of registration produced by the automated system is received by the applicant. The clerk shall advise the applicant, or the applicant's agent, that the regular certificate of registration will be mailed to the applicant or the applicant's agent in due course, or held for call by the applicant or the applicant's agent, at the applicant's discretion.

SECTION 28. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

When the automated system becomes operational following a system outage, it shall be the duty of the county clerk to ensure that all applications received during the system outage are promptly entered into the system and that the certificates of registration produced by the automated system are promptly mailed postpaid or delivered to the owner.

SECTION 29. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The county clerk shall, upon issuing a certificate of registration, give or mail postpaid to the owner, his designated copy of his application, and if the seller or transferror's designated copy accompanied the owner's application when it was presented to the county clerk, the clerk shall make that copy available to the seller or transferror.

(2) The county clerk shall then file the clerk's copy of the owner's application in the manner stipulated by administrative regulations of the bureau of vehicle regulations.

(3) The department of revenue copy of the owner's application shall be forwarded to the department of revenue in the manner specified by regulations of the bureau of vehicle regulation.

SECTION 30. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Not later than 3 p.m. on the next business day after an application for a first certificate of registration or title for a vehicle is received by him, the county clerk shall prepare on forms supplied by the bureau of vehicle regulation, an application transmittal record.

(1)The clerk shall indicate thereon in the spaces provided, the name of his county, the date or time period the transmittal relates to and, in the order they are to be attached to the transmittal record, a notation for each application attached consisting of the applicant's last name and initials or if the applicant is other than an individual, the name commonly used by the applicant and any other information required upon the form as indicated thereon.

(2) The clerk shall ensure that the original of all applications noted on the transmittal, together with the original of all required supporting documents are attached to the transmittal record in the order shown thereon, and shall thereafter sign and date the original of the transmittal record as of the date the transmittal is being forwarded to Frankfort.

(3) The county clerk shall place the original of each application record, with the original of each application shown thereon, and its required supporting documents, together with the acknowledgement of the transmittal record, in the envelope or other container provided by the bureau of vehicle regulation and forward to the division of motor vehicle licensing in Frankfort.

SECTION 31. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The bureau of vehicle regulation shall:

(a) Within five (5) working days following receipt by it of an application for a certificate of title in proper form, process the application and its supporting documents in the manner provided in this section, and unless it finds discrepancies with respect to it or its supporting documents, issue a certificate of title in the name of the owner and send it postpaid to such owner.

(b) The bureau of vehicle regulation shall provide by regulation, a procedure for direct delivery, as distinguished from delivery by mail, of a certificate of title to an owner or owner's agent, and may establish a fee deemed reasonable by it for such service.

(2) Upon receiving an application packet from a county clerk, the application receipt clerk of the bureau of vehicle regulation shall:

(a) Cause the date and time of receipt to be stamped on both the bureau's copy and the acknowledgement copy of the application transmittal record and accompanying documents;

(b) Cause at least duplicate sets of microfilm images to be made of each transmittal record application and supporting document by a means that will provide rapid, selective, automated retrieval of individual document images by appropriate indexing methods or keys;

(c) Compare the application transmittal record with the documents accompanying it, and, if all applications shown upon the record are accompanying the record, endorse the bureau's copy of the transmittal record and the acknowledgment copy, and forward the acknowledgement copy to the clerk who issued it.

(3) In the event there is a discrepancy between the application transmittal record and the application attached to it, the bureau of vehicle regulation shall note the discrepancy upon the bureau's copy and the acknowledgment copy, and shall promptly contact the issuing clerk and resolve the discrepancy. After resolving the discrepancy, the bureau shall note the nature of the disposition of the discrepancy and endorse the respective copies and forward the acknowledgment copy with the discrepancy disposition noted thereon to the issuing clerk.

(4) After executing the acknowledgment of receipt of applications, the bureau of vehicle regulation shall carry out the following action with respect to each application:

(a) Examine the owner's application for legibility and proper execution, presence of required information, including required supporting documents, and the presence of required signatures. The bureau of vehicle regulation shall ensure also that the required supporting documents are consistent in pertinent part with the information shown on the owner's application;

(b) The documents supporting an owner's application shall be examined as to authenticity and to determine if fraudulent alteration has occurred;

(c) Assure that the vehicle identification number of the subject vehicle is apparently legitimate;

(d) Ensure that the vehicle identification number and any other appropriate information with respect to a vehicle for which a certificate of title has been applied for is compared against the national crime information center (NCIC) computerized listings of vehicles reported stolen, unless NCIC is not operational and the bureau has official notification that is not expected to be operational within four (4) working days following the day on which an application for a certificate of title is received by it;

(e) Compare the computer produced certificate of title for consistency with the owner's application and supporting documents.

(5) When the title application has been completed, and the application examiner at each significant stage has indicated, by placing his unique symbol upon the application in the space provided thereon, that an application has passed the required examinations, the application shall be examined by a title examination certifier.

(6) The title application certifier shall ensure that each application has received the required examinations as indicated by the presence of each required examiner's symbol. Upon satisfying himself that an application has passed the required examinations, the title examination certifier shall place his unique symbol together with the date upon the application.

(7) The bureau of vehicle regulation shall withhold issuance of a title, until its questions are resolved to its satisfaction, when it finds material discrepancies or has information giving probable cause to believe:

(a) That an applicant is not the lawful owner of a vehicle for which he seeks a title;

(b) His application is not in order;

(c) The documentation supporting an application is insufficient or fraudulent;

(d) The vehicle has an illegitimate vehicle identification number;

(e) The vehicle is stolen; or

(f) That the computer produced certificate of title is not consistent with the owner's application.

(8) When the bureau of vehicle regulation finds that a certificate of title should be issued for a vehicle, the endorsement of the commissioner of the bureau of vehicle regulation shall be engrossed upon the certificate of title following a preprinted statement which shall read: I certify that the bureau of vehicle regulation has exercised due diligence in examining an application for a certificate of title for the above-described vehicle, and to the best of our knowledge and belief, the applicant whose name appears above is the lawful owner of the apparently legitimate vehicle described herein. ———————— (signature), commissioner, bureau of vehicle regulation, Kentucky department of transportation.

SECTION 32. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Each certificate of title issued by the bureau of vehicle regulation shall contain:

(a) The date of its issue;

(b) The name, social security account number or federal employer identification number and current mailing address of the owner, to include zip code;

(c) The names and addresses of any lienholders, not exceeding two (2);

(d) The title number;

(e) A description of the vehicle including the following data: year, make, model name, model number, vehicle identification number, type of body, number of cylinders, color or colors not exceeding one upper and one lower color, and if the vehicle is a truck, its gross weight;

(f) If last titled in another state, the name of the state and the title number;

(g) Forms for assignment and warranty of title by the owner, and for assignments and warranty of title by dealers;

(h) Any other information the department requires;

(2) A certificate of title issued by the department is prima facie evidence of the facts appearing on it.

SECTION 33. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

An owner who has obtained a certificate of title pursuant to this chapter may apply for and obtain an updated certificate, but shall not be required to periodically renew a certificate of title that has been issued to him.

SECTION 34. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The bureau of vehicle regulation shall:

(1) Be the custodian of the original of each application for a certificate of title, and its supporting documents. It shall retain such records in accordance with a records retention and destruction schedule established pursuant to the archives and records statutes of this state.

(2) Furnish on a periodic basis not less than quarterly to other states, either the original, or a copy, or listings of all certificates of title received from them, to include title and document control numbers in addition to the vehicle description and owner information.

(3) Maintain active liaison with other states regarding vehicle titling and its auto-theft implications, and obtain from them on a regular basis, listings of documents reported missing or stolen or counterfeit.

SECTION 35. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Financing statements relating to vehicles required to be titled in Kentucky through the county clerk shall be filed in the office of the county clerk of the county in which the debtor resides or, if the debtor is a nonresident, in the office of the county clerk in which the vehicle is principally operated.

(2) Before ownership of a vehicle subject to a lien evidenced by a financing statement executed pursuant to KRS Chapter 355 may be transferred, the transferror shall obtain the release of the prior liens in his name against the vehicle being transferred.

(3) No more than two (2) active financing statements as provided by KRS Chapter 355 may be recorded upon a certificate of title.

(4) In recording the filing of a financing statement upon a certificate of title, the county clerk shall ensure that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was filed, its file number and the county in which the financing statement is on file.

(5) A copy of the application, certified by the county clerk, indicating the lien will be filed shall be forwarded to the lender.

SECTION 36. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) If a financing statement and the required fees accompany the application for first title of a vehicle in the name of an owner, the county clerk shall enter the information required by Section 35(4) of this Act above into the automated system so as to produce a certificate of title in Frankfort bearing in addition to any other required information, the information designated by Section 35(4) of this Act. The clerk shall thereby produce, in accordance with design of the automated system, a certificate of registration, if required.

(2) If a financing statement and the required fees are not received at the time of application for first title of a vehicle in the name of the owner due to owner's residency in another county, the county clerk shall enter into the automated vehicle informational system (AVIS) the name and address of the lienholder and the county where the lien is to be filed. The clerk shall indicate a title is not to be issued until the lien has been filed and fees paid in the county of the owner's residence or in fifteen (15) days. The county clerk shall then issue the registration. The county clerk in the county of the owner's residence shall, after receiving the financing statement and required fees, enter into the automated vehicle information system (AVIS) the date of lien filing and the file number thus enabling the system to produce the title in Frankfort.

SECTION 37. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) With respect to a vehicle, previously titled in the name of its debtor, the secured party shall, within fifteen (15) days after execution of the security agreement, obtain the current certificate of title in the name of the debtor, with no more than one prior lien indicated thereon, and present it together with the financing statement and the required fees to the county clerk.

(2) For failure to present both the title and financing statement within the time prescribed by subsection (1) of this section, the secured party shall pay a penalty of two dollars ($2.00) to the county clerk as a prerequisite for noting the security interest on the title.

(3) The county clerk shall enter the information required by Section 35(4) of this Act into the automated system.

(4) The county clerk shall record upon the title in the appropriate section the information designated by Section 35(4) of this Act.

SECTION 38. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Whenever a security interest is assigned as provided by KRS 186.045(4), the county clerk of a county that is operating under automated procedures shall, in addition to carrying out his requirements stated therein, enter the record of lien assignment into the automated system in the manner directed by the bureau of vehicle regulation.

SECTION 39. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Whenever a security interest to a vehicle has been discharged as provided by KRS 186.045(5), the county clerk of a county that is operating under automated procedures shall, upon receiving a termination statement, promptly enter the record of termination into the automated system. The clerk shall then release the lien recorded upon the title in the manner directed by the bureau of vehicle regulation, and take such other action with respect to a termination as is directed by the bureau of vehicle regulation.

SECTION 40. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) If an owner transfers his interest in a vehicle, he shall, at the time of the delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate of title, and execute the applicable portions of the vehicle transaction record provided for by this chapter, and cause the vehicle transaction record with the certificate of title attached to be delivered to the transferee.

(2) Except as otherwise provided in this chapter, the transferee shall, promptly after delivery to him of the vehicle, execute the application for a new certificate of title and registration by executing the applicable portions of the vehicle transaction record provided to him by his transferor.

(3) The vehicle transaction record with its supporting documentation attached shall promptly be submitted to the county clerk as provided in Section 20 of this Act, together with the required fees.

SECTION 41. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in this chapter, when any motor vehicle dealer licensed in this state buys or accepts such a vehicle in trade, which has been previously registered or titled for use in this or another state, and which he holds for resale, he shall not be required to obtain a certificate of title for it, but shall, within fifteen (15) days after acquiring such vehicle, notify the county clerk of the assignment of the motor vehicle to his dealership and pay the required transferor fee.

(2) Upon purchasing such a vehicle or accepting it in trade, the dealer shall obtain from his transferor, a properly executed vehicle transaction record, to include the odometer disclosure statement thereon, together with a properly assigned certificate of title.

(3) The dealer shall execute his application for assignment upon documents designated by the bureau of vehicle regulation, to the county clerk of the county in which he maintains his principal place of business. Such clerk shall enter the assignment upon the automated system.

(4) The dealer shall retain the properly assigned certificate of title received from his transferor, and may make any reassignments thereon until the forms for dealer assignment on the certificate of title are exhausted. The bureau of vehicle regulation may, if it deems it warranted, provide a special document to allow for additional dealer assignments without requiring system generated documents.

(5) When he assigns the vehicle to a purchaser for use, he shall deliver the properly assigned certificate of title, and a properly executed vehicle transaction record, to such purchaser, who shall make application for registration and a certificate of title thereon.

(6) The bureau of vehicle regulation shall assure that the automated system is capable of accepting instructions from the county clerk that a certificate of title shall not be produced under a dealer registration situation.

SECTION 42. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The bureau of vehicle regulation shall establish appropriate forms and procedures to be utilized in connection with the transfer of a motor vehicle or trailer by operation of law.

SECTION 43. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) This chapter shall be construed as requiring that a trade-in vehicle received by a motor vehicle dealer licensed in this state must be titled by assignment in the dealer's name substantially, simultaneously with the registration or titling of the vehicle toward which the trade-in vehicle was received.

(2) Licensed motor vehicle dealers shall be allowed to title by assignment a trade-in vehicle into their name if they possess an original or a copy of a title for the trade-in or in lieu thereof an affidavit.

The affidavit shall contain the existing owner's name, address, make, year, model, vehicle identification number, license plate number, decal number, title number, if available, and the dealer's name, address and telephone number and any additional information required by the department of transportation.

SECTION 44. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Whenever any person after making application for or obtaining a certificate of registration or title for a vehicle, shall move from the address named in the application or shown upon a registration card or certificate of title, such person shall within fifteen (15) days thereafter notify the county clerk of the county in which he resides in writing of his old and new addresses as well as the current license number of all vehicles currently registered or titled in his name. The county clerk shall immediately enter such change into the automated system.

(2) Whenever the name of any person who has made application for or obtained a certificate of registration or title for a vehicle is thereafter changed by marriage or otherwise, such person shall within fifteen (15) days notify the county clerk of the county of residence of such former and new name. The county clerk shall immediately enter such change into the automated system.

SECTION 45. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) When any certificate of registration or certificate of title has been issued in error to a person not entitled to the certificate, or contains incorrect information or information has been omitted from the certificates, the bureau of vehicle regulation shall notify in writing the person to whom the certificates have been issued or delivered and such person shall immediately return such certificate within forty-eight (48) hours, together with any other information necessary for the adjustment of the records related to it, to the county clerk of the county in which the title was originally applied for, or as otherwise directed by the bureau of vehicle regulation.

(2) Upon receipt of the certificates and information requested, the county clerk and the bureau of vehicle regulation shall coordinate the production of a corrected certificate of registration and certificate of title, and the cancellation of the erroneous documents by the bureau of vehicle regulation, and ensure that corrected documents are sent to the appropriate party.

(3) Production of corrected documents shall be carried out under procedures similar to those applicable to production of an original certificate of title. The bureau of vehicle regulation shall supply to the county clerk such forms as may be needed to assure documentation of corrective action in accordance with this section.

SECTION 46. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) If a certificate of title is lost, stolen, mutilated or destroyed or becomes illegible, the owner or legal representative of the owner named in the certificate, shall promptly make application to the county clerk for and may obtain a duplicate, upon furnishing information satisfactory to the bureau of vehicle regulation. The duplicate certificate of title shall contain appropriate words or symbols to indicate that it is a duplicate. Each application for a duplicate certificate of title shall be two dollars ($2.00), of which the county clerk shall retain fifty percent (50%), and the department of transportation fifty percent (50%). It shall be mailed to the owner.

(2) The bureau of vehicle regulation shall make provisions for production and issuance of a duplicate title where update of information thereon is requested. The provisions shall be generally consistent with the procedures for production and issuance of a certificate of title in the first instance as provided in this chapter.

(3) A person recovering an original certificate of title for which a duplicate has been issued shall promptly surrender the original certificate to the bureau of vehicle regulation.

(4) Application for documents provided for by this section shall be made to the county clerk upon forms provided to him by the bureau of vehicle regulation.

SECTION 47. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The bureau of vehicle regulation shall suspend or revoke a certificate of title, after giving notice and providing a reasonable opportunity for the holder to be heard, when authorized by any other provision of law, or, if it finds:

(a) The certificate of title was fraudulently procured or erroneously issued; or

(b) The vehicle has been scrapped, dismantled or destroyed. Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.

(2) When the bureau of vehicle regulation suspends or revokes a certificate of title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the bureau of vehicle regulation.

(3) The department shall promptly notify the bureau of state police of the suspension or revocation of any certificate of title.

(4) Any peace officer shall seize and impound any certificate of title which has been suspended or revoked except when such document is in the custody of the bureau of vehicle regulation or the bureau of state police.

SECTION 48. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The bureau of vehicle regulation shall promptly notify the bureau of state police of the particulars of:

(1) Any attempted or actual registration or titling in this state of a stolen motor vehicle, or trailer, or motor vehicle or trailer whose true identity is in doubt, of which it becomes aware;

(2) Counterfeit, stolen or altered ownership document it receives; and

(3) Attempts to supply, or supplying to it, of false or fraudulent information in any application for a certificate of registration, certificate of title for a motor vehicle or trailer in this state.

SECTION 49. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) No person, including a county clerk and his employes shall willfully utilize or tamper with a telecommunications terminal, or associated devices, linked to the automated vehicle registration and titling system and capable of entering data or electronic signals into, altering information stored within, or obtaining information or electronic signals from, the automated vehicle registration and titling system unless he has current authorization from the commissioner of the bureau of vehicle regulation to utilize the system;

(2) He has, previous to utilizing such terminal or associated devices in a given county, satisfactorily completed an orientation as given by the bureau of vehicle regulation concerning the forms, procedures, and use of the system, as certified by the county clerk or county clerk-elect of the county in which his use of the system will take place; and

(3) He has been assigned, and has received, a unique personal identifying code or device from the bureau of vehicle regulation.

SECTION 50. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Each county clerk, or county clerk-elect, shall, before utilizing or permitting his employes to utilize the automated vehicle registration and titling system, ensure that he and his employes have satisfactorily completed an orientation course regarding the forms, procedures and use of the system as instructed by the department of transportation.

(2) The county clerk, or county clerk-elect, shall certify to the commissioner of the bureau of vehicle regulation, those of his employes or prospective employes, who, together with himself, having satisfactorily completed the required orientation, will utilize the automated system under his direction.

(3) His certification shall be made by printing or typing upon a form supplied by the bureau of vehicle regulation, the name of his county, and as to himself and each of his employes who will utilize the system, their last name, first name, and where available middle initial, their birth date, and social security account number, as to each person shown upon the certificate. The county clerk shall sign and date the certificate following a preprinted statement that shall read: I certify under penalty of forgery in the second degree that the persons whose names appear above have satisfactorily completed an orientation on use of the automated vehicle registration and titling system as provided by this chapter and that the information supplied is true and correct to the best of my knowledge and belief. I will not willfully permit anyone other than those persons shown hereon, or on another certificate of this same type executed by me, and persons authorized in writing by the bureau of vehicle regulation, to use telecommunications terminals linked to the automated system and under my control.

(4) Each county clerk shall promptly notify the bureau of vehicle regulation on a form supplied by it, of the name of any employe whose authorization to utilize the automated system has been terminated by him or whose employment by such clerk has ceased.

(5) Every county clerk and each of his employes who is authorized to utilize the automated system shall promptly report to the bureau of vehicle regulation any attempted, actual, or suspected misuse of the automated system of which they become aware.

SECTION 51. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Upon receiving notice that a person who has previously been authorized to utilize the automated system has willfully or negligently misused the automated vehicle registration and titling system, the commissioner of the bureau of vehicle regulation may temporarily suspend such person's authorization to utilize the system.

(2) Whenever he suspends or revokes any person's authorization to utilize the automated vehicle registration and titling system, the commissioner of the bureau of vehicle regulation shall give immediate notice of such revocation to the person whose authorization has been suspended or revoked and if such person is not the county clerk, then notice shall be given also to the county clerk of the county in which the person is employed.

(3) No person whose authorization to utilize the automated system has been suspended or revoked shall utilize such system following notice of such action until his authorization to utilize the system is restored by the commissioner of the bureau of vehicle regulation.

SECTION 52. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

No county clerk or other person who is authorized to utilize the automated vehicle registration and titling system, shall knowingly enter into such system, information enabling the system to produce a certificate of title and registration, certificate of registration, or certificate of title, or enter the record of a lien or its release, unless he has in his official custody at the time he enters such information into the system, an application which he believes to be bona fide and in proper form, or if the information entry involves a lien, a proper financing or termination statement, which is consistent with the information he enters.

SECTION 53. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

No county clerk or other person shall knowingly enter any information or record into a telecommunications terminal or other device connected to the automated vehicle registration and titling system, knowing that the information or record entered into such device is false, fraudulent, illegitimate, or contains erroneous information that:

(1) Creates, or enables the system to create, a certificate of title and registration, certificate of registration, or certificate of title, that is illegitimate or that contains information that is false, fraudulent or erroneous; or

(2) Results in the system storing information or a record that is false, fraudulent or contains erroneous information; or

(3) Fraudulently, illegitimately, or maliciously alters information or records stored within the system.

SECTION 54. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) No person shall, without prior specific written approval of the commissioner of the bureau of vehicle regulation and the commissioner of the department of technical services, connect with the automated vehicle registration and titling system, directly or indirectly, by wire, electronic, electromagnetic induction, systemic, or any other means, any device, system or apparatus capable of putting information or electronic signals into, or receiving information or electronic signals from, or blocking, diverting, or altering transmission of data or signals within, the automated vehicle registration and titling system, its components, and its communications network.

(2) This section does not apply to or prohibit connection of devices or systems to the automated vehicle registration and titling system by persons who are acting in accordance with a contract or agreement with the Commonwealth of Kentucky, which in addition to any other required approval, has been approved in writing by the commissioner of the bureau of vehicle regulation and the commissioner of the department of technical services.

SECTION 55. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Regardless of other provisions of the statutes, the county clerk may omit sending duplicates of each certificate of title and registration, or certificate of registration he issues, to the departments of transportation and revenue, and the property valuation administrator, and may omit the production and filing of one of the copies formerly known as either county clerk's alpha or his numeric copy, when it is determined by the agencies indicated that their need for "duplicates" of each certificate or "receipt" is obviated by the automated system.

(2) The bureau of vehicle regulation and the department of revenue shall, as agreed between them, provide appropriate system support or computerized listings on magnetic tape or disc, printouts, or system access, to fulfill the information needs formerly requiring duplicates of each certificate or receipt.

SECTION 56. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) (a) Any person or entity having a motor vehicle or trailer that has been destroyed, to the extent that its repair cannot be obtained through usual commercial repair services, at a cost less than its retail value as established from a value manual approved by the department of revenue, or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by the manufacturer have been removed, or which he removes, shall surrender the certificate of title for such vehicle for which he has a certificate of title in his or another name, to the county clerk of the county in which such vehicle is located. The clerk shall immediately forward the surrendered title to Frankfort with instructions for cancelling the title.

(b) Any person or entity engaged in the sale of used motor vehicle or trailer parts, or the recycling or salvage of them, shall surrender the certificate of title for any vehicle in his possession, and for which

he has a certificate of title, whether in his or another name, if such vehicle is destroyed within the meaning of paragraph (a) of this subsection, or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by a manufacturer have been removed, or which he removes, to the county clerk of the county in which such vehicle is located. The clerk shall immediately forward the surrendered title to Frankfort with instructions for cancelling the titling.

(c) The surrender of the certificate of title pursuant to this section shall be made within ten (10) working days, next succeeding the day when such vehicle was received, destroyed, or next succeeding the day during which such second part was removed.

(2) Each county clerk shall receive without charge, a certificate surrendered in accordance with this section, cancel it, and remit it to the bureau of vehicle regulation, and take any other action related to it, as required by the bureau of vehicle regulation.

SECTION 57. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) No person, except as provided in subsection (2) of this section shall have in his possession any blank, uncompleted, or partially executed "certificate of title and registration," "certificate of registration," "certificate of title," or other similarly styled form or document, whether genuine or counterfeit, of this or any other state or country, which is of a type that, when genuine and properly issued, evidences ownership of a vehicle under the laws of this or another state or country, and surrender of which is required in order to sell, transfer, register or title a motor vehicle or trailer in this state.

(2) A person who possesses forms or documents of the type described in subsection (1) of this section, is not in violation of this section if he:

(a) Is an employe of a manufacturer or printer of such forms or documents and possesses such forms or documents in the normal course of the business of design or manufacture of them in connection with bid invitation, bid, or contract with a governmental agency related to supplying such forms for governmental use.

(b) Is an employe of a shipper, or agency, under whose direction such forms are being shipped or delivered to a state or local agency charged with receiving, distributing or issuing such forms or documents, when they are in a container sealed under governmental direction.

(c) Is an employe of a state agency who possesses such forms or documents in the course of carrying out his official duties when his duties are to handle such forms or documents.

(d) Is a county clerk, or employe of a county clerk whose official work duties require the handling of such forms or documents, and he possesses them within the confines of the county clerk's office or official storage space or immediately incidental to placing them in such places.

(e) Possesses such form or document and it is prominently and indelibly marked on its face either: specimen, or void, or sample.

SECTION 58. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) No person shall intentionally remove, deface, cover, destroy, alter, or obscure any vehicle identification number, or other distinguishing number, of a motor vehicle or trailer or any part thereof in this state, without written authorization from the bureau of state police, nor shall any person place or stamp, in place of the original manufacturer's serial, motor, or other number or mark upon a vehicle, any number except one assigned thereto by the bureau of vehicle regulation under the provisions of KRS 186.1911 or authorized agency of another state.

(2) This section does not prohibit the restoration by an owner of the original vehicle identification number when the restoration is authorized by the bureau of state police, nor prevent any manufacturer from placing in the ordinary course of business numbers or marks upon new motor vehicles or new parts thereof.

SECTION 59. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) No person shall knowingly buy, sell, offer for sale, receive, or have in his possession, any motor vehicle or trailer or component part thereof, from which the original manufacturer's vehicle identification number, or serial number, has been removed, defaced, altered, obscured or destroyed, unless such vehicle or component part has attached thereto an identification number assigned or approved by the bureau of vehicle regulation under the provisions of KRS 186.1911 or authorized agency of another state in lieu of the manufacturer's number.

(2) Whenever such vehicle or component part comes into the custody of a peace officer it shall be forfeited under the procedure established in KRS 500.090. Nothing in this section shall, however, preclude the return of such vehicle or parts to the lawful owner thereof following presentation of satisfactory evidence of ownership and assignment of an identification number by the bureau of vehicle regulation.

SECTION 60. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) No person shall have in his possession a manufacturer's vehicle identification number plate unless it is attached to the vehicle, or vehicle part, to which it was originally affixed by the manufacturer, nor shall any person have any facsimile of such a plate.

(2) This section shall not prohibit possession of legitimate plates by persons:

(a) Whose possession is incident to a contract to supply them to a manufacturer of new motor vehicles, or when such plates are in the possession of a manufacturer of new vehicles, or such manufacturer's employe, who possesses them within the scope of his work when his work involved the manufacture or storage of such plates, for legitimate placement upon newly manufactured vehicles, legitimate affixing of such plates upon newly manufactured vehicles, or legitimate affixing of a replacement plate.

(b) Who possess such plate immediately incident to transferring it from being legitimately attached to a wrecked part or portion of a vehicle to a replacement part or portion for installation on, or installed on, the same vehicle on which the plate was originally placed by the manufacturer, when such possession and transfer is authorized in writing by the bureau of vehicle regulation.

(c) Who are authorized in writing, by the commissioner of the bureau of vehicle regulation under the provisions of KRS 186.1911 to possess such plates.

SECTION 61. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) When any peace officer has probable cause to believe that a motor vehicle or trailer, or any component part of such vehicle is stolen, he shall impound such vehicle or part and notify its lawful owner, and when applicable, the agency to which the theft was reported, of the recovery of such vehicle or part and where it may be claimed.

(2) A vehicle or component part thereof which has been impounded pursuant to this section shall be released to its lawful owner when such owner presents satisfactory evidence of his ownership.

(3) A vehicle or component part thereof that has been impounded under this section, and which has not been claimed within ninety (90) days following notice of recovery to the owner, or if the owner cannot be located after a reasonable effort, within ninety (90) days following impoundment, is forfeited and shall be disposed of in accordance with procedures set forth in KRS 500.090.

SECTION 62. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Any person or entity knowingly in possession or control of two (2) or more motor vehicles or trailers or their major component parts or assemblies such as, but not limited to, an engine, transmission, chassis, frame, front clip, rear clip:

(a) That are stolen; or

(b) Have had their identity obscured, removed or altered; or

(c) Have stolen parts on them; or

(d) Are comprised of any combination of the above;

shall be deemed to be trafficking in stolen vehicles or stolen vehicle parts.

(2) Trafficking in stolen vehicles or stolen vehicle parts is a class C felony.

SECTION 63. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Upon the arrest of any person or entity for violation of Section 62 of this Act, the law enforcement officer shall cause the seizure, pending disposition by the court as provided by subsection (2) of this section, of:

(a) All vehicles or vehicle parts, held in violation of Sections 59(1) or 62 of this Act; and

(b) All vehicles and other equipment used to transport property in violation of Section 62 of this Act; and

(c) All tools, equipment, and other materials, and all real and personal property used in furtherance of a violation of Section 62 of this Act; and

(d) All money or other proceeds gained from the violation of Section 62 of this Act.

(2) Upon the conviction of any person or entity for violation of Section 62 of this Act, all items seized in accordance with subsection (1) of this section shall be forfeited to the state in a manner consistent with procedures for forfeiture set forth in KRS 500.090.

SECTION 64. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) A salvage title shall be obtained by the owner for any motor vehicle subject to titling and registration pursuant to this chapter which is deemed to have damages of seventy-five percent (75%) or more of NADA book value.

(a) Provided, however, that for the purposes of this Act, a motor vehicle on which ownership has been transferred to an insurance company through payment of damages, pursuant to subsection (1) of this section, the insurance company making the payment of damages shall be deemed the owner of such vehicle.

(2) The owner or its authorized agent shall, within fifteen (15) days from the loss or settlement of the loss, submit an application to the county clerk, on a form prescribed by the bureau of vehicle regulation for a salvage title, accompanied by a properly endorsed certificate of title and any lien satisfactions, if any appear, as may be required.

(3) The county clerk shall retain a copy of each salvage title application received and shall forward the original and its supporting documents to the bureau of vehicle regulation in a manner similar to that for handling of an application for a title.

(4) The bureau of vehicle regulation shall process the salvage title application in a manner similar to that used in processing a title application and the salvage title shall be delivered in a like manner of a title. Salvage titles shall be construed as proof of ownership of a vehicle in a state as to be unusable upon the highways of the Commonwealth. Under no circumstances shall any vehicle be issued a registration for highway use as long as a salvage title is in force.

(5) The only instance under which a vehicle with a salvage title may be operated upon the highways of the Commonwealth is when it is in route to or from an inspection by the certified inspector prior to obtaining a certificate of title after having been rebuilt as per KRS 186.115.

SECTION 65. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Any person aggrieved by any administrative action pursuant to this chapter or regulations promulgated pursuant thereto, may appeal such action to a court of competent jurisdiction.

SECTION 66. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Any person who knowingly gives false, fraudulent, or erroneous information in connection with an application for the registration, and when required, titling of a vehicle, or any application for assignment of a vehicle identification number, or replacement documents, or gives such information in connection with his review of such applications, or falsely certifies the truthfulness and accuracy of information supplied in connection with the registration and when required, titling of a vehicle, shall be guilty of forgery in the second degree.

(2) Any person who violates Sections 49, 52, 53, or 54 of this Act shall be guilty of a class C felony.

(3) Any person who violates Sections 57, 58, 59, or 60 of this Act shall be guilty of a class D felony.

(4) Any person who operates a motor vehicle or trailer upon the highways of this state without a temporary tag when one is required, or with one that is expired, improperly executed, or displayed on a vehicle other than the one to which it was legitimately and lawfully issued, shall be guilty of a class B misdemeanor.

(5) Any person who violates any provisions of this chapter, or regulations promulgated pursuant thereto, and for which a specific penalty is not prescribed by statute, shall be guilty of a class A misdemeanor.

(6) Criminal remedies or sanctions provided in this chapter are in addition to, and not exclusive of, any other criminal remedies or sanctions provided elsewhere in the statutes.

SECTION 67. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Unless the context requires otherwise, terms used in this chapter shall be defined, where applicable, as provided by KRS 186.010.

SECTION 68. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

All fees to be credited to the state shall be deposited to a trust and agency account within the transportation fund to be used in defraying the department's costs and expenses of administering a vehicle titling program.

Section 69. The following KRS sections are repealed:

186.074 Temporary permits.
186.191 Revocation of document relating to motor vehicle due to illegal act.
186.235 Inspection prior to registration.

Committee Substitute to **HB 301** is as follows:

HB 301, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.010 is amended to read as follows:

(1) *An automated motor vehicle and trailer registration and titling system shall be developed and implemented as expeditiously as practicable in all counties of the Commonwealth* [~~It is the intention of the general assembly that an automated motor vehicle and trailer registration system be developed and that pilot projects be instituted in selected counties, subject to the agreement of the county clerk of a selected county. The counties in which pilot projects shall be instituted shall be selected by the secretary of the department of transportation in consultation with the departments of revenue and justice~~]. The automated motor vehicle and trailer registration system shall be designed to enable Kentucky's county clerks to produce motor vehicle and trailer certificates of registration in their offices, and certificates of title in Frankfort, by automated means utilizing telecommunication terminals and associated devices supplied by the Commonwealth, to inhibit registration and transfer of stolen motor vehicles or trailers, to improve the capability of detecting and recovering such vehicles, to ensure development of a common vehicle information data base to improve efficiency in auditing motor vehicle usage tax, [~~and~~] license fee collections, *and in collecting personal property tax* to provide information to the traffic record system, and to provide improved security interest protection to potential creditors throughout Kentucky while simultaneously reducing the number of forms that must be processed and stored each year in Kentucky.

(2) The department of transportation is hereby directed to, *as expeditiously as practicable,* develop an automated motor vehicle and trailer registration *and titling* system [~~design~~], having, as a minimum, the capabilities or functions described in this chapter, and to acquire and assure the installation of such equipment or services as are necessary to enable the system as described in this chapter to be *operated in all counties of the Commonwealth* [~~tested in selected counties~~].

(3) *All* [~~The department of transportation is directed to ensure that the system developed will produce the necessary reports in such manner and at such times as the departments of revenue and justice request, to enable these departments to audit the taxes and fees collected by the county clerk in connection with the registration of a motor vehicle or trailer required to be registered in this state, and that the system produces such other information as the department of justice may reasonably require in connection with the registration of a motor vehicle or trailer, in carrying out the duties of that department as they relate to the regulation of motor vehicles or a traffic records system.~~

~~(4) The~~] departments of *state government affected by the system* [~~revenue and justice~~] are hereby directed to cooperate with the department of transportation for purposes of assuring orderly implementation of this chapter.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) (a) The cabinet of personnel and management services shall have full responsibility and authority for day-to-day administration of the automated system described by this chapter; and

(b) May request the assistance of any department or bureau of state government in carrying out its responsibilities under this Act.

(2) The bureau of technical services shall assure, to the extent feasible, twenty-four (24) hour, year-round information support to the bureau of state police, and to other law enforcement agencies state and nationwide, regarding vehicles registered and, when required, titled in this state.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

In order to improve collection of personal property (ad valorem) taxes associated with motor vehicles and trailers, the bureau of vehicle regulation, in cooperation with the department of revenue, shall:

(1) Ensure that the automated system provided by this chapter is capable of properly assigning a value for each vehicle registered in a county, utilizing a value reference manual in machine readable form approved by the department of revenue, and a manually entered value for vehicles not shown in such "manual."

(2) Promptly study the feasibility of computing personal property (ad valorem) taxes associated with motor vehicles or trailers, and producing tax bills or notices of taxes due in such regard, and if shown feasible to its satisfaction, implement such capability, or any part thereof, as expeditiously as practicable.

(3) Ensure that the automated system is capable of receiving the record of a lien for unpaid personal property (ad valorem) taxes associated with a motor vehicle or trailer.

SECTION 4. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) All motor vehicles with a gross vehicular weight of 6,000 pounds or less, first registered, or for which the registration is renewed in this state on or after January 1, 1983, shall be placed in a system of year-round registration based upon the birth month of the owner, in order to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve (12) months of the year.

(2) If the owner of a motor vehicle is other than an individual, the month in which the owning entity came into being shall be used for purposes of this section. If a motor vehicle is jointly owned, the owners shall indicate to the county clerk the birth month of one (1) of them to be used for purposes of this section.

(3) The certificate of registration and license plate issued for a motor vehicle first registered, renewed, or titled in this state on or after January 1, 1983, shall be valid, unless cancelled by the department in accordance with KRS Chapter 186 or this chapter, upon payment of the required fee, for a period beginning on the first day of the month of the year in which registration is applied for, and expiring on the last of the next birth month of the owner following the month during which registration is applied for, provided however that, upon the owner's request, and after payment of the proper prorated fee, an owner may obtain a certificate of registration and license plate valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration.

(4) After a motor vehicle has been initially placed in the system of year-round registration, the owner shall renew the registration annually during the owner's birth month, by making application to the county clerk and paying the fee required for twelve (12) consecutive months of registration, which shall take effect on the first day of the month succeeding the owner's birth month and shall expire on the last day of the owner's next birth month. The county clerk shall be entitled to a registration fee of one dollar ($1.00) per each twelve (12) month period of any portion thereof.

(5) Any owner who fails to renew the registration of a motor vehicle during the month in which the previous registration expired, shall, if he applies for renewal of the registration in some later month, pay the same fees that would have been required if the registration had been renewed in the month which the previous registration expired.

(6) Fees which must be prorated in carrying out the intent of this section shall be prorated on the basis of twelfths of the annual registration fee. Any vehicle which is registered at any time during a month, shall pay the fee required for that whole month plus any additional months of registration purchased consistent with the intent of the section.

(7) The county clerk shall ensure that the certificate of registration issued to an owner displays the month and year in which the registration period begins, and the month and year of its expiration, and shall issue to the owner a decal or decals corresponding to the month and year of expiration shown in the certificate of registration which shall be placed upon the corresponding license plate by the owner in the manner required by administrative regulations of the bureau of vehicle regulation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The department of insurance is hereby authorized to develop a program whereby that department shall provide information on the insurance status of vehicles registered in the Commonwealth of Kentucky to the bureau of technical services for inclusion in the AVIS data base.

(2) Nothing in this section shall be construed as prohibiting the county clerk from registering or titling a vehicle because of insurance information.

SECTION 6. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The department of transportation shall ensure that each county in the Commonwealth is equipped with at least one (1), or more than one (1), as workload dictates, video telecommunications terminal and associated devices, linked to a computer in Frankfort maintained by the Commonwealth, and capable of enabling the county clerks to produce certificates of registration in their offices, and certificates of title in Frankfort, in a manner consistent with this chapter.

SECTION 7. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The certificate of title blanks required by this chapter shall be designed and printed to make difficult and to facilitate detection of counterfeit likenesses or fraudulent alteration of genuine documents. The bid specifications for the acquisition of the certificate of title blanks shall require, as a minimum:

(1) That bidders have a demonstrable reputation in the printing of currency or securities, and guarantee with an appropriate cash bond that, in addition to any other requirements, the document blanks to be supplied are printed in a secure printing facility, by intaglio steel plate printing process, from line engravings, utilizing a combination of the printing process, unique printing plates, paper, and inks to produce high quality documents designed to:

(a) Be readily recognizable as genuine by a layman and by extra visual techniques;

(b) Make extremely difficult the manufacture of counterfeit likenesses by direct engraving, photographic or color xerographic means;

(c) Visually reveal actual or attempted alteration or erasure by chemical or mechanical means.

(2) That bidders guarantee production of a specific number of uniquely numbered documents with guaranteed accounting for spoilage and a guaranteed list of document numbers supplied and those deleted.

(3) That the documents will be shipped to the Commonwealth by an agreed means to assure minimal risk of theft, loss or destruction.

(4) That the plates utilized in printing of the blanks will not be utilized for the printing of certificate of title blanks by other than the bidder pursuant to a lawful contract with the Commonwealth.

SECTION 8. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The bureau of vehicle regulation, in cooperation with the bureau of state police, shall ensure that the automated vehicle registration and titling system provided for by this chapter will be designed, equipped, and operated so that, under normal conditions, the system will withhold production of a certificate of title until the vehicle identification number of a vehicle for which a title is sought, and when present, its license number has been automatically compared against the law information network Kentucky (LINK) and, unless it refuses to permit such an arrangement, the national crime information center (NCIC) computerized listing of vehicles reported stolen, and a "no stolen report" or its equivalent is received.

SECTION 9. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The bureau of vehicle regulation is directed to develop, in cooperation with county clerks, auto dealers, and the departments of revenue and insurance and the bureau of state police, a combined vehicle transaction record form to permit, to the extent feasible, the recording of all information pertinent to the initial registration, or titling and taxation, or transfer of registration or title of a vehicle. The form shall be utilized by all applicable parties in connection with the registration, or titling of a vehicle in this state. The form shall have at least the following characteristics:

(1) An appropriate heading or title.

(2) A statement that the information required by the first or original of the form must be legibly printed in dark blue or black, permanent photoreproducing ink or indelible pencil, or typed in black, except as to signatures, which shall be originally signed in dark blue or black photoreproducing ink.

(3) A statement, prominently printed in boldface type, that any person who knowingly enters, or attests to the entry of, false or erroneous information upon the form shall be subject to the penalties of forgery in the second degree.

(4) A seller or transferror section containing space for the seller or transferror's full legal name, mailing address and telephone number, including telephone area code, and if the seller or transferror is a motor vehicle dealer licensed in this state, a space for recording the dealer license number.

(5) An owner or buyer section, containing space for the owner or buyer's full legal name, mailing address, social security account number, or, if the owner is other than a person, its state or federal employer identification number, telephone number including telephone area code, and owner's birth month.

(6) A vehicle description section with space for the vehicle identification number, and if the vehicle is a motorcycle, a motor number; the make; model name; model number; year model; number of cylinders; style of body; and spaces for designating two (2) colors, single or upper, and lower; and, if the vehicle is a truck, its gross weight.

(7) A section with spaces for recording prior registration and title information to include the previous owner's name, the state in which a vehicle was last registered or titled, and the title number, registration number, and year.

(8) An odometer disclosure section containing all information elements required by applicable federal law, except that, the language of the section shall incorporate by reference the transferror's address, the vehicle description, date of the statement and the transferee's name, address and acknowledgment, which shall appear on the same form, although not necessarily within the same section. Such section shall be imprinted with the warning that knowingly giving false or erroneous information is subject to the penalty of forgery in the second degree.

(9) A transferror's lien declaration section, containing the necessary means to obtain the following information: I ——— warrant that the vehicle described above is not subject to an unterminated lien in the name of a prior owner.

(10) A tax computation section for both new and used cars, consistent with requirements of the department of revenue.

(11) A section for the seller or transferror's certificate of truth and accuracy of the information. The section shall be printed in boldface type and shall read: I ——— (typed or printed name) hereby certify under penalty of forgery in the second degree and applicable federal and state law and regulations that the foregoing information upon this form is true and correct to the best of my knowledge and belief. ——— (signature).

(12) This language shall be followed by the words and spaces required for a notarial certificate.

(13) An owner or transferee's lien declaration section, containing the necessary means to obtain the following information: (———, (owner, transferee) have not applied for a loan in connection with the vehicle described above, and do not expect to do so within thirty (30) days of submission of this application to the county clerk.

(14) A lien information section containing the necessary elements to obtain the following information:

(a) This vehicle shall be subject to lien or liens, not exceeding two (2), in the name of the applicant, owner or transferee;

(b) Spaces for recording as to a first and second lien, the lienholder's name and mailing address, including zip code; and county in which the financing statement is to be filed;

(c) A statement as to whether a loan has been or will be applied for in connection with the vehicle, and whether a financing statement is expected to be filed within thirty (30) days of submission of this application to the county clerk.

(15) A section for an owner's request for issuance of a regular or special plate.

(16) A section for an owner's request for registration of a vehicle under a special fee classification.

(17) A section for the owner's statement of application for registration or a certificate of title. The section shall state: I —— (typed or printed name) hereby apply for registration of the vehicle described above, for a license plate of the type indicated, or a certificate of title. If I have requested that the vehicle be registered under a special use classification provided by statute, I certify that the vehicle will be operated consistent with the registration classification I have indicated. I certify under penalty of forgery in the second degree that the information I have supplied is true and correct to the best of my knowledge and belief, followed by a space for the owner's signature. This language and space shall be followed by the words and spaces required for a notarial certificate.

(18) A section for the certified vehicle inspector's certificate of inspection of a vehicle which shall include words and spaces as indicated: I —— (printed or typed name and title) of —— (printed or typed county) telephone area code and telephone number, do hereby certify under penalty of forgery in the second degree that I have personally and physically inspected the vehicle described above, together with this application and its supporting documents,and the vehicle is as described hereon; the documents supporting this application are consistent with the vehicle description, including the vehicle identification numbers appearing upon this application, and that the vehicle identification number displayed upon the vehicle and supporting documents appear to be in order. The odometer reading at the time of my inspection was —— miles/kilometers (circle one). The driver's license number of the owner is ——, state of ——. I hereby certify under penalty of forgery in the second degree that the information I have given is true and correct to the best of my knowledge and belief. —— (signature) —— (date).

(19) County clerk's section with words and spaces as appropriate, requiring the county clerk to:

(a) Enter the type, name of the issuer, identifying number and date of issue, of the document supporting the application, together with its document control number (as distinguished from title number) and the taxes and fees to be collected, including the number of months of registration sold, the month and year of expiration, and such decal numbers as may be required to permit audit of fee collections;

(b) Words requiring, and spaces for entry of, the name of the county in which the application was received together with the date and time of receipt, and space for the signature of the clerk or deputy, which shall be preceded by the words "I certify under penalty of forgery in the second degree that I have reviewed this application and the documents supporting it; all supporting documents indicated hereon are present and consistent in pertinent part with this application, that I received the application on the date and at the time indicated hereon, and that I collected the fees as indicated." —— (signature of clerk or deputy clerk, date, county).

(20) A statement that "I certify under penalty of forgery in the second degree that this record was entered with due diligence into the automated system by me at or about —— (time) —— (date) —— (signature) —— (title)."

(21) Spaces for stamping the date and time of receipt of the application by the bureau of vehicle regulation and for the signature or prescribed symbol of the receipt clerk and for endorsements by processing clerks.

(22) A space for endorsement that title issuance was recommended to the bureau of vehicle regulation —— (date, time) by —— (signature) which shall be preceded by the words "I certify under penalty of forgery in the second degree that due diligence has been exercised in recommending issuance of title No. —— in the name of the applicant for the vehicle described above" —— (signature, date).

(23) The form may contain or require any other information deemed appropriate by the bureau of vehicle regulation in cooperation with the departments of revenue and insurance and the bureau of state police, and may be organized as efficiency dictates.

SECTION 10. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided, before the owner of a motor vehicle or trailer may operate it or permit its operation upon the highways of this state, he shall obtain a certificate of registration, and a license plate and apply for a certificate of title in his name.

SECTION 11. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided, the state resident owner of a motor vehicle or trailer which will not be operated upon the highways of this state must within fifteen (15) days apply for and obtain a certificate title in his name. He shall not, however, be required to obtain a certificate of registration until such time as the motor vehicle is to be operated upon the highways of this state.

SECTION 12. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of the department of transportation determines that each county in the Commonwealth cannot be equipped with operational terminals and associated devices consistent with this chapter, in sufficient time to efficiently implement the titling of vehicles of the year model 1984, or any year thereafter, he shall report such determination in writing, with reasons stated, to the governor not later than January 1, 1983.

(2) The governor may by executive order, extend by one (1) year, to 1985, the first year model of vehicles for which a certificate of title must be obtained in this state. Such order shall be made prior to June 30, 1983.

(3) The secretary of transportation shall, upon issuance of an executive order as provided in this section, give formal notice to appropriate agencies that such extension has been made.

SECTION 13. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

No Kentucky certificate of registration, license plate, or certificate of title need be applied for or obtained for:

(1) A vehicle owned by the United States unless it is registered in this state;

(2) A vehicle owned by a non-resident of this state, principally operated in another state, properly and currently registered and titled in another state;

(3) A vehicle regularly engaged in the interstate transportation of persons or property for which a currently effective lawful certificate of title has been issued in another state;

(4) A vehicle moved solely by animal power;

(5) An implement of husbandry;

(6) Special mobile equipment;

(7) A self-propelled wheelchair or invalid tricycle;

(8) A pole trailer;

(9) A motor vehicle engaged in the transportation of passengers for hire operating under a currently valid certificate of convenience and necessity; and

(10) A moped.

SECTION 14. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

No county clerk shall accept an application for a certificate of registration or title, or license plate, unless the vehicle bears an apparently legitimate vehicle identification number, and if required, an apparently legitimate motor and frame number, as indicated by an owner's application.

SECTION 15. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The owner of a vehicle required to be titled or registered in this state which:

(a) Does not have a legitimate vehicle identification number as affixed by a manufacturer regularly engaged in the original manufacture of the type vehicle for which registration is sought, or in accordance with the law of this or another state; or

(b) Has been built from parts;

shall, before making application for registration of the vehicle, apply to the bureau of vehicle regulation for issuance of a vehicle identification number plate, which shall be affixed to the vehicle in the manner prescribed by administrative regulations of the bureau of vehicle regulation.

(2) The bureau of vehicle regulation shall establish, in cooperation with the bureau of state police, regulations governing the form of application required by this section, and may require inspection of the vehicle before a vehicle identification number plate has been issued and after such plate has been affixed to the vehicle.

SECTION 16. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

An owner of a vehicle for which a certificate of registration or title, and license plate must be obtained shall be allowed a fifteen (15) day grace period from the date on which he purchased a vehicle or brings a vehicle into the Commonwealth from another state, during which time the owner shall apply for and obtain a certificate of registration or title and a license plate in his name.

SECTION 17. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state which has not previously been registered in this state, shall, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for fifteen (15) days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two

dollars ($2.00), of which the clerk shall retain one dollar ($1.00). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the department of transportation.

(2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.

(3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application, and ensure that it reflects the numbers appearing on the tags issued with respect to such application.

SECTION 18. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Motor vehicle dealers and their agents, before equipping a vehicle with a temporary tag, shall print or stamp in waterproof ink, legibly, in the spaces provided on such tag:

(a) The month, day and year the vehicle was delivered to the purchaser;

(b) The month, day and year of expiration of the tag which shall be no more than fifteen (15) days following the date of delivery of the vehicle to the purchaser;

(c) The purchaser's name;

(d) The year model, make and vehicle identification number of the vehicle sold; and

(e) The dealer's name, city of principal place of business and the telephone number including telephone area code.

(2) The dealer's employe who executes the temporary tag shall place his signature in the space provided. A dealer who issues, or whose agents issue, temporary tags shall keep a log of each temporary tag obtained, and each such tag issued, showing all information entered by the dealer or dealer's agent on forms supplied by the department, and shall make such log available for inspection by any law enforcement officer upon request. Such log shall be retained by the dealer for a period of at least two (2) years following the date of issuance of the last dated tags whose issuance is indicated on any individual temporary tag log sheet.

SECTION 19. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Both the dealer and the dealer's salesman or agent shall be liable for separate penalties for issuance of a temporary tag prior to sale of the vehicle on which the tag is placed by the dealer, for placement of a tag on a vehicle other than one purchased by the purchaser shown on such tag, for failure to fully execute as provided in this section a temporary tag which is placed upon a vehicle, and for failure to maintain the records required by Section 18 of this Act.

SECTION 20. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state, shall, before submitting his application for title, to the county clerk, have the vehicle together with his application for title and its supporting documents inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk.

(a) The certified inspector shall be certified through the bureau of vehicle regulation following requirements set forth by the bureau by regulations and shall be designated by the county sheriff. The certified inspector will be held responsible for all certifications required pursuant to this chapter and will be liable for any and all penalties prescribed in this chapter, and be available during regular office hours.

(b) There shall be a three dollar ($3.00) fee for this certification, payable to the sheriff's office, upon completion of certification.

(c) There shall be an additional fee of seven dollars ($7.00) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the sheriff's inspection area.

(2) The following vehicles are excluded from the requirement of inspection by a certified inspector prior to titling in this state:

(a) New motor vehicles sold by a dealer licensed in this state;

(b) Vehicles required to be registered in this state by reason of lack of a reciprocity agreement with another state and for which a non-negotiable registration document is to be issued; and

(c) Motor vehicles operated by a motor carrier under a non-negotiable certificate or permit issued by the bureau of vehicle regulation;

(d) Motor vehicles owned by servicemen or servicewomen who are residents of Kentucky stationed outside of Kentucky, may be inspected by the post provost or similar officer of the camp, post or station. The post provost or similar officer shall submit an affidavit stating the name of the owner, the identification or serial number, the make, body style, current license or title number, if any, and state in which currently registered or titled, if any, of the motor vehicle.

(3) When presented to a certified inspector for inspection or to a county clerk for processing, the owner's application for a first certificate of registration or title in his name, shall be accompanied by one of the following documents as applicable:

(a) If the vehicle is a new vehicle not previously registered in this state, the properly assigned manufacturer's statement of origin for the vehicle for which registration or title is sought;

(b) If the vehicle was last registered in this state, and is a vehicle for which a title is not required in this state, a certificate of registration, or if the vehicle is one for which a certificate of title is required in this state, properly assigned certificate of title;

(c) If the vehicle was last previously titled in another state, a properly assigned certificate of title;

(d) If the application refers to a vehicle previously registered in another country, the documents of that country establishing ownership of the vehicle;

(e) If the application refers to a vehicle last previously registered in another country by a person on active duty in the armed forces of the United States, the county clerk may accept on behalf of the bureau of vehicle regulation evidence of ownership provided the applicant by the United States department of defense;

(f) If the application relates to a vehicle which has been specially constructed or reconstructed, that fact shall be stated in the application, and the application shall be accompanied by such documents as are specified by administrative regulations of the bureau of vehicle regulation.

(4) When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle when registration or title is sought in this state, together with the vehicle transaction record, and its supporting documentation, on the following points:

(a) He shall ensure that the vehicle transaction record and each of its copies are legible and properly executed to the extent required at the time of execution;

(b) He shall compare the vehicle identification number as appearing on both the vehicle identification number plate, and the federal safety standards label of the vehicle which is sought to be registered or titled, with the corresponding number inscribed on the vehicle transaction record, and its supporting documentation, and ensure that the vehicle identification number appearing at each described location appears legitimate and that they are consistent with each other;

(c) He shall examine the primary odometer of the vehicle and legibly record the reading in the space provided in the inspection section of the transaction record; and

(d) After exercising due diligence in inspecting the vehicle, the vehicle transaction record, and its supporting documentation, and finding that they appear to be in order, the certified inspector shall execute the preprinted certificate of inspection according to its terms by printing in the spaces provided, his first name, middle initial and last name, and his title, the name of the county in which he serves and the telephone number including the telephone area code of his agency, and sign in ink his signature in the space provided, and print the month, day and year in which his inspection was made, certifying under penalty of forgery in the second degree the character, accuracy and date of his inspection.

(5) The certified inspector shall refrain from executing the certificate of inspection if:

(a) He has not personally and physically inspected the vehicle in accordance with this section;

(b) He has reason to believe that the vehicle displays an unlawfuly altered vehicle identification number;

(c) The vehicle transaction record and any of its copies are illegible or otherwise improperly executed, or contain information reasonably believed to be inaccurate or fraudulent;

(d) The documentation required in support of any application is not present, or not consistent with the vehicle and the owner's application or appears fraudulent; or

(e) He has probable cause to believe the vehicle is stolen.

SECTION 21. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Application for a first certificate of registration or title and plate, shall be made by the owner to the county clerk of the county in which he resides, except that, if a vehicle is purchased from a dealer other than in the county in which the purchaser for use resides, the purchaser, or the dealer on behalf of the purchaser, may make application for registration to the county clerk in either the county in which the purchaser resides, or in the county in which the dealer's principal place of business is located.

(2) (a) When purchaser of a vehicle upon which a lien is to be recorded is a resident of a county other than that of the dealer, the application for registration or title may be made to the county clerk in neither county. The lien must be recorded in the county of the purchaser's residence.

(b) If vehicle application for registration or title is presented to the county clerk of dealer's location rather than purchaser's residence, the clerk shall process documents in a manner similar to that of any application, with the exception that the AVIS system shall be programmed in a manner that the title shall not be issued from Frankfort until the lien information has been entered by the county clerk of the purchaser's residence.

(3) (a) A new vehicle, when first registered or titled in this state, shall be registered or titled in the name of the first owner for use rather than in the name of a dealer who held the vehicle for sale.

(b) Except as otherwise provided in this Act, a used vehicle not previously registered or titled in this state shall be registered or titled in the name of the first owner for use rather than in the name of a dealer who held the vehicle for resale.

(4) If the owner of a vehicle required to be registered or titled in this state does not reside in the Commonwealth, the vehicle shall be registered or titled with the county clerk of the county in which the vehicle is principally operated.

(5) If the owner of a vehicle is other than an individual and resides in the Commonwealth, the vehicle shall be registered or titled with the county clerk in either the county in which the owner resides or in the county in which the vehicle is principally operated.

SECTION 22. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Application for a first certificate of registration, or title, in the name of an owner shall be made on forms prescribed by the bureau of vehicle regulation consistent with this chapter, which shall be available from any county clerk.

(2) Application forms shall be completed, except as to required signatures, by legibly printing in ink, or typing all required information. When a signature is required, such signature shall be given attesting under penalty of forgery in the second degree to the truth and accuracy of the information supplied.

(3) The application, when presented to the county clerk, shall contain all required information and be fully executed with all required signatures present, and be accompanied by all required supporting documentation and fees.

(4) The county clerk shall reject any application upon which the information provided is not legibly printed or typed, the required information is not supplied, not accompanied by required supporting documents, not properly executed with required signatures, or when the clerk determines that the application is improper or that the applicant is not entitled to registration or title of the vehicle for which registration or title is sought, or in the absence of the required fees.

SECTION 23. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

There shall be paid for issuing and processing documents required by this chapter fees according to the following schedule:

(1) Each application for a certificate of title shall be six dollars ($6.00), of which the county clerk shall retain sixty-six and two-thirds percent (66 ⅔%) and the department of transportation shall receive thirty-three and one-third percent (33 ⅓%).

(2) Each application for a replacement or corrected certificate of title shall be two dollars ($2.00) of which, the county clerk shall retain fifty percent (50%) and the department of transportation shall receive fifty percent (50%) provided, however, that if a corrected certificate must be issued because of an error of the county clerk or the bureau of vehicle regulation, there shall be no charge.

SECTION 24. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) When the commissioner of the bureau of vehicle regulation determines that the automated vehicle registration and titling system is operational in a county, he shall so notify the county clerk of such county by a notarized statement sent to the county clerk by certified mail.

(2) After receiving the notice provided for by this section, the county clerk shall issue only those certificates of title and registration or certificates of registration that have been produced through automated vehicle registration and titling system, unless otherwise authorized by the administrative regulations of the bureau of vehicle regulation.

SECTION 25. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The bureau of vehicle regulation shall provide by administrative regulations, procedures for registration or titling, for a vehicle in a county not equipped with automated facilities provided for by this chapter, or whose facilities have been rendered useless for a period exceeding one (1) day by reason of calamity.

(2) Procedures developed under this section shall be consistent with concepts that liens associated with motor vehicles shall be filed with the county clerk, and that a title shall be issued centrally from Frankfort, after careful review of an application to determine correctness and legitimacy of it.

SECTION 26. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Upon receiving an application of an owner for a first certificate of registration or title in his name, the county clerk or deputy clerk shall review the form, and each copy thereof, for legibility, completeness, and consistency of information. The clerk shall ensure that all documents required in support of the

application accompany the application and that they are consistent in pertinent part with the statements upon the application.

(2) Upon determining that an application is in proper form, the county clerk or his deputy shall complete those elements of the form reserved to the county clerk, endorse the application in the manner directed upon the form, and then enter designated information from the application into the automated system, in the manner required by administrative regulations of the bureau of vehicle regulation consistent with this chapter.

SECTION 27. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

In the event that, at the time an application for a certificate of registration or title is presented to the county clerk, the automated system is not capable of accepting entry of the record of an application and producing a certificate of registration, the county clerk shall advise the applicant of the outage, and after accepting the owner's application, and collecting the required taxes and fees, indicate receipt of the application in the required manner, and issue to the applicant, a temporary receipt which shall serve as a temporary certificate of registration until the certificate of registration produced by the automated system is received by the applicant. The clerk shall advise the applicant, or the applicant's agent, that the regular certificate of registration will be mailed to the applicant or the applicant's agent in due course, or held for call by the applicant or the applicant's agent, at the applicant's discretion.

SECTION 28. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

When the automated system becomes operational following a system outage, it shall be the duty of the county clerk to ensure that all applications received during the system outage are promptly entered into the system and that the certificates of registration produced by the automated system are promptly mailed postpaid or delivered to the owner.

SECTION 29. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The county clerk shall, upon issuing a certificate of registration, give or mail postpaid to the owner, his designated copy of his application, and if the seller or transferror's designated copy accompanied the owner's application when it was presented to the county clerk, the clerk shall make that copy available to the seller or transferror.

(2) The county clerk shall then file the clerk's copy of the owner's application in the manner stipulated by administrative regulations of the bureau of vehicle regulations.

(3) The department of revenue copy of the owner's application shall be forwarded to the department of revenue in the manner specified by regulations of the bureau of vehicle regulation.

SECTION 30. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Not later than 3 p.m. on the next business day after an application for a first certificate of registration or title for a vehicle is received by him, the county clerk shall prepare on forms supplied by the bureau of vehicle regulation, an application transmittal record.

(1)The clerk shall indicate thereon in the spaces provided, the name of his county, the date or time period the transmittal relates to and, in the order they are to be attached to the transmittal record, a notation for each application attached consisting of the applicant's last name and initials or if the applicant is other than an individual, the name commonly used by the applicant and any other information required upon the form as indicated thereon.

(2) The clerk shall ensure that the original of all applications noted on the transmittal, together with the original of all required supporting documents are attached to the transmittal record in the order shown thereon, and shall thereafter sign and date the original of the transmittal record as of the date the transmittal is being forwarded to Frankfort.

(3) The county clerk shall place the original of each application record, with the original of each application shown thereon, and its required supporting documents, together with the acknowledgement of the transmittal record, in the envelope or other container provided by the bureau of vehicle regulation and forward to the division of motor vehicle licensing in Frankfort.

SECTION 31. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The bureau of vehicle regulation shall:

(a) Within five (5) working days following receipt by it of an application for a certificate of title in proper form, process the application and its supporting documents in the manner provided in this section, and unless it finds discrepancies with respect to it or its supporting documents, issue a certificate of title in the name of the owner and send it postpaid to such owner.

(b) The bureau of vehicle regulation shall provide by regulation, a procedure for direct delivery, as distinguished from delivery by mail, of a certificate of title to an owner or owner's agent, and may establish a fee deemed reasonable by it for such service.

(2) Upon receiving an application packet from a county clerk, the application receipt clerk of the bureau of vehicle regulation shall:

(a) Cause the date and time of receipt to be stamped on both the bureau's copy and the acknowledgement copy of the application transmittal record and accompanying documents;

(b) Cause at least duplicate sets of microfilm images to be made of each transmittal record application and supporting document by a means that will provide rapid, selective, automated retrieval of individual document images by appropriate indexing methods or keys;

(c) Compare the application transmittal record with the documents accompanying it, and, if all applications shown upon the record are accompanying the record, endorse the bureau's copy of the transmittal record and the acknowledgment copy, and forward the acknowledgement copy to the clerk who issued it.

(3) In the event there is a discrepancy between the application transmittal record and the application attached to it, the bureau of vehicle regulation shall note the discrepancy upon the bureau's copy and the acknowledgment copy, and shall promptly contact the issuing clerk and resolve the discrepancy. After resolving the discrepancy, the bureau shall note the nature of the disposition of the discrepancy and endorse the respective copies and forward the acknowledgment copy with the discrepancy disposition noted thereon to the issuing clerk.

(4) After executing the acknowledgment of receipt of applications, the bureau of vehicle regulation shall carry out the following action with respect to each application:

(a) Examine the owner's application for legibility and proper execution, presence of required information, including required supporting documents, and the presence of required signatures. The bureau of vehicle regulation shall ensure also that the required supporting documents are consistent in pertinent part with the information shown on the owner's application;

(b) The documents supporting an owner's application shall be examined as to authenticity and to determine if fraudulent alteration has occurred;

(c) Assure that the vehicle identification number of the subject vehicle is apparently legitimate;

(d) Ensure that the vehicle identification number and any other appropriate information with respect to a vehicle for which a certificate of title has been applied for is compared against the national crime information center (NCIC) computerized listings of vehicles reported stolen, unless NCIC is not operational and the bureau has official notification that is not expected to be operational within four (4) working days following the day on which an application for a certificate of title is received by it;

(e) Compare the computer produced certificate of title for consistency with the owner's application and supporting documents.

(5) When the title application has been completed, and the application examiner at each significant stage has indicated, by placing his unique symbol upon the application in the space provided thereon, that an application has passed the required examinations, the application shall be examined by a title examination certifier.

(6) The title application certifier shall ensure that each application has received the required examinations as indicated by the presence of each required examiner's symbol. Upon satisfying himself that an application has passed the required examinations, the title examination certifier shall place his unique symbol together with the date upon the application.

(7) The bureau of vehicle regulation shall withhold issuance of a title, until its questions are resolved to its satisfaction, when it finds material discrepancies or has information giving probable cause to believe:

(a) That an applicant is not the lawful owner of a vehicle for which he seeks a title;

(b) His application is not in order;

(c) The documentation supporting an application is insufficient or fraudulent;

(d) The vehicle has an illegitimate vehicle identification number;

(e) The vehicle is stolen; or

(f) That the computer produced certificate of title is not consistent with the owner's application.

(8) When the bureau of vehicle regulation finds that a certificate of title should be issued for a vehicle, the endorsement of the commissioner of the bureau of vehicle regulation shall be engrossed upon the certificate of title following a preprinted statement which shall read: I certify that the bureau of vehicle regulation has exercised due diligence in examining an application for a certificate of title for the above-described vehicle, and to the best of our knowledge and belief, the applicant whose name appears above is the lawful owner of the apparently legitimate vehicle described herein. ———————— (signature), commissioner, bureau of vehicle regulation, Kentucky department of transportation.

SECTION 32. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Each certificate of title issued by the bureau of vehicle regulation shall contain:

(a) The date of its issue;

(b) The name, social security account number or federal employer identification number and current mailing address of the owner, to include zip code;

(c) The names and addresses of any lienholders, not exceeding two (2);

(d) The title number;

(e) A description of the vehicle including the following data: year, make, model name, model number, vehicle identification number, type of body, number of cylinders, color or colors not exceeding one upper and one lower color, and if the vehicle is a truck, its gross weight;

(f) If last titled in another state, the name of the state and the title number;

(g) Forms for assignment and warranty of title by the owner, and for assignments and warranty of title by dealers;

(h) Any other information the department requires;

(2) A certificate of title issued by the department is prima facie evidence of the facts appearing on it.

SECTION 33. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

An owner who has obtained a certificate of title pursuant to this chapter may apply for and obtain an updated certificate, but shall not be required to periodically renew a certificate of title that has been issued to him.

SECTION 34. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The bureau of vehicle regulation shall:

(1) Be the custodian of the original of each application for a certificate of title, and its supporting documents. It shall retain such records in accordance with a records retention and destruction schedule established pursuant to the archives and records statutes of this state.

(2) Furnish on a periodic basis not less than quarterly to other states, either the original, or a copy, or listings of all certificates of title received from them, to include title and document control numbers in addition to the vehicle description and owner information.

(3) Maintain active liaison with other states regarding vehicle titling and its auto-theft implications, and obtain from them on a regular basis, listings of documents reported missing or stolen or counterfeit.

SECTION 35. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Financing statements relating to vehicles required to be titled in Kentucky through the county clerk shall be filed in the office of the county clerk of the county in which the debtor resides or, if the debtor is a nonresident, in the office of the county clerk in which the vehicle is principally operated.

(2) Before ownership of a vehicle subject to a lien evidenced by a financing statement executed pursuant to KRS Chapter 355 may be transferred, the transferror shall obtain the release of the prior liens in his name against the vehicle being transferred.

(3) No more than two (2) active financing statements as provided by KRS Chapter 355 may be recorded upon a certificate of title.

(4) In recording the filing of a financing statement upon a certificate of title, the county clerk shall ensure that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was filed, its file number and the county in which the financing statement is on file.

(5) A copy of the application, certified by the county clerk, indicating the lien will be filed shall be forwarded to the lender.

SECTION 36. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) If a financing statement and the required fees accompany the application for first title of a vehicle in the name of an owner, the county clerk shall enter the information required by Section 35(4) of this Act above into the automated system so as to produce a certificate of title in Frankfort bearing in addition to any other required information, the information designated by Section 35(4) of this Act. The clerk shall thereby produce, in accordance with design of the automated system, a certificate of registration, if required.

(2) If a financing statement and the required fees are not received at the time of application for first title of a vehicle in the name of the owner due to owner's residency in another county, the county clerk shall enter into the automated vehicle informational system (AVIS) the name and address of the lienholder and the county where the lien is to be filed. The clerk shall indicate a title is not to be issued until the lien has been filed and fees paid in the county of the owner's residence or in thirty (30) days. The county clerk shall then issue the registration. The county clerk in the county of the owner's residence shall, after receiving the financing statement and required fees, enter into the automated vehicle information system (AVIS) the date of lien filing and the file number thus enabling the system to produce the title in Frankfort.

SECTION 37. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) With respect to a vehicle, previously titled in the name of its debtor, the secured party shall, within fifteen (15) days after execution of the security agreement, obtain the current certificate of title in the name of the debtor, with no more than one prior lien indicated thereon, and present it together with the financing statement and the required fees to the county clerk.

(2) For failure to present both the title and financing statement within the time prescribed by subsection (1) of this section, the secured party shall pay a penalty of two dollars ($2.00) to the county clerk as a prerequisite for noting the security interest on the title.

(3) The county clerk shall enter the information required by Section 35(4) of this Act into the automated system.

(4) The county clerk shall record upon the title in the appropriate section the information designated by Section 35(4) of this Act.

SECTION 38. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Whenever a security interest is assigned as provided by KRS 186.045(4), the county clerk of a county that is operating under automated procedures shall, in addition to carrying out his requirements stated therein, enter the record of lien assignment into the automated system in the manner directed by the bureau of vehicle regulation.

SECTION 39. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Whenever a security interest to a vehicle has been discharged as provided by KRS 186.045(5), the county clerk of a county that is operating under automated procedures shall, upon receiving a termination statement, promptly enter the record of termination into the automated system. The clerk shall then release the lien recorded upon the title in the manner directed by the bureau of vehicle regulation, and take such other action with respect to a termination as is directed by the bureau of vehicle regulation.

SECTION 40. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) If an owner transfers his interest in a vehicle, he shall, at the time of the delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate of title, and execute the applicable portions of the vehicle transaction record provided for by this chapter, and cause the vehicle transaction record with the certificate of title attached to be delivered to the transferee.

(2) Except as otherwise provided in this chapter, the transferee shall, promptly after delivery to him of the vehicle, execute the application for a new certificate of title and registration by executing the applicable portions of the vehicle transaction record provided to him by his transferor.

(3) The vehicle transaction record with its supporting documentation attached shall promptly be submitted to the county clerk as provided in Section 20 of this Act, together with the required fees.

(4) This section shall not apply to a motor vehicle which has had the title surrendered to a county clerk or a hulk vehicle. Hulk vehicle shall mean a motor vehicle or part thereof that is:

(a) In a rusted, wrecked, discarded, worn out, extensively damaged, dismantled and mechanically inoperative condition; or

(b) Of an apparent value of less than two hundred dollars ($200).

SECTION 41. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in this chapter, when any motor vehicle dealer licensed in this state buys or accepts such a vehicle in trade, which has been previously registered or titled for use in this or another state, and which he holds for resale, he shall not be required to obtain a certificate of title for it, but shall, within fifteen (15) days after acquiring such vehicle, notify the county clerk of the assignment of the motor vehicle to his dealership and pay the required transferor fee.

(2) Upon purchasing such a vehicle or accepting it in trade, the dealer shall obtain from his transferor, a properly executed vehicle transaction record, to include the odometer disclosure statement thereon, together with a properly assigned certificate of title.

(3) The dealer shall execute his application for assignment upon documents designated by the bureau of vehicle regulation, to the county clerk of the county in which he maintains his principal place of business. Such clerk shall enter the assignment upon the automated system.

(4) The dealer shall retain the properly assigned certificate of title received from his transferor, and may make any reassignments thereon until the forms for dealer assignment on the certificate of title are exhausted. The bureau of vehicle regulation may, if it deems it warranted, provide a special document to allow for additional dealer assignments without requiring system generated documents.

(5) When he assigns the vehicle to a purchaser for use, he shall deliver the properly assigned certificate of title, and a properly executed vehicle transaction record, to such purchaser, who shall make application for registration and a certificate of title thereon.

(6) The bureau of vehicle regulation shall assure that the automated system is capable of accepting instructions from the county clerk that a certificate of title shall not be produced under a dealer registration situation.

SECTION 42. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The bureau of vehicle regulation shall establish appropriate forms and procedures to be utilized in connection with the transfer of a motor vehicle or trailer by operation of law.

SECTION 43. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) This chapter shall be construed as requiring that a trade-in vehicle received by a motor vehicle dealer licensed in this state must be titled by assignment in the dealer's name substantially, simultaneously with the registration or titling of the vehicle toward which the trade-in vehicle was received.

(2) Licensed motor vehicle dealers shall be allowed to title by assignment a trade-in vehicle into their name if they possess an original or a copy of a title for the trade-in or in lieu thereof an affidavit. The affidavit shall contain the existing owner's name, address, make, year, model, vehicle identification number, license plate number, decal number, title number, if available, and the dealer's name, address and telephone number and any additional information required by the department of transportation.

SECTION 44. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Whenever any person after making application for or obtaining a certificate of registration or title for a vehicle, shall move from the address named in the application or shown upon a registration card or certificate of title, such person shall within fifteen (15) days thereafter notify the county clerk of the county in which he resides in writing of his old and new addresses as well as the current license number of all vehicles currently registered or titled in his name. The county clerk shall immediately enter such change into the automated system.

(2) Whenever the name of any person who has made application for or obtained a certificate of registration or title for a vehicle is thereafter changed by marriage or otherwise, such person shall within fifteen (15) days notify the county clerk of the county of residence of such former and new name. The county clerk shall immediately enter such change into the automated system.

SECTION 45. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) When any certificate of registration or certificate of title has been issued in error to a person not entitled to the certificate, or contains incorrect information or information has been omitted from the certificates, the bureau of vehicle regulation shall notify in writing the person to whom the certificates have been issued or delivered and such person shall immediately return such certificate within forty-eight (48) hours, together with any other information necessary for the adjustment of the records related to it, to the county clerk of the county in which the title was originally applied for, or as otherwise directed by the bureau of vehicle regulation.

(2) Upon receipt of the certificates and information requested, the county clerk and the bureau of vehicle regulation shall coordinate the production of a corrected certificate of registration and certificate of title, and the cancellation of the erroneous documents by the bureau of vehicle regulation, and ensure that corrected documents are sent to the appropriate party.

(3) Production of corrected documents shall be carried out under procedures similar to those applicable to production of an original certificate of title. The bureau of vehicle regulation shall supply to the county clerk such forms as may be needed to assure documentation of corrective action in accordance with this section.

SECTION 46. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) If a certificate of title is lost, stolen, mutilated or destroyed or becomes illegible, the owner or legal representative of the owner named in the certificate, shall promptly make application to the county clerk for and may obtain a duplicate, upon furnishing information satisfactory to the bureau of vehicle regulation. The duplicate certificate of title shall contain appropriate words or symbols to indicate that it is a duplicate. Each application for a duplicate certificate of title shall be two dollars ($2.00), of which the county clerk shall retain fifty percent (50%), and the department of transportation fifty percent (50%). It shall be mailed to the owner.

(2) The bureau of vehicle regulation shall make provisions for production and issuance of a duplicate title where update of information thereon is requested. The provisions shall be generally consistent with the procedures for production and issuance of a certificate of title in the first instance as provided in this chapter.

(3) A person recovering an original certificate of title for which a duplicate has been issued shall promptly surrender the original certificate to the bureau of vehicle regulation.

(4) Application for documents provided for by this section shall be made to the county clerk upon forms provided to him by the bureau of vehicle regulation.

SECTION 47. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The bureau of vehicle regulation shall suspend or revoke a certificate of title, after giving notice and providing a reasonable opportunity for the holder to be heard, when authorized by any other provision of law, or, if it finds:

(a) The certificate of title was fraudulently procured or erroneously issued; or

(b) The vehicle has been scrapped, dismantled or destroyed. Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.

(2) When the bureau of vehicle regulation suspends or revokes a certificate of title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the bureau of vehicle regulation.

(3) The department shall promptly notify the bureau of state police of the suspension or revocation of any certificate of title.

(4) Any peace officer shall seize and impound any certificate of title which has been suspended or revoked except when such document is in the custody of the bureau of vehicle regulation or the bureau of state police.

SECTION 48. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The bureau of vehicle regulation shall promptly notify the bureau of state police of the particulars of:

(1) Any attempted or actual registration or titling in this state of a stolen motor vehicle, or trailer, or motor vehicle or trailer whose true identity is in doubt, of which it becomes aware;

(2) Counterfeit, stolen or altered ownership document it receives; and

(3) Attempts to supply, or supplying to it, of false or fraudulent information in any application for a certificate of registration, certificate of title for a motor vehicle or trailer in this state.

SECTION 49. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) No person, including a county clerk and his employes shall willfully utilize or tamper with a telecommunications terminal, or associated devices, linked to the automated vehicle registration and titling system and capable of entering data or electronic signals into, altering information stored within, or obtaining information or electronic signals from, the automated vehicle registration and titling system unless he has current authorization from the commissioner of the bureau of vehicle regulation to utilize the system;

(2) He has, previous to utilizing such terminal or associated devices in a given county, satisfactorily completed an orientation as given by the bureau of vehicle regulation concerning the forms, procedures, and use of the system, as certified by the county clerk or county clerk-elect of the county in which his use of the system will take place; and

(3) He has been assigned, and has received, a unique personal identifying code or device from the bureau of vehicle regulation.

SECTION 50. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Each county clerk, or county clerk-elect, shall, before utilizing or permitting his employes to utilize the automated vehicle registration and titling system, ensure that he and his employes have satisfactorily completed an orientation course regarding the forms, procedures and use of the system as instructed by the department of transportation.

(2) The county clerk, or county clerk-elect, shall certify to the commissioner of the bureau of vehicle regulation, those of his employes or prospective employes, who, together with himself, having satisfactorily completed the required orientation, will utilize the automated system under his direction.

(3) His certification shall be made by printing or typing upon a form supplied by the bureau of vehicle regulation, the name of his county, and as to himself and each of his employes who will utilize the system, their last name, first name, and where available middle initial, their birth date, and social security account number, as to each person shown upon the certificate. The county clerk shall sign and date the certificate following a preprinted statement that shall read: I certify under penalty of forgery in the second degree that the persons whose names appear above have satisfactorily completed an orientation on use of the automated vehicle registration and titling system as provided by this chapter and that the information supplied is true and correct to the best of my knowledge and belief. I will not willfully permit anyone other than those persons shown hereon, or on another certificate of this same type executed by me, and persons authorized in writing by the bureau of vehicle regulation, to use telecommunications terminals linked to the automated system and under my control.

(4) Each county clerk shall promptly notify the bureau of vehicle regulation on a form supplied by it, of the name of any employe whose authorization to utilize the automated system has been terminated by him or whose employment by such clerk has ceased.

(5) Every county clerk and each of his employes who is authorized to utilize the automated system shall promptly report to the bureau of vehicle regulation any attempted, actual, or suspected misuse of the automated system of which they become aware.

SECTION 51. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Upon receiving notice that a person who has previously been authorized to utilize the automated system has willfully or negligently misused the automated vehicle registration and titling system, the commissioner of the bureau of vehicle regulation may temporarily suspend such person's authorization to utilize the system.

(2) Whenever he suspends or revokes any person's authorization to utilize the automated vehicle registration and titling system, the commissioner of the bureau of vehicle regulation shall give immediate notice of such revocation to the person whose authorization has been suspended or revoked and if such person is not the county clerk, then notice shall be given also to the county clerk of the county in which the person is employed.

(3) No person whose authorization to utilize the automated system has been suspended or revoked shall utilize such system following notice of such action until his authorization to utilize the system is restored by the commissioner of the bureau of vehicle regulation.

SECTION 52. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

No county clerk or other person who is authorized to utilize the automated vehicle registration and titling system, shall knowingly enter into such system, information enabling the system to produce a certificate of title and registration, certificate of registration, or certificate of title, or enter the record of a lien or its release, unless he has in his official custody at the time he enters such information into the system, an application which he believes to be bona fide and in proper form, or if the information entry involves a lien, a proper financing or termination statement, which is consistent with the information he enters.

SECTION 53. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

No county clerk or other person shall knowingly enter any information or record into a telecommunications terminal or other device connected to the automated vehicle registration and titling system, knowing that the information or record entered into such device is false, fraudulent, illegitimate, or contains erroneous information that:

(1) Creates, or enables the system to create, a certificate of title and registration, certificate of registration, or certificate of title, that is illegitimate or that contains information that is false, fraudulent or erroneous; or

(2) Results in the system storing information or a record that is false, fraudulent or contains erroneous information; or

(3) Fraudulently, illegitimately, or maliciously alters information or records stored within the system.

SECTION 54. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) No person shall, without prior specific written approval of the commissioner of the bureau of vehicle regulation and the commissioner of the department of technical services, connect with the automated vehicle registration and titling system, directly or indirectly, by wire, electronic, electromagnetic induction, systemic, or any other means, any device, system or apparatus capable of putting information or electronic signals into, or receiving information or electronic signals from, or blocking, diverting, or altering transmission of data or signals within, the automated vehicle registration and titling system, its components, and its communications network.

(2) This section does not apply to or prohibit connection of devices or systems to the automated vehicle registration and titling system by persons who are acting in accordance with a contract or agreement with the Commonwealth of Kentucky, which in addition to any other required approval, has been approved in writing by the commissioner of the bureau of vehicle regulation and the commissioner of the department of technical services.

SECTION 55. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Regardless of other provisions of the statutes, the county clerk may omit sending duplicates of each certificate of title and registration, or certificate of registration he issues, to the departments of transportation and revenue, and the property valuation administrator, and may omit the production and filing of one of the copies formerly known as either county clerk's alpha or his numeric copy, when it is determined

by the agencies indicated that their need for "duplicates" of each certificate or "receipt" is obviated by the automated system.

(2) The bureau of vehicle regulation and the department of revenue shall, as agreed between them, provide appropriate system support or computerized listings on magnetic tape or disc, printouts, or system access, to fulfill the information needs formerly requiring duplicates of each certificate or receipt.

SECTION 56. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) (a) Any person or entity having a motor vehicle or trailer that has been destroyed, to the extent that its repair cannot be obtained through usual commercial repair services, at a cost less than its retail value as established from a value manual approved by the department of revenue, or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by the manufacturer have been removed, or which he removes, shall surrender the certificate of title for such vehicle for which he has a certificate of title in his or another name, to the county clerk of the county in which such vehicle is located. The clerk shall immediately forward the surrendered title to Frankfort with instructions for cancelling the title.

(b) Any person or entity engaged in the sale of used motor vehicle or trailer parts, or the recycling or salvage of them, shall surrender the certificate of title for any vehicle in his possession, and for which he has a certificate of title, whether in his or another name, if such vehicle is destroyed within the meaning of paragraph (a) of this subsection, or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by a manufacturer have been removed, or which he removes, to the county clerk of the county in which such vehicle is located. The clerk shall immediately forward the surrendered title to Frankfort with instructions for cancelling the titling.

(c) The surrender of the certificate of title pursuant to this section shall be made within ten (10) working days, next succeeding the day when such vehicle was received, destroyed, or next succeeding the day during which such second part was removed.

(2) Each county clerk shall receive without charge, a certificate surrendered in accordance with this section, cancel it, and remit it to the bureau of vehicle regulation, and take any other action related to it, as required by the bureau of vehicle regulation.

SECTION 57. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) No person, except as provided in subsection (2) of this section shall have in his possession any blank, uncompleted, or partially executed "certificate of title and registration," "certificate of registration," "certificate of title," or other similarly styled form or document, whether genuine or counterfeit, of this or any other state or country, which is of a type that, when genuine and properly issued, evidences ownership of a vehicle under the laws of this or another state or country, and surrender of which is required in order to sell, transfer, register or title a motor vehicle or trailer in this state.

(2) A person who possesses forms or documents of the type described in subsection (1) of this section, is not in violation of this section if he:

(a) Is an employe of a manufacturer or printer of such forms or documents and possesses such forms or documents in the normal course of the business of design or manufacture of them in connection with bid invitation, bid, or contract with a governmental agency related to supplying such forms for governmental use.

(b) Is an employe of a shipper, or agency, under whose direction such forms are being shipped or delivered to a state or local agency charged with receiving, distributing or issuing such forms or documents, when they are in a container sealed under governmental direction.

(c) Is an employe of a state agency who possesses such forms or documents in the course of carrying out his official duties when his duties are to handle such forms or documents.

(d) Is a county clerk, or employe of a county clerk whose official work duties require the handling of such forms or documents, and he possesses them within the confines of the county clerk's office or official storage space or immediately incidental to placing them in such places.

(e) Possesses such form or document and it is prominently and indelibly marked on its face either: specimen, or void, or sample.

SECTION 58. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) No person shall intentionally remove, deface, cover, destroy, alter, or obscure any vehicle identification number, or other distinguishing number, of a motor vehicle or trailer or any part thereof in this state, without written authorization from the bureau of state police, nor shall any person place or stamp, in place of the original manufacturer's serial, motor, or other number or mark upon a vehicle, any number except one assigned thereto by the bureau of vehicle regulation under the provisions of KRS 186.1911 or authorized agency of another state.

(2) This section does not prohibit the restoration by an owner of the original vehicle identification number when the restoration is authorized by the bureau of state police, nor prevent any manufacturer from placing in the ordinary course of business numbers or marks upon new motor vehicles or new parts thereof.

(3) This section shall not apply to a scrap processor who loads, unloads, crushes, flattens, destroys, grinds up, handles, shreds, or otherwise reduces a motor vehicle or motor vehicle part into metallic scrap for the purpose of recycling such metallic content.

SECTION 59. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) No person shall knowingly buy, sell, offer for sale, receive, or have in his possession, any titled motor vehicle or trailer or component part thereof, from which the original manufacturer's vehicle identification number, or serial number, has been removed, defaced, altered, obscured or destroyed, unless such vehicle or component part has attached thereto an identification number assigned or approved by the bureau of vehicle regulation under the provisions of KRS 186.1911 or authorized agency of another state in lieu of the manufacturer's number.

(2) Whenever such vehicle or component part comes into the custody of a peace officer it shall be forfeited under the procedure established in KRS 500.090. Nothing in this section shall, however, preclude the return of such vehicle or parts to the lawful owner thereof following presentation of satisfactory evidence of ownership and assignment of an identification number by the bureau of vehicle regulation.

SECTION 60. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) No person shall have in his possession a manufacturer's vehicle identification number plate unless it is attached to the vehicle, or vehicle part, to which it was originally affixed by the manufacturer, nor shall any person have any facsimile of such a plate.

(2) This section shall not prohibit possession of legitimate plates by persons:

(a) Whose possession is incident to a contract to supply them to a manufacturer of new motor vehicles, or when such plates are in the possession of a manufacturer of new vehicles, or such manufacturer's employe, who possesses them within the scope of his work when his work involved the manufacture or storage of such plates, for legitimate placement upon newly manufactured vehicles, legitimate affixing of such plates upon newly manufactured vehicles, or legitimate affixing of a replacement plate.

(b) Who possess such plate immediately incident to transferring it from being legitimately attached to a wrecked part or portion of a vehicle to a replacement part or portion for installation on, or installed on, the same vehicle on which the plate was originally placed by the manufacturer, when such possession and transfer is authorized in writing by the bureau of vehicle regulation.

(c) Who are authorized in writing, by the commissioner of the bureau of vehicle regulation under the provisions of KRS 186.1911 to possess such plates.

SECTION 61. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) When any peace officer has probable cause to believe that a motor vehicle or trailer, or any component part of such vehicle is stolen, he shall impound such vehicle or part and notify its lawful owner, and when applicable, the agency to which the theft was reported, of the recovery of such vehicle or part and where it may be claimed.

(2) A vehicle or component part thereof which has been impounded pursuant to this section shall be released to its lawful owner when such owner presents satisfactory evidence of his ownership.

(3) A vehicle or component part thereof that has been impounded under this section, and which has not been claimed within ninety (90) days following notice of recovery to the owner, or if the owner cannot be located after a reasonable effort, within ninety (90) days following impoundment, is forfeited and shall be disposed of in accordance with procedures set forth in KRS 500.090.

SECTION 62. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Any person or entity knowingly in possession or control of two (2) or more motor vehicles or trailers or their major component parts or assemblies such as, but not limited to, an engine, transmission, chassis, frame, front clip, rear clip:

(a) That are stolen; or

(b) Have had their identity obscured, removed or altered, except as an immediate result of the final destruction by crushing, flattening, grinding up, or shredding of a vehicle or vehicle part for purpose of recycling its metallic content; or

(c) Have stolen parts on them; or

(d) Are comprised of any combination of the above;

shall be deemed to be trafficking in stolen vehicles or stolen vehicle parts.

(2) Trafficking in stolen vehicles or stolen vehicle parts is a class C felony.

SECTION 63. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Upon the arrest of any person or entity for violation of Section 62 of this Act, the law enforcement officer may cause the seizure, pending disposition by the court as provided by subsection (2) of this section, of:

(a) All vehicles or vehicle parts, held in violation of Sections 59(1) or 62 of this Act; and

(b) All vehicles and other equipment used to transport property in violation of Section 62 of this Act; and

(c) All tools, equipment, and other materials, and all real and personal property used in furtherance of a violation of Section 62 of this Act; and

(d) All money or other proceeds gained from the violation of Section 62 of this Act.

(2) Upon the conviction of any person or entity for violation of Section 62 of this Act, all items seized in accordance with subsection (1) of this section may be forfeited to the state in a manner consistent with procedures for forfeiture set forth in KRS 500.090.

SECTION 64. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) A salvage title shall be obtained by the owner for any motor vehicle subject to titling and registration pursuant to this chapter which is deemed to have damages of seventy-five percent (75%) or more of NADA book value.

(a) Provided, however, that for the purposes of this Act, a motor vehicle on which ownership has been transferred to an insurance company through payment of damages, pursuant to subsection (1) of this section, the insurance company making the payment of damages shall be deemed the owner of such vehicle.

2) The owner or its authorized agent shall, within fifteen (15) days from the loss or settlement of the loss, submit an application to the county clerk, on a form prescribed by the bureau of vehicle regulation for a salvage title, accompanied by a properly endorsed certificate of title and any lien satisfactions, if any appear, as may be required.

(3) The county clerk shall retain a copy of each salvage title application received and shall forward the original and its supporting documents to the bureau of vehicle regulation in a manner similar to that for handling of an application for a title.

(4) The bureau of vehicle regulation shall process the salvage title application in a manner similar to that used in processing a title application and the salvage title shall be delivered in a like manner of a title. Salvage titles shall be construed as proof of ownership of a vehicle in a state as to be unusable upon the highways of the Commonwealth. Under no circumstances shall any vehicle be issued a registration for highway use as long as a salvage title is in force.

(5) The only instance under which a vehicle with a salvage title may be operated upon the highways of the Commonwealth is when it is in route to or from an inspection by the certified inspector prior to obtaining a certificate of title after having been rebuilt as per KRS 186.115.

SECTION 65. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Any person aggrieved by any administrative action pursuant to this chapter or regulations promulgated pursuant thereto, may appeal such action to a court of competent jurisdiction.

SECTION 66. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) Any person who knowingly gives false, fraudulent, or erroneous information in connection with an application for the registration, and when required, titling of a vehicle, or any application for assignment of a vehicle identification number, or replacement documents, or gives such information in connection with his review of such applications, or falsely certifies the truthfulness and accuracy of information supplied in connection with the registration and when required, titling of a vehicle, shall be guilty of forgery in the second degree.

(2) Any person who violates Sections 49, 52, 53, or 54 of this Act shall be guilty of a class C felony.

(3) Any person who violates Sections 57, 58, 59, or 60 of this Act shall be guilty of a class D felony.

(4) Any person who operates a motor vehicle or trailer upon the highways of this state without a temporary tag when one is required, or with one that is expired, improperly executed, or displayed on a vehicle other than the one to which it was legitimately and lawfully issued, shall be guilty of a class B misdemeanor.

(5) Any person who violates any provisions of this chapter, or regulations promulgated pursuant thereto, and for which a specific penalty is not prescribed by statute, shall be guilty of a class A misdemeanor.

(6) Criminal remedies or sanctions provided in this chapter are in addition to, and not exclusive of, any other criminal remedies or sanctions provided elsewhere in the statutes.

SECTION 67. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Unless the context requires otherwise, terms used in this chapter shall be defined, where applicable, as provided by KRS 186.010.

SECTION 68. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

All fees to be credited to the state shall be deposited to a trust and agency account within the transportation fund to be used in defraying the department's costs and expenses of administering a vehicle titling program.

Section 69. The following KRS sections are repealed:

186.074 Temporary permits.
186.191 Revocation of document relating to motor vehicle due to illegal act.
186.235 Inspection prior to registration.

Adjournment

Representative LeMaster moved that the House adjourn.

The House adjourned by voice vote.

WEDNESDAY, FEBRUARY 24, 1982

THIRTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Dennis W. Jones, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Lefevers and Overstreet.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 23, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 597, by Representatives Dunn, Van Horn, Donnermeyer, Williams, Bennett, Deskins, Gray, Priddy, and Bronger: AN ACT relating to cities.

HB 598, by Representative R. Jones: AN ACT relating to subdivision road districts.

HB 599, by Representative Maggard: AN ACT relating to public utilities.

HB 600, by Representatives Long, R. Jones, and Craddock: AN ACT relating to eminent domain.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 583, HB 584, HB 594, SB 248.**

Banking and Insurance: **HB 588, SB 160, SB 234.**

Business Organizations and Professions: **HB 587.**

Cities: **HB 585, HB 589, HB 595.**

Counties and Special Districts: **HB 582.**

Education: **HB 591, SB 162, SB 228.**

Energy: **HB 592.**

Judiciary-Civil: **HR 42.**

Judiciary-Criminal: **HB 581, HB 590, HB 596.**

Labor and Industry: **HB 593.**

State Government: **HB 586.**

Transportation: **SB 164, HR 43.**

Report of Committees

The Committee on Rules reported **HB 358, HB 373, HB 439, HB 402, HJR 34, SB 25,** and **SJR 15** have been posted for passage in Orders of the Day, February 25, 1982.

The Committee on Rules reported **HB 106** has been recommitted to the Committee on Appropriations and Revenue.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 106, HB 230, HB 41, HB 133, HB 206, HB 433, HB 436, HB 50, HB 98, HB 257, HB 269,** and **HB 143.**

Report of Committees

The Committee on Business Organizations and Professions reported **HB 103** with Committee Substitute attached thereto, **HB 228, HB 338, HB 393** with Committee Substitute attached thereto, **HB 424,** and **SB 224** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 103, AN ACT relating to land surveys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 322 IS CREATED TO READ AS FOLLOWS:

(1) Before any land surveyor may survey any land in the Commonwealth, he shall, by certified mail, return receipt requested, notify the owner of the land to be surveyed and all landowners whose property adjoins the land to be surveyed of the date and time when the land in question will be surveyed. He shall also, in his letter of notification, request that each adjoining landowner or a party representing him be present at the time of survey. Any landowner to whom notice has been sent pursuant to the provisions of this section who fails to be present or to have a representative present at the time of the survey waives such right.

(2) A land surveyor may enter upon the property of any landowner whose property adjoins the land he is surveying in order to make his survey. Any actual damages sustained by the owner of a property interest in the property entered upon by the land surveyor shall be paid by the land surveyor.

Committee Substitute to **HB 103** is as follows:

HB 103, AN ACT relating to land surveys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 322 IS CREATED TO READ AS FOLLOWS:

(1) A professional land surveyor, his agents, employes, and personnel under his supervision, may go on, over, and upon the lands of others when necessary to perform surveys for the location of property corners, boundary lines, rights-of-way, and easements, and, in so doing, may carry with them their customary equipment and vehicles. Entry under the right hereby granted shall not constitute trespass, and a professional land surveyor, his agents, employes, and personnel under his supervision shall not be liable to arrest or a civil action by reason of such entry; however, nothing in this section shall be construed as giving authority to a professional land surveyor, his agents, employes, or personnel under his supervision to destroy,

injure, damage or move anything on the lands of another without the written permission of the landowner; and nothing in this section shall be construed as removing civil liability for such damages.

(2) A professional land surveyor, his agents, employes, and personnel under his supervision shall make reasonable effort to notify adjoining landowners upon whose land it is necessary to enter.

HB 228, AN ACT relating to malt beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.500 is amended to read as follows:

(1) No person holding a license to sell malt beverages shall offer or give anything tangible of value as a premium for the return of caps, stoppers, corks, stamps, wrappers, coupons or labels taken from any bottle, case, barrel or package containing malt beverages or to offer or give anything of value as a premium, gift or prize for any purpose in connection with the sale of malt beverages.

(2) Subsection (1) *of this section* shall not apply to the return of moneys specifically deposited for the return of the original containers to the owners*; nor shall subsection (1) of this section prohibit brewers, wholesalers, or distributors from giving anything of value as a premium, gift or prize to wholesalers, distributors or their employes in connection with sales incentive programs.*

HB 338, AN ACT relating to thoroughbred racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.260 is amended to read as follows:

The commission, in the interest of *promoting honest and competitive thoroughbred horse racing for the citizens of the commonwealth* [~~breeding or the improvement of the breed of thoroughbred horses~~], shall have all powers necessary and proper to carry out fully and effectually the provisions of KRS 230.210 to 230.360 including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all thoroughbred race meetings in this commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of thoroughbred racing or appaloosa racing or interfere with the orderly conduct of thoroughbred racing or appaloosa racing at thoroughbred race meetings; Provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employes, may visit, investigate and have free access to the office, track, facilities or other places of business of any licensee for the purpose of satisfying itself that KRS 230.210 to 230.360 and its rules and regulations are strictly complied with;

(3) The commission shall have full authority to prescribe *necessary and reasonable* rules, regulations and conditions under which thoroughbred horse racing and appaloosa racing at a thoroughbred race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes or awards to be offered for the conduct of any thoroughbred race meeting;

(4) Applications for licenses shall be made in the form, in the manner and contain information as the commission may, by rule, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the commission;

(5) Any of the foregoing rules, regulations and conditions may be altered, amended, repealed and published from time to time. All rules, regulations and conditions shall become effective thirty (30) days after the filing thereof with the Legislative Research Commission unless the governor finds an emergency to exist in which event the same shall become effective immediately upon filing with the Legislative Research Commission. The commission may, but shall not be required to, advertise any of its regulations either before or after filing;

(6) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties. Any person failing to appear before the commission at the time and place specified in said summons, or refusing to testify, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be punished by a fine of not more than one thousand dollars ($1,000)

or by imprisonment for not more than six (6) months, or both. False swearing on the part of any witness shall be deemed perjury and punished as such.

(7) The commission shall have authority to compel any racing association licensed under KRS 230.210 to 230.360 to file with the commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association.

(8) The commission shall compel any racing association licensed under KRS 230.210 to 230.360 to publish and file with the commission within thirty (30) days after any thoroughbred race meeting conducted by it, the criteria it will use in allocating or denying stalls to applicants at its next race meeting. Said criteria shall state specifically the type of application it will prefer as well as the type of application it will reject.

(9) Racing associations shall accept and prefer applications of Kentucky owners and trainers over applications of non-Kentucky owners and trainers in all instances where the application of any Kentucky owner or trainer is substantially equal to that of any non-Kentucky owner or trainer, based upon the published criteria of the racing associations in effect at that time. In no instance shall this preference require a racing association to allocate more than seventy-five percent (75%) of its stalls to Kentucky owners and trainers.

HB 393, AN ACT relating to fire fighters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95A.230 is amended to read as follows:

Each local government which meets the following requirements shall be eligible to share in the distribution of funds from the fund:

(1) Employs one or more fire fighters.

(2) Pays every fire fighter a minimum annual salary of eight thousand dollars ($8,000).

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the commission, for employment of fire fighters on or after August 1, 1980. All fire fighters employed prior to August 1, 1980 shall be deemed to have met requirements of this subsection.

(4) Requires all fire fighters employed on or *after July 15, 1982* [~~before August 1, 1980~~] to successfully complete a basic training course of a minimum of *four hundred (400)* [~~two hundred (200)~~] hours duration *as mandated by the commission as to subject matter and number of hours for each subject,* within one (1) year of the date of employment at a school *or method* certified or recognized by the commission.

(5) Requires all fire fighters, whether originally employed before or after August 1, 1980, to successfully complete in each calendar year an in-service training program appropriate to the fire fighters rank and responsibility, of at least one hundred (100) hours duration at a school certified or recognized by the commission.

(6) Requires compliance with all provisions of law applicable to local fire fighters.

(7) Requires compliance with all rules and regulations, appropriate to the size and location of the local fire department or fire prevention district, issued by the commission to facilitate the administration of the fund and further the provisions of KRS 95A.200 to 95A.300.

Committee Substitute to **HB 393** is as follows:

HB 393, AN ACT relating to fire fighters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95A.230 is amended to read as follows:

Each local government which meets the following requirements shall be eligible to share in the distribution of funds from the fund:

(1) Employs one or more fire fighters.

(2) Pays every fire fighter a minimum annual salary of eight thousand dollars ($8,000).

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the commission, for employment of fire fighters on or after August 1, 1980. All fire fighters employed prior to August 1, 1980 shall be deemed to have met requirements of this subsection.

(4) Requires all fire fighters employed on or *after July 15, 1982* [~~before August 1, 1980~~] to successfully complete a basic training course of a minimum of *four hundred (400)* [~~two hundred (200)~~] hours duration *as mandated by the commission as to subject matter and number of hours for each subject,* within one (1) year of the date of employment at a school *or method* certified or recognized by the commission.

(5) Requires all fire fighters, whether originally employed before or after August 1, 1980, to successfully complete in each calendar year an in-service training program appropriate to the fire fighters rank and responsibility, of at least one hundred (100) hours duration at a school certified or recognized by the commission.

(6) Requires compliance with all provisions of law applicable to local fire fighters.

(7) Requires compliance with all rules and regulations, appropriate to the size and location of the local fire department or fire prevention

Section 2. KRS 95A.240 is amended to read as follows:

(1) The commission shall administer the fund pursuant to the provisions of KRS 95A.200 to 95A.300 and may issue such reasonable rules and regulations as, in its discretion, will facilitate the administration of the fund and further the purposes of KRS 95A.200 to 95A.300.

(2) The commission shall determine which local governments are eligible to share in the fund and may withhold or terminate payments to any local government that does not comply with the requirements of KRS 95A.200 to 95A.300 or the rules and regulations issued by the commission thereunder.

(3) The commission shall, from the moneys appropriated to the fund, reimburse the department of housing, buildings and construction for salaries and other costs of administering the fund. The amount of reimbursement for any given year shall be determined by the commission and shall not exceed five percent (5%) of the total appropriation to the fund for that year.

Section 3. KRS 95A.260 is amended to read as follows:

(1) Funds made available to local governments shall be received, held and expended in accordance with the provisions of KRS 95A.200 to 95A.300, any rules and regulations issued by the commission, and the following specific restrictions:

(a)[~~(1)~~] Funds provided shall be used only as a cash salary supplement to fire fighters.

(b)[~~(2)~~] Funds provided shall be used only to compensate fire fighters who have complied with subsections (3) and (4) of KRS 95A.230.

(c)[~~(3)~~] Each fire fighter shall be entitled to receive the state supplement which his qualifications brought to the local government.

(d)[~~(4)~~] Funds shall not be used to supplement existing salaries or as a substitute for normal salary increases periodically due to fire fighters.

(2) This section shall not apply to funds expended pursuant to KRS 95A.240(3).

Section 4. KRS 95A.270 is amended to read as follows:

The department of finance, on the certification of the commission, shall draw warrants as specified on the state treasurer for the amount of the fund due each eligible local government *or the department of housing, buildings and construction.* Checks shall be issued by the state treasurer and transmitted to the commission for distribution to the proper officials of participating local governments which have complied with the provisions of KRS 95A.200 to 95A.300. Beginning January 1, 1981, and on the first day of each month thereafter, the share of each eligible local unit shall be distributed from the fund.

Section 5. KRS 95A.290 is amended to read as follows:

(1) If funds appropriated by the general assembly and otherwise made available to the fund are insufficient to provide the amount of money required by KRS 95A.250, the commission shall make a uniform percentage reduction in the allotment of funds available.

(2) *The provisions of subsection (1) of this section shall not apply to amounts due the department of housing, buildings and construction pursuant to KRS 95A.240.*

(3) Funds appropriated by the general assembly and unexpended by the commission at the close of the fiscal year for which the funds were appropriated shall not lapse, but shall be carried forward into the following fiscal year.

HB 424, AN ACT relating to professional sports events.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 229.051 is amended to read as follows:

Before a permit is granted to any person to hold a professional boxing or a wrestling match or exhibition, the applicant shall file with the commission a bond in the sum of *five* [~~two~~] thousand dollars *($5,000)* [~~($2,000)~~], to be approved as to form and the sufficiency of the sureties by the commission, conditioned for the payment of the tax imposed by KRS 229.031. Upon the approval of the bond, the commission shall issue to the applicant a certificate of filing and approval, which shall be filed by the applicant with the commission, with the application for the permit. No such permit shall be issued until such certificate has been filed.

SB 224, AN ACT relating to the licensing of auctioneers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 330.040 is amended to read as follows:

KRS 330.030 shall not apply to:

(1) Sales at auction conducted by or under the direction of any public authority or pursuant to any judicial order or decree, or to any sale required by law to be at auction.

(2) Sales at auction of any real or personal property conducted exclusively by an individual who personally owns such real or personal property and who did not acquire such real or personal property for resale. *This subsection is applicable only to individuals. It does not apply to any other "persons" as defined in KRS 330.020(5), nor does it apply to any officer, director or employe thereof.*

(3) Any resident or nonresident crier or auctioneer who simply calls for bids and strikes the bargain [~~at any auction sale of registered or purebred livestock~~] or who cries or acts as auctioneer in [~~show cattle sales or~~] the sale of livestock owned and sold at auction by 4-H Clubs or FFA Clubs or club members, *or by any university operated by the Commonwealth of Kentucky.*

(4) A sale conducted by or on behalf of any political party, church or charitable corporation or association if the individual conducting the sale receives no compensation and does not, by advertising or otherwise, hold himself out as being available to engage in the sale of goods or real estate at auction.

Section 2. KRS 330.050 is amended to read as follows:

(1) There is hereby created a board of auctioneers. The governor shall appoint a board consisting of five (5) members, three (3) of whom immediately prior to the date of their appointment have been residents of the Commonwealth of Kentucky for five (5) years, and whose vocation for a period of at least five (5) years has been that of an auctioneer. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The term of the members of the board shall be for three (3) years and until their successors are appointed and qualified. Members to fill vacancies shall be appointed for the unexpired term.

(2) At no time shall there be more than three (3) members of the same political faith on the board. Whenever there is a vacancy on the board, the Kentucky auctioneer association shall recommend to the governor at least three (3) names for each auctioneer vacancy and such appointment or appointments shall be made from the recommendations of the association.

(3) The board, immediately upon qualification of the member appointed in each year, shall organize by selecting from its members a chairman.

(4) Each member of the board shall receive the sum of *fifty dollars ($50)* [~~twenty-five dollars ($25)~~] per day as full compensation for each day actually spent on the work of the board and his actual and necessary expenses incurred in the performance of duties pertaining to his office.

(5) The board shall have full authority to employ, and discharge, a secretary and such other personnel as may be necessary to administer and enforce the provisions of this chapter, and it shall outline the duties and fix the compensation of such persons, which compensation shall be comparable to the salaries paid other state employes doing similar work. The board shall obtain office space, furniture, stationery and any other proper supplies and conveniences reasonably necessary to carry out the provisions of this chapter.

(6) All fees and charges collected by the board under the provisions of this chapter shall be paid into the state treasury through the executive department for finance and administration and shall be credited to an agency-fund account for the board of auctioneers under the provisions of KRS 45.140 and shall be withdrawn or expended as provided in that section. The total expenses for all purposes and obligations of the board shall not exceed the total fees, charges, fines and penalties imposed under the provisions of this chapter and paid into the state treasury. The board shall be financially self-sustaining, and if funds permit it may underwrite, within its financial limitations, educational programs for the enlightenment and benefit of all auctioneers and apprentice auctioneers who have paid fees pursuant to this chapter.

(7) The board shall annually publish a list of the names and addresses of all auctioneers and apprentice auctioneers licensed by it pursuant to this chapter. This list shall also contain the names of all persons whose licenses have been suspended or revoked within the preceding year, as well as any other information relative to the enforcement of the provisions of this chapter that the board may deem of interest to the public.

(8) The board may from time to time promulgate necessary rules and regulations.

Section 3. KRS 330.060 is amended to read as follows:

(1) Auctioneer and apprentice auctioneer licenses shall be granted only to persons who are found to be of good repute, trustworthy and competent to transact the business of an auctioneer or of any apprentice auctioneer in such a manner as to safeguard the interest of the public.

(2) The board is authorized to require information from every applicant to determine the applicant's honesty and truthfulness.

(3) In addition to proof of honesty, truthfulness and good reputation, an examination, conducted by the board or its authorized representative shall be held four (4) times each year, and an examination fee of fifty dollars ($50.00) shall be collected from each applicant to defray the expenses of the examination. The examination shall include questions on ethics, reading, writing, spelling, elementary arithmetic, elementary principles of land economics and a general knowledge of the statutes of Kentucky relating to the bulk sales law, deeds, mortgages, contracts of sale, agency, leases, auctions, brokerage and the provisions of this chapter. The examination for an auctioneer's license shall be of a more exacting nature and scope than the examination for an apprentice auctioneer.

(4) However, no examination shall be required for the renewal of any present or future license, unless such license has been revoked, suspended or is allowed to expire without renewal. In any of these cases, *the board may, in its discretion, require* the applicant *to* [~~shall~~] take and pass the written examination [~~offered by the board~~] before a new license may be issued.

(5) The provisions of subsection (3) of this section requiring applicants to pass a written examination to obtain a license shall not apply to an auctioneer or apprentice auctioneer furnishing satisfactory proof to the board that he actively engaged in the auction business for a period of at least one (1) year prior to June 14, 1962, and that he has been the principal auctioneer in at least five (5) auctions of either real or personal property during this period of time. Such an applicant shall file his application and proof with the board no later than October 1, 1962, and the application and proof shall be accompanied by a bond and license fee in accordance with the provisions of this chapter; Provided, however, That a nonresident tobacco auctioneer may qualify by December 1, 1962.

Section 4. KRS 330.070 is amended to read as follows:

(1) In addition to the other qualifications provided for by this chapter, every applicant for an auctioneer's license shall be at least eighteen (18) years of age [~~and be a citizen of the United States~~]. In addition, *but subject to the provisions of KRS 330.090,* an applicant shall *possess a current Kentucky apprentice auctioneer's license and shall* have served a bona fide apprenticeship for a period of one (1) year as an apprentice auctioneer in Kentucky. Every application for a license, whether as an auctioneer or apprentice auctioneer, shall be submitted on forms prepared by the board.

(2) Every applicant for an apprentice auctioneer's license shall be [~~a citizen of the United States and~~] at least eighteen (18) years of age. In addition to other requirements imposed by this chapter, the applicant shall furnish pertinent background data as outlined on the application forms furnished by the board.

(3) The issuance fee for each auctioneer's and apprentice auctioneer's license shall be not more than fifty dollars ($50) and the annual renewal fee for each license shall be not more than fifty dollars ($50). All licenses shall expire on June thirtieth of each year. In the absence of any reason or condition which might warrant the refusal of the renewing of the license, and upon receipt of the written request of the applicant and the annual fee therefor, the board shall issue a new license for each ensuing year.

(4) The board shall prepare and deliver to each licensee a license certificate and pocket card. The certificate shall be displayed conspicuously at all times in the office of the licensee. The certificate and pocket card of the apprentice auctioneer shall contain the name and address of the auctioneer under whose supervision he is employed.

(5) When any apprentice auctioneer is discharged or terminates his employment with the auctioneer for any reason, it shall be the immediate duty of the auctioneer to deliver or mail by certified mail, return receipt requested or by registered mail to the board the license of the apprentice auctioneer. It shall be unlawful for any apprentice auctioneer to perform any of the acts contemplated by this chapter either directly or indirectly, under authority of his license, until the apprentice auctioneer receives a new license bearing the name and address of his new employer. No more than one (1) license shall be issued to any apprentice auctioneer for the same period of time.

(6) Notice in writing shall be given to the board by each licensee of any change of principal business location, whereupon the board shall issue a new license for the unexpired period. A change of business location without notification to the board shall automatically cancel the license previously issued. Changing a business location and issuance of a new license shall entitle the board to collect three dollars ($3.00).

SECTION 5. A NEW SECTION OF KRS CHAPTER 330 IS CREATED TO READ AS FOLLOWS:

(1) (a) There is hereby created and established in the state treasury the auctioneer's education, research and recovery fund.

(b) In addition to the license fees provided for in KRS 330.070, upon renewal of every apprentice or principal auctioneer's license as of July 15, 1982 and every regular annual renewal date thereafter, the

board shall charge each and every licensee an amount not to exceed thirty dollars ($30) per year to be included in the auctioneer's education, research and recovery fund. Each and every original applicant for apprentice or principal auctioneer's license on and after July 15, 1982 shall likewise submit to the board an additional fee of thirty dollars ($30) to be deposited in the auctioneer's education, research and recovery fund and shall also be subjected thereafter to an annual renewal fee as of the regular renewal date.

(c) In addition to the license fees provided for in KRS 330.070, the board, based upon its own discretion as to need, may assess each licensee upon renewal an amount equal to or less than thirty dollars ($30) per year, or nothing, but not more. Each original applicant must pay the original amount of thirty dollars ($30), but upon renewal will pay the same fee as other licensees.

(2) The purposes of the auctioneer's education, research and recovery fund shall be as follows:

(a) When a licensee has been duly found guilty of violating any one (1) or more of the provisions of KRS 330.110, or any one (1) or more of the rules and regulations duly promulgated by the board, and upon the conclusion of a final order entered by the board or by the courts, if appealed, the board is authorized to pay to the aggrieved person or persons an aggregate amount not to exceed ten thousand dollars ($10,000) against any one (1) licensee, provided that the licensee has refused to pay such claim within a period of twenty (20) days of entry of a final order and provided further that the amount or amounts of money in question are certain and liquidated.

(b) The board shall maintain a minimum level of one hundred twenty thousand dollars ($120,000) for recovery and guaranty purposes. These funds may be invested and reinvested in the same manner as funds of the state employes' retirement system and the interest from said investments shall be deposited to the credit of the research and recovery fund, or, in the discretion of the board, to the agency fund account as set out in KRS 330.050(6). Sufficient liquidity, however, will be maintained so that there will be money available to satisfy any and all claims which may be processed through the board by means of administrative hearing as outlined in this chapter.

(c) The board, in its discretion, may use any and all funds in excess of the one hundred twenty thousand dollar ($120,000) level, regardless of whether it is from the auctioneer's education, research and recovery fund fees or accrued interest thereon, for the following purposes:

1. To carry out the advancement of education and research in the auction field for the benefit of those licensed under the provisions of this chapter and the improvement and making even more efficient the auction industry as such;

2. To underwrite educational seminars, caravans and other forms of educational projects for the use and benefit generally of auctioneer licensees;

3. To establish an auction chair or courses at Kentucky state institutions of higher learning for the purpose of making such courses available to licensees and the general public who may seek same on a college or university level;

4. To contract for a particular research project in the auction field for the Commonwealth of Kentucky;

5. To sponsor, contract for and to underwrite any and all other educational and research projects of a similar nature having to do with the advancement of the auction field in Kentucky; and

6. To cooperate with associations of auctioneers and any and all other groups for the enlightenment and advancement of the auctioneer licensees of Kentucky.

(3) (a) In the event that a licensee is found guilty of one (1) or more provisions of KRS 330.110 or one (1) or more rules and regulations of the board, and if the amount of the money lost by the aggrieved party or parties is in dispute or cannot be determined accurately, then the amount of damages shall be determined by a circuit court in the county where the alleged violation took place, provided that the board has previously determined that a violation of the license laws or rules and regulations has occurred and a final order has been entered.

(b) If such an order has been entered and the auctioneer license rights of the licensee have been finally adjudicated, then the local circuit court shall make a finding as to the monetary damages growing out of the aforesaid violation or violations.

(c) When a final order has been entered by the circuit court or court of appeals, and upon certification to the board, the aggrieved party or parties shall be paid such amount or amounts not to exceed ten thousand dollars ($10,000) by the board, and the auctioneer's license held by the licensee against whom the claim was made by the aggrieved party shall be suspended at least until such time as the licensee has reimbursed the auctioneer's education, research and recovery fund for all amounts paid to the aggrieved party due to the violation of the licensee.

(d) When, upon the final order of the court, the board has paid from the auctioneer's education, research and recovery fund any sum to the aggrieved party, the board shall be subrogated to all of the rights of the aggrieved party to the extent of the payment and the aggrieved party shall to the extent of the payment assign his right, title and interest in the judgment to the commission.

(e) Any funds in excess of the one hundred twenty thousand dollar ($120,000) level and which are not being currently used, may be invested and reinvested as set forth in subsection (2)(b) of this section.

Section 6. KRS 330.090 is amended to read as follows:

(1) A nonresident may become an auctioneer or apprentice auctioneer by conforming to all the conditions of this chapter.

(2) In every instance the nonresident must pay the issuance fee, the annual renewal fee and file the bond required by this chapter.

(3) In addition, every nonresident applicant shall file an irrevocable consent that actions may be commenced against the applicant in any court of competent jurisdiction in the Commonwealth, by the service of any summons, process or pleadings authorized by law on the secretary of the board. The consent shall stipulate and agree that the service of such process, summons or pleadings on the secretary shall be taken and held in all courts to be as valid and binding as if actual service had been made upon the applicant in Kentucky. In case any summons, process or pleadings are served upon the secretary of the board, it shall be by duplicate copies, one of which shall be retained in the office of the board, and the other immediately forwarded by certified mail, return receipt requested to the last known business address of the applicant against which the summons, process or pleadings may be directed.

(4) In the event a nonresident applicant for principal auctioneer's license should reside in a state which does not prescribe qualifications for licensing as set out in KRS 330.095, the board may waive the apprenticeship requirement set out in KRS 330.070(1) provided that said nonresident non-reciprocal applicant resides so far away as to prevent his serving a bona fide apprenticeship under a licensed Kentucky auctioneer, and further provided that such applicant must exhibit to the board by affidavit or by other evidence as required by it that his experience and competency are sufficient to qualify him to take the examination for principal auctioneer.

Section 7. KRS 330.095 is amended to read as follows:

Any *nonresident applicant* [~~person~~] who is a licensed auctioneer or apprentice auctioneer in another state or country where the qualifications prescribed at the time of licensing were, in the opinion of the board, equal to those prescribed in the Commonwealth at the date of application, and where reciprocal licensing privileges satisfactory to the board are granted to licensees of the Commonwealth, may be granted a license without an examination. A fee of fifty dollars shall be collected from each applicant meeting the above requirements.

Section 8. KRS 330.080, Bond, is repealed.

The Committee on Health and Welfare reported **HB 370,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 370, AN ACT relating to the treatment and rehabilitation of alcoholics and persons intoxicated or incapacitated by alcohol.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

The policy and purpose of this Act is to permit cities and counties to establish treatment facilities and to provide immediate treatment for persons appearing in a public place who are suffering from alcoholism, and is not intended to provide a defense in any form to a person who has committed a crime while using alcohol.

SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) A city or county may establish a treatment facility, which means a public place providing services especially designed for the detoxification, treatment or rehabilitation of intoxicated persons or alcoholics.

(2) A city or county which establishes a treatment facility shall include the following provisions in its ordinance or resolution:

(a) That a person who appears to be incapacitated by alcohol in a public place shall be escorted by an emergency service unit and taken into protective custody by the police and forthwith brought to a treatment facility for treatment.

(b) That the emergency service unit, in escorting an incapacitated person and in taking him to a treatment facility, or the police in detaining such a person, shall make every reasonable effort to protect the health and safety of the incapacitated person. The escorting or detaining personnel shall take reasonable precautions for their own personal protection.

(c) That protective custody under this provision is not an arrest and no entry or other record shall be made to indicate that the person has been arrested or charged with an offense as defined in KRS 500.080 (11).

(d) That when a person is taken to a treatment facility, his family shall be notified as promptly as possible unless the person requests otherwise.

(e) That police or members of the emergency service unit who act in good faith in compliance with the provisions of this section shall be deemed to be acting in the course of their official duties.

(f) That cities or counties which establish treatment facilities shall also establish emergency service units, for whose operation existing governmental personnel may be utilized. That members of the emergency service unit shall be capable of providing first aid in emergency situations and shall transport intoxicated or incapacitated persons to the treatment facility and when released to their homes, if deemed necessary by the treatment facility personnel.

SECTION 3. KRS 222.011 IS REENACTED TO READ AS FOLLOWS:

In this chapter the following words shall, unless the context requires otherwise, have the following meanings:

(1) "Administrator" means the person in charge of the operation of a facility, or his designee.

(2) "Alcoholic" means a person suffering from alcoholism.

(3) "Alcoholism" means a medically diagnosable disease characterized by chronic, habitual or periodic consumption of alcoholic beverages resulting in the (a) substantial interference with an individual's social or economic functions in the community, or (b) the loss of powers of self-control with respect to the use of such beverages.

(4) "A person under the influence of drugs" means a person whose powers of self-control have been substantially impaired because of the use of a drug described in KRS Chapters 217 and 218A or the federal controlled substances act of 1970, and regulations pursuant thereto.

(5) "Secretary" means the secretary for human resources.

(6) "Department" means the department for human resources.

(7) "Drug addict" means any person whose use of an addictive substance has produced a condition which requires ingestion or injection of the addictive substance, or both, as a means of preventing withdrawal symptoms and of maintaining the individual's state of function.

(8) "Drug dependent person" or "drug abuser" means any person who compulsively and habitually uses drugs to the extent that they injure his health and interfere with his social and economic functioning.

(9) "Facility" means any public or private place, or portion thereof, providing services especially designed for the detoxification, treatment or rehabilitation of intoxicated persons or alcoholics.

(10) "Incapacitated" means the condition of an intoxicated person who, by reason of the consumption of intoxicating liquor is:

(a) Unconscious,

(b) In need of medical attention,

(c) Likely to suffer or cause physical harm or damage property, or

(d) Disorderly.

(11) "Independent physician" means a physician licensed to practice in Kentucky, other than one holding an office or appointment in any department, board or agency of the Commonwealth, or in any public facility.

(12) "Juvenile" means any person who is under the age of eighteen (18).

(13) "Patient" means any person admitted to a facility.

(14) "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and alcoholics.

SECTION 4. KRS 222.210 IS REENACTED AND AMENDED TO READ AS FOLLOWS:

The department *may* [~~shall~~] coordinate matters affecting alcoholism in the Commonwealth, *may* [~~shall~~] establish and conduct a program for the treatment of intoxicated persons and alcoholics, including juveniles and young adults, their rehabilitation and the prevention of alcoholism in cooperation with public and private agencies, business and industry, and *may* [~~shall~~] provide technical assistance and consultation services whenever required. The department may adopt rules and regulations to carry out its powers [~~and duties~~] under this chapter. The department *may provide* [~~shall be responsible for assuring that~~] the following services [~~are available~~] and, *when doing so* shall utilize community mental health centers and existing facilities and services available within the private sector whenever possible:

(1) Detoxification services on a twenty-four (24) hour basis in or near population centers which meet the immediate medical and physical needs of intoxicated persons, including necessary diagnostic and referral services;

(2) Medical and hospital services which are available on a twenty-four (24) hour basis and which, whenever possible, are provided in existing general hospital facilities;

(3) Rehabilitation services, including family care, residential aftercare and appropriate therapy;

(4) Inpatient psychiatric services for those alcoholics whose diagnosis reflects serious alcoholic-related mental disturbances which, whenever possible, shall be conducted with services available in the department; and

(5) Training programs for professional and nonprofessional workers in the field of treatment and rehabilitation of alcoholics and intoxicated persons.

The department shall not grant its approval for the establishment or maintenance of a facility, pursuant to KRS 222.240, in any jail, house of correction or institution operated by the bureau of corrections, unless such facility meets the standards and procedures set forth in KRS 222.240.

SECTION 5. KRS 222.240 IS REENACTED TO READ AS FOLLOWS:

(1) Any person who is intoxicated and voluntarily applies for treatment at a detoxification facility or is brought to said facility shall be afforded treatment there or at another facility.

(2) Prior to the admission of any person, the administrator of the facility shall cause him to be evaluated by physician-supervised personnel, experienced in alcoholism diagnosis. If there is any concern about the health or the immediate treatment needs of such person, he shall be examined by a physician. If upon said evaluation or examination, a determination is made that the person is intoxicated or is an alcoholic, and adequate and appropriate treatment is available, he shall be admitted. If any person is not admitted for the reason that adequate and appropriate treatment is not available at the facility, the administrator of the facility, acting whenever possible with the assistance of the director, or his designee, shall refer the person to a facility at which adequate and appropriate treatment is available. In the event that a person is not admitted to a facility, and has no funds, the administrator shall arrange for the person to be assisted to his residence, or if he has no residence to a place where shelter will be provided him.

(3) Any person admitted to a facility shall receive treatment at the center or facility for as long as he wishes to remain or until the administrator determines that treatment will no longer benefit him; provided, however, that any person who at the time of admission is intoxicated and is incapacitated, shall remain at the facility until he is no longer incapacitated, but in no event shall he be required to remain for a period greater than seventy-two (72) hours.

(4) When a person is admitted to a facility, his family shall be notified as soon thereafter as possible. If a patient who is not incapacitated requests that notification not be given, his request shall be respected. Any person, unless transported by the police, who is transported to a facility or from one (1) facility to another or from a facility to his residence shall be transported by the department, or other persons authorized by the department. Said department shall promulgate rules and regulations regarding such transportation, and where necessary shall bear the expense thereof.

(5) Upon discharge from or upon leaving a facility, the patient shall be encouraged to consent to appropriate outpatient or residential aftercare treatment.

SECTION 6. KRS 222.260 IS REENACTED TO READ AS FOLLOWS:

Any juvenile who is a patient at a facility, pursuant to KRS 222.240, shall, upon request of his parent or guardian, be released to the custody of such parent or guardian. All rights afforded any person under this chapter shall apply to juveniles. Any provisions of this chapter requiring the consent of a person shall, if the person is a juvenile, require the consent of both the juvenile and his parent or guardian.

SECTION 7. KRS 222.270 IS REENACTED TO READ AS FOLLOWS:

(1) The administrator of each facility shall keep a record of the treatment afforded each patient, which shall be confidential and shall be made available only upon proper judicial order, whether in connection with pending judicial proceedings or otherwise.

(2) Any patient shall have the right to have a physician retained by him examine him, consult privately with his attorney, receive visitors, and send and receive communications by mail, telephone and telegraph. Such communications shall not be censored or read without consent of such patient. The foregoing shall not limit the right of the administrator, subject to reasonable rules and regulations of the department, to prescribe reasonable rules governing visiting hours and the use of telephone and telegraph facilities.

SECTION 8. KRS 244.020 IS REENACTED TO READ AS FOLLOWS:

(1) No person shall drink any alcoholic beverage in any public place, in or upon any passenger coach, streetcar or other vehicle commonly used for the transportation of passengers, or in or about any depot, platform or waiting room.

(2) No person shall be under the influence of alcoholic beverages on any public or private road, in any passenger coach, street-car, or other public place or building or at any public gathering.

SECTION 9. KRS 244.990 IS REENACTED TO READ AS FOLLOWS:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of this chapter for which no other penalty is provided, except KRS 244.380 to 244.470, shall, for the first offense, be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the second and each subsequent violation, he shall be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or imprisoned in the county jail or workhouse for not more than

six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(2) Any person who violates KRS 244.020 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) or imprisoned not less than five (5) nor more than thirty (30) days, or both.

(3) Any person who violates KRS 244.170 shall, upon the first conviction, be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) and may in addition be imprisoned in the county jail for not more than six (6) months. Upon a second conviction he shall be imprisoned in the penitentiary for not less than one (1) year, nor more than five (5) years. Upon the third and each subsequent conviction, he shall be imprisoned in the penitentiary for not less than five (5) nor more than ten (10) years. Upon the second or any subsequent conviction of a corporation for a violation of KRS 244.170, it shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000).

(4) Any person who violates any of the provisions of KRS 244.480 to 244.600 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500).

(5) Any person, firm or corporation violating any provision of KRS 244.083 and 244.085 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) and each violation shall constitute a separate offense.

(6) Any person who violates the provisions of subsection (5) of KRS 244.085 shall, for the first offense, be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) and for each subsequent offense shall be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000).

SECTION 10. KRS 525.100 IS REENACTED TO READ AS FOLLOWS:

(1) A person is guilty of public intoxication when he appears in a public place manifestly under the influence of alcohol, or a controlled substance, or other intoxicating substance, not therapeutically administered, to the degree that he may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity.

(2) Public intoxication is a Class B misdemeanor.

SECTION 11. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) In any city or county which has established a treatment facility pursuant to Section 2 of this Act, the provisions of KRS 525.100 and 244.020 and the penalty provision relating thereto in KRS 244.990 shall not apply.

(2) In any city or county which has not established a treatment facility pursuant to Section 2 of this Act, or if such provision is declared unconstitutional, the provisions of KRS 525.100 and 244.020 and the penalty provision relating thereto in KRS 244.990 and any program established by the department for human resources pursuant to the provisions of KRS Chapter 222, shall apply.

Section 12. Acts 1980, Chapter 254, Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13 and 14 are repealed.

Section 13. Whereas 1980 Acts Chapter 254 is to take effect on July 1, 1982, prior to the normal effective date for legislation enacted during the 1982 Regular Session of the General Assembly, and whereas there are no state funds to finance the program for the treatment and rehabilitation of alcoholics and persons intoxicated or incapacitated by alcohol, which is established by this 1980 Act, an emergency is declared to exist and this Act shall become effective immediately upon passage and approval by the Governor.

Committee Substitute to **HB 370** is as follows:

HB 370, AN ACT relating to the treatment and rehabilitation of alcoholics and persons intoxicated or incapacitated by alcohol.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. The policy and purpose of this Act is to secure immediate treatment for persons appearing in a public place who are suffering from alcoholism, and is not intended to provide a defense in any form to a person who has committed a crime while using alcohol.

Section 2. KRS 222.011 is amended to read as follows:

In this chapter the following words shall, unless the context requires otherwise, have the following meanings:

(1) "Administrator" means the person, *or his designee,* in charge of the operation of a *treatment* facility *licensed by the department*[~~, or his designee~~].

(2) "Alcoholic" means a person suffering from alcoholism.

(3) "Alcoholism" means a medically diagnosable disease characterized by chronic, habitual or periodic consumption of alcoholic beverages resulting in the (a) substantial interference with an individual's social or economic functions in the community, or (b) the loss of powers of self-control with respect to the use of such beverages.

(4) "A person under the influence of drugs" means a person whose powers of self-control have been substantially impaired because of the use of a drug described in KRS Chapters 217 and 218A or the federal controlled substances act of 1970, and regulations pursuant thereto.

(5) "Secretary" means the secretary for human resources.

(6) "Department" means the department for human resources.

(7) "Drug addict" means any person whose use of an addictive substance has produced a condition which requires ingestion or injection of the addictive substance, or both, as a means of preventing withdrawal symptoms and of maintaining the individual's state of function.

(8) "Drug dependent person" or "drug abuser" means any person who compulsively and habitually uses drugs to the extent that they injure his health and interfere with his social and economic functioning.

(9) "*Treatment* facility" means any public or private place, or portion thereof, *licensed by the department* providing services especially designed for the detoxification, treatment or rehabilitation of intoxicated persons or alcoholics.

(10) "Incapacitated *by alcohol*" means *that a person, as a result of the use of alcohol, is:*

(a) Unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment; and

(b) Demonstrates behavior giving reasonable cause to believe he may injure himself or others or cause property damage. [~~the condition of an intoxicated person who, by reason of the consumption of intoxicating liquor is:~~

~~(a) Unconscious,~~

~~(b) In need of medical attention,~~

~~(c) Likely to suffer or cause physical harm or damage property, or~~

~~(d) Disorderly.~~]

(11) "Independent physician" means a physician licensed to practice in Kentucky, other than one holding an office or appointment in any department, board or agency of the Commonwealth, or in any public facility.

(12) "Juvenile" means any person who is under the age of eighteen.

(13) "*Client* [~~Patient~~]" means any person admitted to a facility.

(14) "Treatment" means services and programs for the care and rehabilitation of *persons intoxicated or incapacitated by alcohol and services and programs for* [~~intoxicated persons and~~] alcoholics.

(15) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.

(16) "Emergency service unit" means a treatment team that meets minimum standards established by the department and trained to give assistance in the streets and other public places to persons who are intoxicated or incapacitated by alcohol.

SECTION 3. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) Any intoxicated person or any alcoholic may apply for voluntary treatment directly to a treatment facility.

(2) Subject to rules adopted by the department, the administrator in charge of a treatment facility may determine who shall be admitted for treatment. If a person is refused admission to a treatment facility, the administrator, subject to rules adopted by the department, shall refer the person to another treatment facility for treatment is possible and appropriate.

(3) If a person receiving inpatient care leaves a treatment facility he shall be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears to the administrator in charge of the treatment facility that the person is an alcoholic who needs further treatment, the department shall arrange for assistance in obtaining supportive services and residential facilities.

SECTION 4. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) Any intoxicated person may present himself voluntarily or be brought to a treatment facility for emergency treatment. A person who appears to be intoxicated in a public place and to be in need of help, if he consents to such help, may be assisted to his home or a treatment facility by the police or the emergency service unit.

(2) A person who appears to be incapacitated by alcohol in a public place shall be escorted by the emergency service unit, or taken into protective custody by the police and forthwith brought to an appropriate treatment facility for treatment. The emergency service unit, in escorting an incapacitated person and

in taking him to a treatment facility, or the police in detaining such a person, shall make every reasonable effort to protect the health and safety of the incapacitated person. The escorting or detaining personnel may take reasonable precautions for their own personal protection. Protective custody under this section is not an arrest and no entry or other record shall be made to indicate that the person has been arrested or charged with an offense as defined in KRS 500.080(11). For purposes of this section a person may be taken to a place of detention and detained there only until he is no longer incapacitated, and only if no treatment facility for emergency treatment is available. If an incapacitated person, who has been detained for a period of eight (8) hours, is still apparently incapacitated, he shall be taken without delay, by the detaining personnel to a treatment facility for medical evaluation.

(3) A person is is no longer incapacitated after detention, and is not admitted to a treatment facility or referred to another facility, and who has no funds, may be taken to his home, if any. If he has no home, he may be assisted in obtaining shelter.

(4) If a client is admitted to a treatment facility pursuant to this section, his family shall be notified as promptly as possible unless the client requests otherwise.

(5) The police or members of the emergency service unit who act in good faith in compliance with the provisions of this section shall be deemed to be acting in the course of their official duties.

SECTION 5. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) An intoxicated person who presents a danger or threat of danger to self, family or others as a result of intoxication, or is incapacitated by alcohol may be admitted to a treatment facility for emergency treatment. For the purpose of this Act "danger" or "threat of danger to self, family or others" shall mean a threat of substantial physical harm upon self, family or others, including actions which deprive self, family or others of the basic means of survival including provision for reasonable shelter, food or clothing.

(2) An independent physician, spouse, guardian, or relative of an intoxicated person, or any responsible person may make a written application for admittance of an intoxicated person to a treatment facility for emergency treatment. The application for admittance shall state the specific facts to support the need for emergency treatment and shall be accompanied by an independent physician's statement certifying that he has examined the intoxicated person not less than two (2) days prior to the date of application for admittance to a treatment facility for emergency treatment. No physician employed by the admitting treatment facility or the department shall be eligible to be the certifying physician.

(3) Pursuant to the approval of the application for admittance to the treatment facility by the administrator of such facility, the person shall be brought to the facility by a peace officer, emergency service unit, the client's spouse, the client's guardian, or any other interested person including the client himself. The client shall be retained at the facility to which he was admitted, or transferred to another appropriate public or private treatment facility until discharged under subsection (5) of this section.

(4) The administrator of the treatment facility shall refuse an application if in his opinion the application and certificate fail to sustain the grounds for admittance.

(5) When on the advice of the medical staff the administrator determines that the grounds for admittance no longer exist, he shall discharge a person admitted under this section. No person admitted under this section shall be detained in any treatment facility for more than seventy-two (72) hours.

(6) A copy of the written application for admittance and of the independent physician's certificate, and a written explanation of the clients rights, including the right to counsel, shall be given to the person within twelve (12) hours after admittance by the administrator, who shall provide a reasonable opportunity for the person to obtain and consult counsel.

SECTION 6. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) The department or any city or county may establish emergency service units. Existing governmental personnel may be utilized for this purpose. Members of an emergency service unit shall be capable of providing first aid in emergency situations and shall transport intoxicated or incapacitated persons to their homes and to treatment facilities.

(2) The secretary shall adopt rules for the establishment, training, and conduct of emergency service units.

SECTION 7. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) No city, county or other political subdivision shall adopt or enforce any law, ordinance, resolution, or regulation having the force of law that creates an offense giving rise to a criminal or civil penalty or sanction for being a common drunkard or being found in a public place in an intoxicated condition due to alcohol.

(2) No city, county or other political subdivision shall interpret or apply any law of general application to circumvent the provisions of subsection (1) of this section.

Section 8. KRS 222.270 is amended to read as follows:

(1) The administrator of each *treatment* facility shall keep a record of the treatment afforded each *client* [~~patient~~], which shall be confidential and shall be made available only upon proper judicial order, whether in connection with pending judicial proceedings or otherwise.

(2) Any *client* [~~patient~~] shall have the right to have a physician retained by him examine him, consult privately with his attorney, receive visitors, and send and receive communications by mail, telephone and telegraph. Such communications shall not be censored or read without consent of such *client* [~~patient~~]. The foregoing shall not limit the right of the administrator, subject to reasonable rules and regulations of the department, to prescribe reasonable rules governing visiting hours and the use of telephone and telegraph facilities.

Section 9. KRS 244.020 is amended to read as follows:

(1) No person shall drink any alcoholic beverage in any public place, in or upon any passenger coach, streetcar or other vehicle commonly used for the transportation of passengers, or in or about any depot, platform or waiting room.

(2) *A person intoxicated or incapacitated by alcohol in a public place shall be treated as provided in Section 4 of this Act* [~~No person shall be under the influence of alcoholic beverages on any public or private road, in any passenger coach, street-car, or other public place or building or at any public gathering~~].

Section 10. KRS 244.990 is amended to read as follows:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of this chapter for which no other penalty is provided, except KRS 244.380 to 244.470, shall, for the first offense, be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the second and each subsequent violation, he shall be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or imprisoned in the county jail or workhouse for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(2) Any person who violates KRS 244.020*(1)* shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) or imprisoned not less than five (5) nor more than thirty (30) days, or both.

(3) Any person who violates KRS 244.170 shall, upon the first conviction, be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) and may in addition be imprisoned in the county jail for not more than six (6) months. Upon a second conviction he shall be imprisoned in the penitentiary for not less than one (1) year, nor more than five (5) years. Upon the third and each subsequent conviction, he shall be imprisoned in the penitentiary for not less than five (5) nor more than ten (10) years. Upon the second or any subsequent conviction of a corporation for a violation of KRS 244.170, it shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000).

(4) Any person who violates any of the provisions of KRS 244.480 to 244.600 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500).

(5) Any person, firm or corporation violating any provision of KRS 244.083 and 244.085 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) and each violation shall constitute a separate offense.

(6) Any person who violates the provisions of subsection (5) of KRS 244.085 shall, for the first offense, be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) and for each subsequent offense shall be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000).

Section 11. KRS 525.100 is amended to read as follows:

(1) A person is guilty of public intoxication when he appears in a public place manifestly under the influence of [~~alcohol, or~~] a controlled substance, *as defined in KRS Chapter 218A* [~~or other intoxicating substance,~~] not therapeutically administered, to the degree that he may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity.

(2) Public intoxication is a Class B misdemeanor.

Section 12. KRS 222.210 is amended to read as follows:

The department shall coordinate matters affecting alcoholism in the Commonwealth, shall establish and conduct a program for the treatment of intoxicated persons and alcoholics, including juveniles and young adults, their rehabilitation and the prevention of alcoholism in cooperation with public and private agencies, business and industry, and shall provide technical assistance and consultation services whenever required. The department may adopt rules and regulations to carry out its powers and duties under this chapter. The department shall be responsible for assuring that the following services are available and shall utilize community mental health centers and existing facilities and services available within the private sector whenever possible:

(1) Detoxification services on a twenty-four hour basis in or near population centers which meet the immediate medical and physical needs of intoxicated persons, including necessary diagnostic and referral services;

(2) Medical and hospital services which are available on a twenty-four hour basis and which, whenever possible, are provided in existing general hospital facilities;

(3) Rehabilitation services, including family care, residential aftercare and appropriate therapy;

(4) Inpatient psychiatric services for those alcoholics whose diagnosis reflects serious alcoholic-related mental disturbances which, whenever possible, shall be conducted with services available in the department; and

(5) Training programs for professional and nonprofessional workers in the field of treatment and rehabilitation of alcoholics and intoxicated persons.

The department shall not grant its approval for the establishment or maintenance of a *treatment* facility, [~~pursuant to KRS 222.240,~~] in any jail, house of correction or institution operated by the bureau of corrections, unless such facility meets the standards and procedures set forth in *this Act* [~~KRS 222.240~~].

Section 13. The following sections of the Kentucky Revised Statutes are repealed:

222.240, Admissions to treatment facility.

222.260, Provisions as to juvenile patients.

Section 14. All provisions of this Act, except for Section 15, shall become effective July 1, 1984.

Section 15. Because the provisions of Acts 1980, Chapter 254, are to become effective July 1, 1982, an emergency is declared to exist and Acts 1980, Chapter 254, is repealed effective July 1, 1982.

The Committee on Judiciary-Civil reported **HB 398,** with Committee Substitute attached thereto, and **HR 26** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 398, AN ACT relating to mineral interests.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

Any interest in oil and gas shall, if unused for a period of twenty (20) years, be extinguished, and the ownership shall revert to the owner of the surface estate at the time the interest is extinguished, unless a statement of claim is filed in accordance with Section 4 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

A mineral interest means the interest which is created by an instrument transferring, either by grant, assignment, reservation, or otherwise, an interest of any kind in oil and gas.

SECTION 3. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

A mineral interest shall be deemed to be used when oil and gas are produced thereunder, or when operations are being conducted thereon for injection, withdrawal, storage or disposal of water, gas, or oil, or when rentals or royalties are being paid by the owner thereof for the purpose of delaying or enjoying the use or exercise of such rights, or when any such use is being carried out on any tract with which such mineral interest may be unitized or pooled for production purposes, or when taxes are paid on such mineral interest by the owner. Any use pursuant to or authorized by the instrument creating such mineral interest shall be effective to continue in force all rights granted by such instrument.

SECTION 4. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

(1) The statement of claim provided in Section 1 of this Act shall be filed by the owner of the mineral interest prior to the end of the twenty (20) year period set forth in Section 1 of this Act or within two (2) years after the effective date of this Act, whichever is later, and shall contain the name and address of the owner of such interest and the description of the land under which such mineral interest is located. Such statement of claim shall be filed in the office of the county clerk in the county in which such land is located. Upon the filing of the statement of claim within the time provided, it shall be deemed that such mineral interest was being used on the date the statement of claim was filed, and the statement of claim shall be an absolute defense to the lapse of the mineral interest.

(2) Failure to file a statement of claim within the time provided in subsection (1) of this section shall not cause a mineral interest to be extinguished if the owner of such mineral interest files the statement of claim within sixty (60) days after service of notice by publication as provided in Section 5 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

Any person who, upon the lapse of any mineral interest, will succeed to the ownership thereof, shall give notice of the impending lapse of such mineral interest by publishing the same pursuant to KRS Chapter 424 in a newspaper of general circulation in the county in which the mineral interest is located, and, if the address of such mineral interest owner is shown of record or can be determined upon reasonable inquiry, by mailing by certified mail, return receipt requested, within ten (10) days after such publication a copy of the notice to the owner of the mineral interest. The notice shall state the name of the owner of the mineral interest as shown of record, a description of the land, the name of the person giving the notice and shall further state that the mineral interest will not be extinguished if the owner thereof files the statement of claim within sixty (60) days of publication. A copy of the notice, together with an affidavit of service thereof, indicating whether service was by publication only or also by mailing a copy of the notice to the owner of the mineral interest, shall be promptly filed in the county clerk's office of the county wherein the land is located, which record shall be prima facie evidence, in any legal proceedings, that such notice was given.

SECTION 6. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

Upon filing of the statement of claim provided for in Section 4 of this Act or the proof of service of notice as provided in Section 5 of this Act, or both, in the county clerk's office of the county where such interest is located, the clerk shall record the same in a book to be kept for that purpose, which shall be known as the "Dormant Mineral Interest Record," and shall indicate by marginal notation on the instrument creating the original mineral interest the filing of the statement of claim, or the service of notice, or both.

Committee Substitute to **HB 398** is as follows:

HB 398, AN ACT relating to mineral interests.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

As used in this Act the following definitions shall apply:

(1) A "severed mineral interest" is any whole or fractional interest in any or all minerals which have been severed from the surface estate by grant, exception, reservation or other means.

(2) An "unknown or missing owner" is any person vested with a severed mineral interest and whose present identity or location cannot be determined from the records of the county in which the land is located or by diligent inquiry in the vicinity of the owner's last known place of residence, and shall include his unknown heirs, successors and assigns.

SECTION 2. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

The circuit court of the county wherein the severed mineral interests sought to be leased, or the major portion thereof, is situated shall have jurisdiction of the proceedings authorized under Sections 3 through 9 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

(1) If the title to any severed mineral interest is vested in an unknown or missing owner and it appears that the development of the minerals will be advantageous to the owner, the circuit court of the county in which the minerals or the major portion thereof lies shall have the power to declare a trust therein, appoint a trustee for the unknown or missing owners and authorize the trustee to sell, execute and deliver a valid lease thereon on terms and conditions customary in the area for the minerals covered thereby and similarly situated. The lease shall continue in full force and effect after the termination of the trust unless the lease has previously expired by its own terms.

(2) Proceedings for the appointment of a trustee may be instituted by any person:

(a) Vested in fee simple with the surface estate overlying the particular minerals sought to be developed;

(b) Vested in fee simple with an undivided interest in the particular minerals sought to be developed;

(c) Vested in fee simple with the entire interest in the particular minerals sought to be developed under lands immediately adjacent and contiguous to those lands under which the same minerals are vested in unknown or missing owners; or

(d) Vested with a valid and subsisting mineral lease, the lessor of which is a person defined under either paragraph (b) or (c) of this subsection.

SECTION 4. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

(1) The person seeking to impress a trust upon a severed mineral interest for the purpose of leasing and developing same shall join as defendants to the action all those persons having record title thereto who are unknown or missing and the unknown heirs, successors and assigns of all such persons. The persons named as defendants and who are the unknown or missing owners as defined herein, shall stand for and represent the full title and the whole interest of the unknown or missing owners in the severed mineral interest or estate or interest therein. All parties not in being who might have some contingent or future interest therein, and all persons whether in being or not in being, having any interest, present, future or contingent, in the severed mineral interests sought to be leased, shall be fully bound by the proceedings hereunder.

(2) There shall be filed a verified petition specifically setting forth the efforts to locate and identify the unknown or missing owners of the interests to be leased and such other information known to the petitioner which might be helpful in identifying or locating the present owners thereof. There shall be attached to the petition as an exhibit thereto a certified copy of the instrument creating the original severance and such additional instruments as are necessary to show the vesting of title to the minerals in the last record owner thereof. The petitioner shall establish to the satisfaction of the court that a diligent effort has been made to identify and locate the present owners of said interests.

(3) Service of process shall be as provided by the Kentucky Rules of Civil Procedure and there shall be filed a lis pendens notice in the county clerk's office of the county wherein the mineral estate or the larger portion thereof lies. Immediately upon the filing of the petition, the petitioner shall advertise as provided in KRS Chapter 424. Both the advertisement and the lis pendens notice shall contain the names of all of the parties and their last known addresses, the date and recording data of the original deed or other conveyance which created the mineral severance, an adequate description of the land as contained therein, the source of title of the last known owners of the severed mineral interests and a statement that the action is brought for the purpose of impressing a trust authorizing the execution and delivery of a valid and present mineral lease for development of the particular minerals described in the petition. The court, in its discretion, may order advertisement elsewhere or by additional means if there is reason to believe that additional advertisement might result in identifying and locating the unknown or missing owners.

(4) The court shall appoint a trustee ad litem, who shall be a licensed, practicing attorney, to represent the unknown or missing owners and their unknown heirs, successors and assigns. The trustee ad litem shall review the petition and file an answer and such other pleadings as are necessary and proper to represent fairly the interest of the unknown or missing owners. It shall be the duty of the trustee ad litem to make an independent inquiry and search for the purpose of identifying and locating the unknown or missing owners and he shall report to the court the results of the investigation. The court shall allow the trustee ad litem a reasonable fee for his services to be taxed as costs.

SECTION 5. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

(1) If upon presentation to the circuit court of the petition, the answer of the trustee ad litem and the proof presented by the petitioner in such case, it appears to the court that development of the severed mineral interests, will be advantageous to the unknown or missing owners, the court shall declare a trust in the lands or estate or interest therein, appoint a trustee therefor and authorize the trustee to sell, execute and deliver a valid mineral lease covering the severed mineral interests in and underlying the lands.

(2) Should the court appoint a trustee pursuant to subsection (1) of this section, the court shall, in its decree, require the trustee to give a bond in favor of the owners of the severed mineral interest which is to be leased and shall fix the amount of the bond. The decree of the court shall further provide for all of the terms and provisions of the lease which the trustee is authorized to make. It shall be discretionary with the court as to whether or not the trustee's sale of lease shall be public or private and the decree shall provide therefor, and if a public sale be authorized, the court shall in its decree fix and determine the notice to be given. The sale shall be for cash, payable on confirmation of sale. No appraisal shall be required.

(3) The trustee shall proceed in compliance with the provisions of the decree to sell the lease authorized thereby, and after making the sale shall make a report thereof to the court. Upon filing the report, the court may hear evidence as to whether or not the sale price is reasonable and if the court is satisfied with the sale and the amount received therefor, the sale shall be confirmed by the court and the lease shall be executed by the trustee with the approval of the court endorsed on the face thereof.

(4) The court shall not authorize a trustee's lease upon the severed mineral interest of any owner whose identity and whereabouts is known, or can be ascertained by diligent inquiry, or is discovered as a result of the action brought hereunder; and any such owner may intervene as a matter of right at any time prior to the entry of judgment approving the trustee's lease, for the purpose of establishing his title to the severed mineral interests, and if the mineral owners claim is established to the satisfaction of the court, the court shall dismiss the action as to the intervenor's interest at plaintiff's cost.

(5) The trustee shall collect the proceeds, if any, from the sale of the lease and hold and invest the same for the use and benefit of the unknown or missing owners. The court upon its own motion or upon motion of the trustee may authorize the trustee to expend an amount not to exceed ten percent (10%) of the funds collected by the trustee for the purpose of instituting a search for the unknown or missing owners.

(6) Within seven (7) years after the date of first commercial production of the severed mineral interests under the trustee's lease, any person being an unknown or missing owner of the severed mineral interest or any undivided portion thereof, may petition the circuit court to re-docket the action in which the trustee's lease was sought and approved in accordance with subsection (3) of this section and may thereupon present such proof as the court may deem necessary to establish his identity and title to the severed mineral interest or any portion thereof. If the court finds that the unknown or missing owners have established their identity and title, the trustee shall be directed to distribute the funds in his hands attributable to the unknown or missing owners' interest, and shall assign all future proceeds from said lease to the owners as their interest appear and shall deliver to the owners a recordable instrument documenting their title to the severed mineral interest, which instrument shall bear the endorsement and approval of the circuit court on the face thereof.

SECTION 6. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

(1) If the severed mineral interests which are the subject of a trustee's lease executed and delivered in accordance with subsection 5(3) of this Act are produced commercially, and the owners of the severed mineral interests remain unknown or missing for a period of seven (7) years from the date of first production under the lease, the trustee shall file a motion with the court naming the then present surface owners as additional parties and require the surface owners to appear and present proof to the satisfaction of the court that they are vested with fee simple title to the surface estate. Upon a finding by the court that the surface estate is vested in fee simple in the surface owners, the court shall order the trustee to convey to the surface owners by recordable instrument the unknown or missing owners' interest in the severed mineral interests, which conveyance shall be approved by endorsement by the court on the face thereof.

(2) The trustee shall pay to the treasurer of the Commonwealth of Kentucky the funds which have accrued to the credit of the severed mineral interests to the date of his final report after payment of all allowable fees, expenses and court costs including a fee to be paid to the trustee in an amount determined by the court.

(3) From and after the date of the conveyance from the trustee to the surface owners executed and delivered in accordance with subsection (1) of this section, the surface owners shall be entitled to receive all proceeds of production attributable to the severed mineral interests.

(4) Upon the delivery of the conveyance directed in subsection (1) of this section, and after the payment as directed in subsection (2) of this section, the trustee shall make his final report to the court, and upon approval thereof, the court shall order the trust terminated and the trustee and his bond discharged.

SECTION 7. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

If the leased minerals are never produced commercially during the term of the trustee's lease, the trustee shall pay any proceeds accruing from the lease to the treasurer of the Commonwealth of Kentucky upon the termination of the lease in accordance with its terms or upon the expiration of seven (7) years following the date of judgment authorizing the lease, whichever last occurs. The payments shall be made in the same manner and on the same conditions as expressed in subsection 6(2) of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

All attorneys' fees, expenses, and court costs incident to the original proceedings authorized hereunder shall be paid by the lessee if a lease is executed pursuant hereto, and by the plaintiff if for any reason no lease is executed. Subsequent to entry of judgment, all allowable fees, expenses, and court costs shall be paid out of funds in the hands of the trustee.

SECTION 9. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

After the expiration of seven (7) years from the date of first commercial production of the severed mineral pursuant to the terms of the lease authorized hereunder, or the expiration of seven (7) years from the date of entry of judgment authorizing the lease in the event there is no commercial production, whichever date last occurs, no action may be brought by any unknown or missing owner to recover any past or future proceeds accrued or to be accrued from the lease herein authorized. After the expiration of seven (7) years from the date of first commercial production of the severed mineral pursuant to the terms of the lease authorized hereunder, no action may be instituted by any unknown or missing owner to recover any right, title or interest in and to the severed mineral interest subject to the lease.

HR 26, A RESOLUTION honoring Vic Hellard, Jr. for his outstanding service to the legislature as Director of the Legislative Research Commission.

WHEREAS, five years ago the Legislative Research Commission named Vic Hellard, Jr. the Director of the Legislative Research Commission; and

WHEREAS, the legislature has changed dramatically in the past five years, growing in independence and accepting responsibility as the people's branch of government; and

WHEREAS, Vic Hellard has contributed to the growth and development of legislative independence by directing staff services in such a manner that legislators have the necessary information, facilities, technical expertise, and public notice to perform their jobs effectively; and

WHEREAS, Vic Hellard has overseen the establishment of the legislative lounge, the new committee rooms, renovation of the Chambers, the expansion of leadership offices, the establishment of a public information office, and the development of a budget review staff, a program review staff, a personal service contract review staff and a capital construction oversight staff during his tenure; and

WHEREAS, Vic Hellard, as a former legislator, has been especially sensitive and responsive to the needs of legislators and the pressures of legislative service; and

WHEREAS, Vic Hellard, Jr. commands the respect and admiration of the Legislative Research Commission, its staff, and the individual members of the General Assembly due to his leadership ability, concern for individuals, affability, and his command for excellence of job performance;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Vic Hellard, Jr. is hereby recognized and applauded for his service as Director of the Legislative Research Commission.

Section 2. That when the House of Representatives adjourns on Wednesday, March 3, 1982, it do so in honor of Vic Hellard, Jr.

Section 3. That the Clerk of the House of Representatives shall deliver a copy of this resolution to Vic Hellard, Jr.

The Committee on State Government reported **HB 321** with Committee Amendment attached thereto, **HR 35** with Committee Amendment attached thereto, and **HR 37** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 321, AN ACT relating to the position of official Kentucky colonel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

There is hereby established the position of an official Kentucky colonel, who shall be named by joint resolution of the General Assembly. The person who holds this honorary title shall be a resident of the state who embodies the spirit of the Commonwealth, who has contributed to the general welfare of the Commonwealth, and who has worked to serve the best interests of the citizens of the Commonwealth.

SECTION 2. Whereas, a joint resolution to name the first official Kentucky colonel can be introduced only after the effective date of this Act, an emergency is declared to exist, and the provisions of this Act will become effective immediately upon passage and approval by the governor.

Committee Amendment No. 1 to **HB 321,** page 1, line 4, is as follows:

Amend printed copy of **HB 321** by deleting "*, who*";

and by inserting after the word "colonel" the following:

"*. The first official Kentucky colonel shall be Colonel Harland Sanders. Hereafter the holder of the position*

and after line 10 by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

In order to recognize the worldwide goodwill and the enhancement of the reputation of Kentucky brought about by the Kentucky Colonel, the Department of Finance is hereby directed to secure and have placed in the entry hall of the state capitol building a bust of Colonel Harland Sanders."

and on page 1, line 11 by deleting after the word "SECTION" the following:

"2."; and by inserting after the word "SECTION" the following:

"3."; and on line 14 by deleting the word "will";

and on line 14 by adding after the word "Act" the following:

"shall be retroactive to include any person who was living on December 1, 1980.";

and by deleting lines 15 and 16.

HR 35, A RESOLUTION adjourning the House of Representatives in honor of Archbishop Thomas Kelly.

WHEREAS, the Most Reverend Thomas J. McDonough has retired as the Archbishop of the Archdiocese of Louisville, Kentucky; and

WHEREAS, the retirement of Archbishop McDonough has left a void in the membership of the Archdiocese of Louisville which cannot be filled by just any man; and

WHEREAS, the new Archbishop will be shouldering many weighty responsibilities in caring for the members of his Archdiocese; and

WHEREAS, Thomas Kelly has been selected to become the new Archbishop of the Archdiocese of Louisville;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House does adjourn this day, Thursday, February 18, 1982, it does so in honor of Archbishop Thomas Kelly, the new Archbishop of the Archdiocese of Louisville, Kentucky.

Section 2. That the members of this honorable body hail Archbishop Thomas Kelly as an outstanding citizen and exemplary representative of the Commonwealth.

Section 3. That the House of Representatives extends its sincerest best wishes to Archbishop Thomas Kelly as he assumes his awesome responsibilities.

Section 4. That the Clerk of the House is directed to transmit a copy of this resolution to Archbishop Thomas Kelly.

Committee Amendment No. 1 to **HR 35** is as follows:

Amend printed copy of **HR 35,** page 1, line 2, by deleting "Thursday, February 18," and inserting in lieu thereof the words, "Wednesday, March 17,".

HR 37, A RESOLUTION designating Junior Williamson honorary 101st representative of the House of Representatives.

WHEREAS, Junior Williamson has unselfishly assisted the members of the General Assembly with their personal appearance and comfort - always serving as a confidant and source of moral support; and

WHEREAS, Junior Williamson is known throughout these hallowed halls for his cheerful disposition, positive attitude, and willingness to help his fellow man; and

WHEREAS, Junior Williamson proffers his services without charge - in fact, he adamantly refuses financial remuneration; and

WHEREAS, Junior Williamson is sensitive to our needs as legislators for confidentiality and privacy; and

WHEREAS, Junior Williamson has exhibited many outstanding qualities as an independent representative and has assumed many of the qualitative duties of a member of this honorable body, with the exceptions of voting and being paid;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Junior Williamson is designated as the honorary 101st member of the House of Representatives - the first honorary representative in the history of the Commonwealth.

Section 2. That the Clerk of the House is directed to transmit a copy of this resolution to the gentleman from Independent 101 - Junior Williamson.

The Committee on Banking and Insurance reported **HB 360,** with Committee Amendment attached thereto, and **HB 520** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 360, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION FO SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The following definitions apply to this section:

(a) "First party claimant" means an individual, corporation, association, partnership or other legal entity asserting a right to payment under an insurance policy or insurance contract arising out of the occurrence of the contingency or loss covered by such policy or contract;

(b) "Third party claimant" means any individual, corporation, association, partnership or other legal entity asserting a claim against any individual, corporation, association, partnership or other legal entity insured under an insurance policy or insurance contract of an insurer.

(2) Failure of any person to comply with the provisions of the Kentucky insurance code and regulations of the Kentucky insurance commissioner concerning unfair claims settlement practices is a violation of the Kentucky insurance code.

(3) It is an unfair claims settlement practice for any person to wilfully commit, or perform with such frequency as to indicate a general business practice, any of the following:

(a) Misrepresent pertinent facts or insurance policy provisions relating to coverages at issue;

(b) Fail to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(c) Fail to adopt and implement reasonable standards for prompt investigation of claims arising under insurance policies;

(d) Refuse to pay claims without conducting a reasonable investigation based upon all available information;

(e) Fail to affirm or deny coverage of claims within a reasonable time after completed proof of loss statements have been submitted;

(f) Not attempt in good faith to effectuate prompt, fair and equitable settlement of claims in which liability has become reasonably clear;

(g) Compel insureds to institute litigation to recover amounts due under an insurance policy by offering without justification substantially less than the amounts ultimately recovered in actions brought by such insureds;

(h) Attempt to settle a claim for less than the amount to which a reasonable person would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;

(i) Attempt to settle on the basis of an application which was altered without notice to or knowledge or consent of the insured;

(j) Make claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made;

(k) Make known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(l) Fail to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;

(m) Fail to promptly provide a reasonable explanation for the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement;

(n) Commit any other act or practice in connection with claims settlement which is unfair or deceptive.

(4) The commissioner may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of this section. No such rule or regulation shall extend, modify, or conflict with any law of this state or the reasonable implications thereof.

(5) Any first party claimant or third party claimant who is aggrieved by the use of or employment by another person of an unfair claims settlement practice may bring an action as follows:

(a) Such an action shall be brought under the Rules of Civil Procedure in the circuit court in which the first party claimant or third party claimant resides or has his principal place of business or is doing business, or in the circuit court where the transaction in question occurred;

(b) Such an action may be brought to enjoin and to restrain any violation of this chapter and, in addition thereto, for the recovery of damages. The court may in its discretion, award actual damages and may provide for such equitable relief as it deems necessary or proper. Nothing in this subsection shall be construed to limit a person's right to seek punitive damages where appropriate;

(c) Upon the commencement of any action brought under this subsection, the plaintiff shall direct the clerk of the court to mail a copy of the complaint or other initial pleading to the commissioner of insurance and, upon entry of any judgment or decree in the action, a copy of such judgment or decree to the commissioner of insurance;

(d) In any action brought by a first party claimant or third party claimant under this subsection, the court may award, to a first party claimant or third party claimant who prevails, in addition to the relief provided in this section, reasonable attorney's fees and costs;

(e) Any order of the commissioner, injunction, judgment, or order of the court relating to an unfair claims settlement act or practice shall be prima facie evidence in an action brought under this section by a first or third party claimant that the respondent used or employed an unfair claims settlement act or practice;

(f) Any first party claimant or third party claimant bringing an action under this section must bring such action within one (1) year after any action or proceeding by the commissioner of insurance has been terminated or within five (5) years after the violation of this section, whichever is later. However, no third party claimant shall bring an action under this subsection until any action between the third party claimant and the insured is concluded.

SECTION 2. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No fraternal benefit society or insurance agent for a fraternal benefit society shall commit an unfair claims settlement practice as defined by subtitle 12 or regulations promulgated thereunder.

Section 3. KRS 304.3-200 is amended to read as follows:

(1) The commissioner may, in his discretion, refuse to continue or may suspend or revoke an insurer's certificate of authority if he finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has:

(a) Wilfully violated or wilfully failed to comply with any lawful order of the commissioner; or

(b) Wilfully violated or wilfully failed to comply with any lawful regulation of the commissioner; or

(c) Wilfully violated any provision of this code other than those for violation of which suspension or revocation is mandatory; or

(d) Failed to pay taxes on its premiums as required by law.

In lieu of such suspension or revocation, the commissioner may, in his discretion, levy upon the insurer, and the insurer shall pay forthwith, an administrative fine of not more than two thousand dollars ($2,000).

(2) The commissioner shall suspend or revoke an insurer's certificate of authority on any of the following grounds, if he finds after a hearing thereon that the insurer:

(a) Is in unsound condition, or is being fraudulently conducted, or is in such condition or using such methods and practices in the conduct of its business as to render its further transaction of insurance in this state currently or prospectively hazardous or injurious to policyholders or to the public.

(b) With such frequency as to indicate its general business practice in this state:

1. Has without just cause failed to pay, or delayed payment of, claims arising under its policies, whether the claim is in favor of an insured or is in favor of a third person with respect to the liability of an insured to such third person; or

2. Without just cause compels insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims; *or*

3. Has committed any unfair claims settlement practice as defined in subtitle 12 or regulations promulgated thereunder.

(c) Refuses to be examined, or if its directors, officers, employes or representatives refuse to submit to examination relative to its affairs, or to produce its accounts, records and files for examination by the commissioner when required, or refuse to perform any legal obligation relative to the examination.

(d) Has failed to pay any final judgment rendered against it in this state upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within thirty (30) days after the judgment became final or within thirty (30) days after dismissal of an appeal before final determination, whichever date is the later.

(e) Has actual knowledge by the chief executive officer or person in charge of Kentucky operations that an agent employed by the insurer has engaged or is engaging in conduct in violation of this code and the insurer has failed to report such conduct to the department.

(f) No insurer, its agents, servants, or employes shall incur any liability in connection with or as a result of any disclosure made to the commissioner of insurance pursuant to the provisions of this section.

(3) The commissioner may, in his discretion and without advance notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced in any state by the public insurance supervisory officer of such state.

Committee Amendment No. 1 to **HB 360** is as follows:

Amend printed copy of **HB 360**, page 3, line 26, after "*deceptive*" by adding the words:

"*as may be specified in regulations adopted by the department of insurance*"

and on page 4 by deleting lines 6 through 26 in their entirety;

and on page 5 by deleting lines 1 through 24 in their entirety.

HB 520, AN ACT relating to banks and trust companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.190 is amended to read as follows:

(1) Any bank or trust company organized under the laws of this state, may, subject to subsection (2):

(a) Accept for payment at a future date, drafts or bills of exchange drawn upon it by its customers, and issue letters of credit authorizing the holders thereof to draw drafts upon it or its correspondents at sight or on time, not exceeding one (1) year;

(b) Accept drafts or bills of exchange drawn upon it, having not more than six (6) months' sight to run, growing out of transactions involving the importation or exportation of goods; and

(c) Discount acceptances which are based upon the importation or exportation of goods, and which have a maturity at time of discount of not more than *six (6)* [~~three (3)~~] months and are indorsed by at least one (1) other bank or trust company.

(2) No bank or trust company shall accept drafts or bills of exchange to an amount equal at any time in the aggregate to more than one-half (½) of its paid-up and unimpaired capital stock and surplus, except by authority of the director of banking under such general regulations as the director prescribes, and in no event to an amount exceeding the capital stock and surplus.

The Committee on Natural Resources and Environment reported **HB 275**, with Committee Amendment attached thereto, and **SB 44** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 275, AN ACT relating to the enforcement of motor vehicle emissions inspection and maintenance programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Any county that is required pursuant to the federal clean air act (42 U.S.C. 7401 et seq.) to establish a motor vehicle emissions inspection and maintenance program may require by ordinance that no motor vehicle required to be registered in the county shall be issued a certificate of registration or a registration renewal receipt by the county clerk of said county without a show of evidence that the motor vehicle is in compliance with the county ordinance establishing the inspection and maintenance program and regulations adopted pursuant thereto.

(2) Upon enactment of such ordinance by the fiscal court, no certificate of registration or registration renewal receipt shall be issued by the county clerk of such county except consistent with subsection (1) of this section.

(3) The clerk of such county may charge an additional fee of twenty-five cents (25¢) per certificate of registration or registration renewal receipt issued to cover the clerk's additional administrative costs.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

In any county that is required pursuant to the federal clean air act (42 U.S.C. 7401 et seq.) to establish a motor vehicle emissions inspection and maintenance program and that adopts an ordinance to enforce said program pursuant to Section 1 of this Act, the county clerk of such county shall not issue a certificate of registration or a registration renewal receipt, consistent with the county ordinance, for any motor vehicle required to be registered in the county without a show of evidence by the owner that the motor vehicle is in compliance with the county ordinance establishing the inspection and maintenance program and regulations adopted pursuant thereto.

Committee Amendment No. 1 to **HB 275** is as follows:

Amend printed copy of **HB 275,** page 2, line 9, by deleting "pursuant to" and substituting in lieu thereof "in the manner permitted by".

SB 44, AN ACT relating to forestry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 149.015 is amended to read as follows:

There shall be established and maintained within the nursery or nurseries of the department for natural resources and environmental protection a section or sections for the propagation of blight resistant [~~Chinese or Italian~~] chestnut tree seedlings. Such seedlings shall be distributed to landowners and citizens of the Commonwealth at reasonable cost and under and subject to such rules and regulations as may be established by the secretary for natural resources and environmental protection.

Section 2. KRS 149.050 is amended to read as follows:

(1) The department may lease or rent portions of lands acquired by it to responsible persons, for cultivation and grazing, but in no event shall it lease or rent lands the use of which would be detrimental to the growth of timber or destructive of game or wild animal life. Proceeds resulting from the leasing of such lands shall be *deposited* [~~covered~~] into the state treasury.

(2) The division may, with the consent of the owner of lands leased to it, sublease or rent any of the leased lands in a manner that will not interfere with the growth of timber or the propagation of game and wild animal life. If the lands are subleased or rented under these conditions, the department and the owner shall divide the proceeds arising from the use of the lands, on a fifty-fifty basis, the department's one-half (½) shall be *deposited* [~~covered~~] into the state treasury.

(3) In exercising the functions of this section the department shall be exempted from any provision of KRS 42.030 or 45.360.

Section 3. KRS 149.080 is amended to read as follows:

Forest wardens employed by the department for natural resources and environmental protection, shall assist in preventing, controlling and extinguishing forest fires, under direction of the department. *A forest warden must be a full-time employe of the department for natural resources and environmental protection who has been appointed by the secretary. A deputy forest warden can be a full-time or part-time employe of the department or a non-employe who has been appointed by the secretary to have the same rights and privileges of a forest warden except the issuing of citations or arrests for violations of this chapter or collection of suppression costs.*

Section 4. KRS 149.090 is amended to read as follows:

(1) A forest warden, *for violation of laws for the protection of the forest of the state, has the following arrest powers:*

(a) With a warrant;

(b) Without a warrant any person he observes committing a misdemeanor or a felony; and

(c) Without a warrant when he has reasonable grounds to believe that the person being arrested has committed a felony [~~may arrest, without a warrant, any person he catches violating any law for the protection of the forests of the state~~]. No action for trespass shall lie against any forest warden, or person summoned by him, for crossing or working upon lands of another in connection with his duties of forest warden.

(2) A forest warden may summon any [~~male~~] resident of the state over eighteen (18) years of age who is physically able to assist in extinguishing forest fires. Inability or failure to pay such persons does not bar the authority of the warden to summon them.

(3) A forest warden may require the use of horses, automobiles, tools and other equipment needed in extinguishing fires. Owners of said required equipment and materials shall receive reasonable compensation therefor, as determined by the forest warden. In case of disagreement upon the terms of compensation, the dispute shall be referred to the secretary for natural resources and environmental protection who shall make the final decision.

Section 5. KRS 149.180 is amended to read as follows:

Whenever possible, the secretary for natural resources and environmental protection shall collect the costs of fire fighting done [~~under the direction of the forest warden~~] and approved as provided in KRS 149.160, from the person responsible for the origin of the fire by his negligence or intent, and shall return any costs so collected to a special fund in the department for natural resources and environmental protection, and such amounts shall be repaid to the county in which the costs were incurred, if such county has fully paid its annual assessment to the statewide system as provided for in KRS 149.540. The funds so repaid to the county shall be placed in the county forest fire protection fund provided for in KRS 149.590. *In the event the suppression cost is not collected,* the commonwealth's attorney of the county in which the fire occurred shall institute and prosecute the necessary proceedings.

Section 6. KRS 149.375 is amended to read as follows:

It shall be unlawful, within or adjacent to timberland, for any person to set fire to, or to procure another to set fire to, any flammable material upon land owned or leased by him unless he previously shall have taken all reasonable care and precaution, by having the flammable material cut and piled or carefully cleared around the same, to prevent the spread of such fires to lands other than those owned or leased by him. It shall also be unlawful for any employe of any such owner or lessee of land to set fire to any flammable material, upon such land unless he shall have taken similar precautions to prevent the spread of such fire to any other land. *All fires shall be attended until extinguished.*

Section 7. KRS 149.395 is amended to read as follows:

Any municipality, public institution or agency, or any persons maintaining or operating a *waste management facility or open dump as defined in KRS 224.005 in any location where fire may spread to* [~~dump within one hundred fifty feet (150') of any~~] timberland shall provide such devices and conditions therefor as will reasonably promote the safe operation thereof and guard against the escape of fire therefrom. The department shall have power to make rules and regulations for the implementation of this section.

Section 8. KRS 149.400 is amended to read as follows:

(1) The periods commencing on March 1 and ending on May 15 and commencing on October 1 and ending on December 15 of each year are hereby declared to be and established as the fire hazard seasons. During the fire hazard seasons, even though the precautions required by KRS 149.375 shall have been taken, it shall be unlawful for any person to set fire to, or to procure another to set fire to, any flammable material capable of spreading fire, located in or within one hundred fifty feet (150') of any woodland or brushland, except between the hours of 4:30 p.m. and twelve (12) o'clock midnight, *prevailing local* [~~central standard~~] time, or when the ground is covered with snow.

(2) This section shall not apply to fires which may be set for the purpose of burning [~~tobacco~~] plant beds[~~, nor to fires which may be set within the corporate limits of any city, nor to the burning of weeds, high grass and decayed timber under the supervision of a competent railroad employe on any railroad right of way that is being cleared of such material in compliance with subsection (3) of KRS 149.385, provided any such fire set by any railroad employe shall be extinguished before the employe leaves the vicinity of the fire~~].

(3) This section shall not apply to fires which may be set by competent and qualified employes of railroad, utility or pipeline companies in connection with the construction, operation or maintenance of railroads, pipelines, powerlines or other projects in the public interest on rights of way used for such railroads, pipelines, powerlines or other projects, and such fires shall *be attended at all times and* be extinguished before the employes of such railroad, utility or pipelines companies leave the vicinity of the fire.

Section 9. KRS 149.430 is amended to read as follows:

(1) If any forest fire shall originate as a result of the violation by any person of any provision of KRS *149.360 to 149.430* [~~149.375 or KRS 149.400~~], such person shall be, in addition to the penalty prescribed under KRS 149.991, liable to the state and to each county for the full amount of all expenses incurred by the state and county respectively in suppressing each fire, such amounts to be recoverable by action brought by the secretary for natural resources and environmental protection in the name of the Commonwealth on behalf of the Commonwealth and by the county attorney on behalf of the county.

(2) In addition to any penalty pursuant to KRS 149.991, any person violating any of the provisions of KRS 149.360 to 149.430 shall be answerable in damages to any persons suffering such damage for the cost incurred in the suppression of any fire resulting from such violation and for damage to property resulting from such fires.

Section 10. KRS 149.540 is amended to read as follows:

(1) After January 1, 1959, all counties receiving state forest fire protection and all counties having received notice of the intended establishment of such service shall annually pay to the department a sum equivalent to two cents (2¢) per acre of privately owned timberlands according to the *most current United States Forest Service Survey of Kentucky* [~~United States Forest Reappraisal Study of 1962 to 1964,~~] subject to additions and deductions of acreage since the making of such study. Such payments shall be due and payable on September 15 following the assessment.

(2) Contributions may be met out of the general funds of the county and in addition the fiscal court may require each owner of timberland in the county to participate directly by paying into a special county forest fire protection fund an assessment not exceeding three cents (3¢) per year for each acre of timberland of which he is the owner.

(3) In any case in which the department and the governing body of any county cannot agree upon the additions or deductions to privately owned forest acreage in a particular county, or to changes in forest acreage from year to year, the question shall be submitted to the judge of the circuit court of the county by a summary and informal proceeding, and a decision of the judge, certified to the governing body and to the department respectively, shall be conclusive and final.

Section 11. KRS 149.610 is amended to read as follows:

The purpose of KRS 149.610 to 149.680 is to place in the department for natural resources and environmental protection, the authority and responsibility to control [~~forest pests and~~] infestations *or infections by insects or disease*, which are hereby declared to be a public nuisance, in order to protect and preserve forest resources, enhance the growth and maintenance of forests, promote stability of forest-using industries, aid in fire control by reducing the menace created by dying and dead trees, conserve forest cover on watersheds, and protect recreational, wildlife and other values of the forests of the Commonwealth.

Section 12. KRS 149.630 is amended to read as follows:

Whenever the secretary for natural resources and environmental protection finds that any forest area is infested, [~~or~~] threatened to be infested, *infected, or threatened to be infected* with *insects or disease* [~~forest pests~~], he shall determine whether measures of control are needed and are available and the area over which the control measures shall be applied. He shall prescribe the proposed zone in which control measures are to be applied, and shall publish notice of the proposal, as required by law. Such notice shall include a brief description of the location of the proposed zone of infestation *or infection* and the approximate time when control measures will be executed.

Section 13. KRS 149.640 is amended to read as follows:

The secretary for natural resources and environmental protection may apply measures of infestation *and infection* control on public and private forests and other lands anywhere in the Commonwealth, to any trees, timber, plants or shrubs thereon harboring or which may harbor any *insects or disease* [~~forest pests~~]. He may enter into agreements with owners of such lands covering the control work on their lands, and fix the prorata basis on which the cost of such work will be shared between the Commonwealth and said owner; Provided, That the failure of the secretary to offer an agreement to or execute an agreement with any owner shall not impair the right of his representatives to enter on the lands of said owner to conduct control operations.

Section 14. KRS 149.650 is amended to read as follows:

The secretary for natural resources and environmental protection is authorized to carry out control work on other adjacent or interior holdings, which, if uncontrolled, would cause a reinfestation *or reinfection* of the controlled area, and to contract with owners of land in the affected area relative to payment of the cost of such work.

Section 15. KRS 149.990 is amended to read as follows:

(1) Any person who violates subsection (2) of KRS 149.040 shall be fined not less than *five hundred dollars ($500)* [~~one hundred dollars ($100)~~], or confined in jail for not less than thirty (30) nor more than one hundred (100) days, or both.

(2) Any physically able [~~male~~] resident of this state above the age of eighteen (18) who refuses or neglects to assist in extinguishing forest fires, when summoned by a warden as authorized by KRS 149.090 (2), and any person who refuses to allow the use of required equipment or materials authorized by KRS 149.090 (3), shall be fined not less than *fifty (50)* [~~five (5)~~] nor more than *five hundred* [~~fifty~~] dollars *($500)* [~~($50.00)~~].

(3) Any person who violates KRS 149.083 shall be fined not less than *one hundred (100)* [~~twenty-five (25)~~] nor more than *one thousand* [~~two hundred~~] dollars *($1,000)* [~~($200)~~], or imprisoned for not *less than ninety (90) days nor* more than *twelve (12)* [~~six (6)~~] months, or both.

Section 16. KRS 149.991 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 149.360 to 149.430 *except KRS 149.380* [~~or any regulation adopted hereunder, for which no definite fine or imprisonment is fixed by this section,~~]

shall be fined not *less than one hundred dollars ($100) nor* more than *five hundred dollars ($500)* [~~two hundred dollars ($200)~~] or imprisoned for not more than *six (6)* [~~three (3)~~] months, or both such fine and imprisonment.

(2) Any person who violates any of the provisions of KRS 149.380 shall be fined not *less* [~~more~~] than one thousand dollars ($1,000) *nor more than ten thousand dollars ($10,000)* and imprisoned for not more than *five (5)* [~~two (2)~~] years, or both such fine and imprisonment.

[~~(3) Any person who violates subsection (7) of KRS 149.370 shall be fined not less than ten (10) nor more than fifty dollars ($50.00) or imprisoned for not less than ten (10) days nor more than six (6) months, or both such fine and imprisonment.~~

~~(4) Any person who violates any provision of KRS 149.375 or 149.400 shall be fined not less than ten (10) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days or more than six (6) months, or both such fine and imprisonment, for each separate offense.~~

~~(5) Any person who violates any provision of KRS 149.405 shall be fined not less than ten (10) nor more than five hundred dollars ($500), or imprisoned for not more than thirty (30) days, or both such fine and imprisonment.~~]

Section 17. KRS 149.530, Termination of voluntary county participation — Notice to nonparticipating counties, is repealed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 8, SB 14, SB 21, SB 61, SB 73,** and **SR 1** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:19 p.m.)

Calendar

HB 505, SB 141, SB 11, SB 133, HB 440, HB 442, HB 1, HB 484, HB 312, HB 463, HB 379, HB 486, HB 492, SB 104, SB 171, HB 116, and **HB 301** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage of **SB 140, HB 45, HB 59, HB 171, HB 183, HB 198, HB 243, HB 251, HB 299,** and **HB 305.**

Orders of the Day

HB 13, with Committee Substitute attached thereto taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved the adoption of the Committee Substitute to **HB 13.**

Representative Tobin moved that the Committee Substitute to **HB 13** be laid on the table.

On the roll call the vote was yeas: 42-Allen, Caldwell, Cline, Craddock, Crupper, Dawahare, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Hancock, Harper, Head, Heleringer, Holbrook, Holloway, Layman, Lile, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moore, Noland, Patrick, Pearman, Perkins, Rattliff, P. Richardson, Riner, Schmidt, Seum, Stumbo, Tobin, Todd, Turner, White. Nays: 43-Arnold, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Burch, Burnette, Clark, Clarke, Cowan Curd, Cyrus, Donnermeyer, Dunn, Freibert, Gray, Haering, Handy, Hines, T. Jones, Kenton, List, Mann, Moberly, Morris, Nett, Noe, Petty, Priddy, Rapier, Richards, B. Richardson, Robinson, B. Smith, F. Smith, Stone, Thomas, Thomason, Van Horn, Williams, Yates.

The motion that the Committee Substitute to **HB 13** be laid on the table was rejected.

Representative Farrow moved that **HB 13** be laid on the Clerk's desk. Agreed.

HB 97, with Committee Amendments and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of the Committee Substitute to **HB 97.** Agreed.

Representative Cowan moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 97.** Agreed.

Representative Noe moved that **HB 97,** by way of Committee Substitute as amended, be passed.

Representative Guenthner moved that **HB 97,** by way of Committee Substitute as amended, be passed.

Representative Guenthner moved that **HB 97,** by way of Committee Substitute as amended, be laid on the Clerk's desk. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 45, HB 59, HB 171, HB 183, HB 198, HB 243, HB 251, HB 299,** and **HB 305** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 3:08 p.m.)

HB 45, HB 59, HB 171, HB 183, HB 198, HB 243, HB 251, HB 299, and **HB 305** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day

HB 372 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 372** be passed.

On the roll call the vote was yeas: 82-Allen, Arnold, Barrows, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Gray, Guenthner, Handy, Harper, Head, Holbrook, Holloway, Johnson, R. Jones, Kidd, LeMaster, Lile, List, Long, Lundergan, Maggard, McBee, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Turner, Van Horn, White, Williams, Worthington, Yates. Nays: 4-T. Jones, Little, Mann, Meyer.

HB 372 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 372** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 422 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its pasage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 422** be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Hancock.

HB 422 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 422** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 455 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 455** be passed.

On the roll call the vote was yeas 79-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Craddock, Crupper, Cyrus, Dawahare, Deskins, Dunn, Endicott, Farrow, Ford, Foster, Gray, Guenthner, Hancock, Handy, Harper, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, Lile, List, Little, Long, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Nett, Noland, O'Brien, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 6-Freibert, Fryman, Haering, Head, Maggard, Pearman.

HB 455 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 455** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 160 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 160** be passed.

Representative Long moved that **HB 160** be laid on the Clerk's desk. Agreed.

HR 23 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Boswell moved that **HR 23** be adopted.

HR 23 was adopted by voice vote.

Representative LeMaster moved that the vote by which **HR 23** was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

The following Floor Amendments were filed:

Floor Amendment No. 1 to **SB 141,** by Representative Nett:

Amend printed copy of **SB 141,** page 1, line 14, by deleting "*Four (4)*" and inserting in lieu thereof the following: "*Three (3)*"; and

On page 1, by inserting after line 15, "*(e) One (1) commissioner from a list submitted by the local air board.*"

Floor Amendment No. 1 to Committee Substitute to **HB 13,** by Representative Schmidt:

Amend printed copy of Committee Substitute to **HB 13,** page 2, after line 10, by adding the following:

"*(6) The provisions of this section shall not apply in counties containing cities of the second, third, fourth, fifth or sixth class.*".

Floor Amendment No. 2 to Committee Substitute to **HB 97,** by Representative Noe:

Amend printed copy of Committee Substitute to **HB 97,** page 5, line 11, by adding the following Section 4:

"*Any facility utilized by the department for the mentally retarded as defined in Chapter 202B is exempted from the provisions of this Act.*"

Floor Amendment No. 1 to **HB 160,** by Representative Long:

Amend printed copy of **HB 160,** page 1, line 9, by adding the following:

Each joint owner of property shall be counted as a separate freeholder.

line 12 after "*consult*" add:

"with the landowners whose names appear"; delete the word [~~appearing~~].

page 11, line 26, after "*consult*" add:

"with the landowners whose names appear"; delete the word [~~appearing~~].

Representative O'Brien moved that **HR 41** be taken from the Committee on State Government and returned to the Committee on Committees. Agreed.

The following meetings were announced:

Committee on Rules: On adjournment, Room 316.

Majority Caucus: Thursday, fifteen minutes after adjournment, Room 109.

Judiciary-Criminal: Special meeting, on adjournment today, Room 105.

Labor and Industry: On adjournment today.

Appropriations and Revenue: Thursday, 9:00 a.m., Room 109.

Education: Special meeting, Thursday, 9:00 a.m., Room 103.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 44, by Representatives Brinkley, Long, Head, and Bruce: A RESOLUTION honoring Frank Ramsey upon the occasion of being elected to the Naismith Memorial Basketball Hall of Fame.

HB 601, by Representative Haering and Priddy: AN ACT proposing to amend the Constitution of Kentucky and relating to property exempt from taxation.

HB 602, by Representative Schmidt: AN ACT relating to real estate licenses.

HB 603, by Representative Lundergan: AN ACT relating to state personnel.

HB 604, by Representatives Haering and Burnette: AN ACT proposing to amend the Constitution of Kentucky and relating to the assessment of real property for taxation purposes.

HB 605, by Representatives Haering and Priddy: AN ACT relating to traffic regulations.

HB 606, by Representatives Boswell and Van Horn: AN ACT relating to state police.

HB 607, by Representatives Priddy and Haering: AN ACT relating to sewer construction districts.

HB 608, by Representative Van Horn: AN ACT relating to the University of Kentucky Medical Center.

HB 609, by Representatives Bendl, Mann, Perkins, Kenton, Clarke, Long, List, Noe, Meyer, Bennett, Williams, Thomas, T. Jones, Gray and Hines: AN ACT relating to block grants.

HB 610, by Representatives Cyrus, Gray, Boswell, Meyer, Perkins, Handy, Head, Worthington, Dawahare, R. Jones, Endicott, Donnermeyer, Burch, Clapp, Morris, Deskins, Burnette, Van Horn, Blandford, Stone, Brown, Cline, Brinkley, Maggard, Ford, Noe, and Little: AN ACT relating to salary schedules for personnel in vocational schools and schools for the blind and the deaf.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 580, HB 574, SB 118, SB 119, SB 237, HB 364, HCR 39.**

State Government: **HB 430.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

State Government: **HB 267.**

Labor and Industry: **HB 331.**

Education: **HB 242, HB 36.**

Report of Committees

The Committee on Banking and Insurance reported **HB 427,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 427, AN ACT relating to financial institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 288.610 is amended to read as follows:

(1) The provisions of this chapter shall be enforced by the commissioner, who may, after notice to licensees and a hearing, promulgate regulations, referenced to the section or sections which set forth the legislative standards they interpret or apply, for the proper conduct application shall state the date of promulgation and the effective date. A copy of every such regulation shall be sent to all licensees before the effective date thereof and a copy shall be kept in an indexed permanent book in the office of the commissioner as a public record.

(2) The commissioner shall *examine* [~~make an annual examination of~~] the affairs, business, office, and records of every licensee *as necessary* [~~, and such further examinations or investigations as he deems~~

~~necessary~~] for the purpose of discovering violations of this chapter or of securing information necessary for its proper enforcement.

(3) For the purpose of making such examinations or investigations the commissioner and his representatives may require the attendance of and examine under oath all persons whose testimony he may require, relative to the loans or business of any such licensee, and shall have free access to the accounts, papers, records, files, safes, vaults, offices, and places of business used in connection with any business conducted under any license issued in accordance with this chapter.

Section 2. KRS 289.061 is amended to read as follows:

(1) A branch office is a legally established place of business of the association other than the home office authorized by the board of directors and approved by the commissioner, at which savings accounts and loan payments may be accepted and applications for loans may be received, and at which account books and membership certificates may be issued.

(2) No association may establish or maintain a branch office without the prior written approval of the commissioner.

(3) Each application for approval of the establishment and maintenance of a branch office shall state the proposed location, the need, the functions to be performed, the estimated annual expense, and the mode of payment therefor. Each such application shall be accompanied by a budget of the association for the current dividend period and for the next succeeding semiannual period, which reflects the estimated additional expense of the maintenance of such a branch office. Upon the receipt by the commissioner of such an application, he shall determine whether the establishment and maintenance of such office will unduly injure any properly conducted existing association or federal savings and loan association in the community where such branch office or agency is proposed to be established. If he finds that no undue injury is likely to result, that the establishment and maintenance of such branch office is advisable, and in the public interest, he may approve the application.

[~~(4) No branch shall be established in any county other than the county in which is located the principal office of the association.~~]

Section 3. KRS 289.461 is amended to read as follows:

(1) Savings and loan associations are authorized to make loans secured by a first lien on real estate and at a rate or rates not in excess of that provided by KRS 360.010 and 360.025.

(2) Savings and loan associations are authorized to make property improvement loans and loans to finance the purchase of mobile homes, provided that said loans comply with the "Rules and Regulations for the Federal Savings and Loan System" Subchapter C of Title 12, Code of Federal Regulations. A property improvement loan or a mobile home loan may be made, with or without a first mortgage lien on real estate as security, for such a period of time and under such contract provisions as are authorized by the above federal regulations. Where there are no interest rate limitations established under the applicable federal law or regulations, savings and loan associations making such loans shall be subject to the same interest rate limitations on loans as any bank, trust company, or combined bank and trust company under the provisions of KRS *Chapter 287* [~~287.215~~]. A savings and loan association making such loans is authorized to charge and receive [~~interest in advance, with~~] service charges *and* [~~,~~] delinquency charges [~~, and rebate computations being~~] identical to those authorized for a bank, trust company or combined bank and trust company under KRS *Chapter 287* [~~287.215~~].

Section 4. KRS 289.521 is amended to read as follows:

(1) If an association is not a member of a federal home loan bank, it may borrow money, but not more than an aggregate amount equal to one-fourth (¼) of its savings liability on the date of borrowing.

(2) If an association is a member of a federal home loan bank, it may secure advances of not more than an aggregate amount equal to one-half (½) of its savings liability[~~; within an amount equal to one-half (½) of its savings liability, the association may borrow from sources other than such federal home loan bank, an aggregate amount not in excess of ten per cent (10%) of its savings liability~~].

(3) *Within the prescribed borrowing limitations, an association may borrow from sources other than a federal home loan bank, federal reserve bank, or similar federal lending institution, an aggregate amount not in excess of ten percent (10%) of its savings liability.*

(4) A subsequent reduction of savings liability shall not affect in any way outstanding obligations for borrowed money.

(5)[~~(4)~~] All such loans and advances may be secured by property of the association.

Section 5. KRS 289.705 is amended to read as follows:

[~~(1)~~] Notwithstanding any restrictions elsewhere contained in this chapter the commissioner may prescribe, amend and repeal regulations authorizing state-chartered savings and loan associations to make any loans *and any investments*, and accept savings accounts and deposits, and provide for the payments of dividends or interest thereon, under the same terms, conditions, limitations, restrictions and safeguards which such associations could make or do were they operating as federal savings and loan associations at the time such authority is granted, provided that such regulations shall have as their objective the placing of state-chartered savings and loan associations on a substantial, competitive, operating parity with federal savings and loan associations, in order that the dual system of savings associations may be preserved.

[~~(2) Nothing herein contained shall be construed to repeal, modify or alter the restrictions of subsection (4) of KRS 289.061 with respect to branching.~~]

Section 6. KRS 289.710 is amended to read as follows:

(1) The affairs of every association not in liquidation shall be examined by the commissioner or an examiner of the commissioner as often as is deemed necessary[~~, and at least once in every year,~~] without any notice to the association, its officers or agents. The examiner shall make a thorough examination into the condition, workings and affairs of the association. All books, papers and records and assets of the association shall be subject to his inspection.

(2) The examiner shall file a report of his findings in the office of the commissioner and the commissioner shall furnish a copy of such report to the association examined. The examiner shall report any violation of law or any unauthorized or unfit practices or any failure to keep and have correct amounts of business of the association, and if he finds that any director has wilfully neglected to attend meetings regularly, he shall recommend the discharge of such director.

(3) No examiner acting under the provisions of this chapter shall disclose to any person, other than officially to the commissioner, in the report made to him or in compliance with the order of some court, the names of stockholders or members in any association, or any information respecting their private accounts.

(4) All reports and information in the hands of the commissioner concerning federal associations, or federally insured associations, shall be subject to inspection by the federal home loan bank and the federal home loan bank board and their authorized representatives.

Section 7. KRS 290.240 is amended to read as follows:

(1) All entrance fees, transfer fees and charges shall, after the payment of the organization expenses, be known as reserve income, and shall be added to the reserve fund of the corporation.

(2) *(a)* At the close of each fiscal year each credit union shall set apart to the reserve fund, 20 per cent of its net income accumulated during the year, until the reserve fund equals 10 per cent of outstanding loans or shares, whichever is greater. Thereafter, a sufficient portion of the annual net income shall be allocated to the reserve fund to maintain the reserve fund at 10 per cent of outstanding loans or shares, whichever is greater.

(b) The commissioner may decrease the reserving requirements in any fiscal year as set forth in paragraph (a) of this subsection when in his opinion such a decrease is in the best interest of state-chartered credit unions.

(c) The commissioner may also require special reserves to protect the interests of members either by regulation applicable to all credit unions or by directive for an individual credit union.

(d) Upon the recommendation of the board of directors, the members at an annual meeting may increase the proportion of net income *required* to be set apart to the reserve fund *by any of the provisions of this subsection.*

(3) The reserve fund shall belong to the corporation and shall be held to meet contingencies, and shall not be distributed to the members except upon dissolution of the corporation.

Section 8. KRS 360.212 is amended to read as follows:

Compliance with the requirements *or exemptions from compliance with* [~~of~~] the federal consumer credit protection act title I (truth in lending act) and title V (general provisions), Public Law 90-321; 82 Stat. 146 et seq. *and any amendments thereto,* and all regulations prescribed pursuant *to said law* [~~thereto~~], shall be deemed to be compliance with the requirements of KRS 360.210 to 360.265.

Section 9. Whereas, creditor compliance with the amendments to the Federal Consumer Credit Protection Act is required by April 1, 1982, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Committee Substitute to **HB 427** is as follows:

HB 427, AN ACT relating to financial institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 288.610 is amended to read as follows:

(1) The provisions of this chapter shall be enforced by the commissioner, who may, after notice to licensees and a hearing, promulgate regulations, referenced to the section or sections which set forth the legislative standards they interpret or apply, for the proper conduct application shall state the date of promulgation

and the effective date. A copy of every such regulation shall be sent to all licensees before the effective date thereof and a copy shall be kept in an indexed permanent book in the office of the commissioner as a public record.

(2) The commissioner shall *examine* [~~make an annual examination of~~] the affairs, business, office, and records of every licensee *as necessary, but not less than once a year,* [~~and such further examinations or investigations as he deems necessary~~] for the purpose of discovering violations of this chapter or of securing information necessary for its proper enforcement.

(3) For the purpose of making such examinations or investigations the commissioner and his representatives may require the attendance of and examine under oath all persons whose testimony he may require, relative to the loans or business of any such licensee, and shall have free access to the accounts, papers, records, files, safes, vaults, offices, and places of business used in connection with any business conducted under any license issued in accordance with this chapter.

Section 2. KRS 289.461 is amended to read as follows:

(1) Savings and loan associations are authorized to make loans secured by a first lien on real estate and at a rate or rates not in excess of that provided by KRS 360.010 and 360.025.

(2) Savings and loan associations are authorized to make property improvement loans and loans to finance the purchase of mobile homes, provided that said loans comply with the "Rules and Regulations for the Federal Savings and Loan System" Subchapter C of Title 12, Code of Federal Regulations. A property improvement loan or a mobile home loan may be made, with or without a first mortgage lien on real estate as security, for such a period of time and under such contract provisions as are authorized by the above federal regulations. Where there are no interest rate limitations established under the applicable federal law or regulations, savings and loan associations making such loans shall be subject to the same interest rate limitations on loans as any bank, trust company, or combined bank and trust company under the provisions of KRS *Chapter 287* [~~287.215~~]. A savings and loan association making such loans is authorized to charge and receive interest [~~in advance~~], [~~with~~] service charges *and* [~~,~~] delinquency charges [~~, and rebate computations being~~] identical to those authorized for a bank, trust company or combined bank and trust company under KRS *Chapter 287* [~~287.215~~].

Section 3. KRS 289.521 is amended to read as follows:

(1) If an association is not a member of a federal home loan bank, it may borrow money, but not more than an aggregate amount equal to one-fourth (¼) of its savings liability on the date of borrowing.

(2) If an association is a member of a federal home loan bank, it may secure advances of not more than an aggregate amount equal to one-half (½) of its savings liability[~~; within an amount equal to one-half (½) of its savings liability, the association may borrow from sources other than such federal home loan bank, an aggregate amount not in excess of ten per cent (10%) of its savings liability~~].

(3) *Within the prescribed borrowing limitations, an association may borrow from sources other than a federal home loan bank, federal reserve bank, or similar federal lending institution, an aggregate amount not in excess of ten percent (10%) of its savings liability.*

(4) A subsequent reduction of savings liability shall not affect in any way outstanding obligations for borrowed money.

(5)[~~(4)~~] All such loans and advances may be secured by property of the association.

Section 4. KRS 289.705 is amended to read as follows:

[~~(1)~~] Notwithstanding any restrictions elsewhere contained in this chapter the commissioner may prescribe, amend and repeal regulations authorizing state-chartered savings and loan associations to make any loans *and any investments,* [~~and~~] accept savings accounts and deposits, and provide for the payments of dividends or interest thereon, *and provide such other services,* under the same terms, conditions, limitations, restrictions and safeguards which such associations could make or do were they operating as federal savings and loan associations at the time such authority is granted, provided that such regulations shall have as their objective the placing of state-chartered savings and loan associations on a substantial, competitive, operating parity with federal savings and loan associations, in order that the dual system of savings associations may be preserved.

[~~(2) Nothing herein contained shall be construed to repeal, modify or alter the restrictions of subsection (4) of KRS 289.061 with respect to branching.~~]

Section 5. KRS 289.710 is amended to read as follows:

(1) The affairs of every association not in liquidation shall be examined by the commissioner or an examiner of the commissioner as often as is deemed necessary[~~, and at least once in every year,~~] without any notice to the association, its officers or agents. The examiner shall make a thorough examination into the condition, workings and affairs of the association. All books, papers and records and assets of the association shall be subject to his inspection.

(2) The examiner shall file a report of his findings in the office of the commissioner and the commissioner shall furnish a copy of such report to the association examined. The examiner shall report any violation of law or any unauthorized or unfit practices or any failure to keep and have correct amounts of business

of the association, and if he finds that any director has wilfully neglected to attend meetings regularly, he shall recommend the discharge of such director.

(3) No examiner acting under the provisions of this chapter shall disclose to any person, other than officially to the commissioner, in the report made to him or in compliance with the order of some court, the names of stockholders or members in any association, or any information respecting their private accounts.

(4) All reports and information in the hands of the commissioner concerning federal associations, or federally insured associations, shall be subject to inspection by the federal home loan bank and the federal home loan bank board and their authorized representatives.

Section 6. The following KRS sections are repealed:

360.210 Policy and purpose of law.
360.212 Compliance with KRS 360.210 to 360.265 by compliance with federal law.
360.215 Definitions.
360.220 Closed-end transactions, information required.
360.225 Revolving credit transactions, information required.
360.230 Other credit transactions, information required.
360.235 Information as to finance charges, how given.
360.240 Applicability of law — Transactions excluded.
360.245 Lending institutions regulated by other laws subject to disclosure provisions.
360.250 Rules and regulations, scope.
360.255 False advertising or representations as to credit transactions prohibited.
360.260 Regulations governing information as to how credit charges determined, powers of commissioner.
360.265 Willful failure to give information bars collection of financing charge.
360.991 Penalties.

The Committee on Judiciary-Criminal reported **HB 105, HB 125** with Committee Amendments attached thereto, **HB 148** with Committee Amendment attached thereto, **HB 466, SR 10,** and **HB 208** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 105, AN ACT relating to probation and parole.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

(1) A person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the bureau of corrections, or the office of community services, shall pay a monthly fee to offset the costs of supervising the probation, parole, or other supervised release.

(2) The fee shall be determined and fixed by the releasing authority, but shall be at least ten dollars ($10.00), and not more than fifty dollars ($50.00) per month. Fees are payable one (1) month following the commencement of probation, parole, or other supervised release, and at one (1) month intervals thereafter.

(3) The releasing authority shall hold a hearing to determine the ability of the defendant to make such payments and in making this determination the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. The releasing authority may waive the payment of the fee in whole or in part if it finds that any of the following factors exist:

(a) The offender has diligently attempted, but has been unable, to obtain employment which provides him sufficient income to pay said fee.

(b) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of such student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled.

(c) The offender has an employment handicap, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

(d) The offender is responsible for the support of dependents, and the payment of said fee constitutes an undue hardship on the offender or his dependents.

(e) Any other factor which may bear upon the defendant's financial capacity to pay said fee.

(4) At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment

or order on the grounds of change of circumstances with regard to the defendant's ability to pay said fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(5) All sums paid by the defendant pursuant to this section shall be paid into the general fund.

(6) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of such release, unless the authority specifically waives the fee, and nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(7) All fees fixed under the provisions of this section shall be collected by the circuit clerk of the county involved.

HB 125, AN ACT relating to the protection of adults.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) A caretaker is guilty of aggravated adult abuse in the first degree when he intentionally abuses, neglects or exploits an adult within the meaning of this chapter, and in so doing causes serious physical or mental injury to such an adult.

(2) Aggravated adult abuse in the first degree is a class B felony.

SECTION 2. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) A caretaker is guilty of aggravated adult abuse in the second degree when he wantonly abuses, neglects or exploits an adult within the meaning of this chapter, and in so doing causes serious physical or mental injury to such an adult.

(2) Aggravated adult abuse in the second degree is a class C felony.

SECTION 3. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) A caretaker is guilty of aggravated adult abuse in the third degree when he recklessly abuses, neglects or exploits an adult within the meaning of this chapter and in so doing causes serious physical or mental injury to such an adult.

(2) Aggravated adult abuse in the third degree is a class D. felony.

SECTION 4. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) A caretaker is guilty of adult abuse in the first degree when he intentionally abuses, neglects or exploits an adult within the meaning of this chapter, and in so doing causes physical or mental injury to such an adult.

(2) Adult abuse in the first degree is a class D felony.

SECTION 5. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) A caretaker is guilty of adult abuse in the second degree when he wantonly abuses, neglects or exploits an adult within the meaning of this chapter, and in so doing causes physical or mental injury to such an adult.

(2) Adult abuse in the second degree is a class A misdemeanor.

SECTION 6. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) A caretaker is guilty of adult abuse in the third degree when he recklessly abuses, neglects or exploits an adult within the meaning of this chapter, and in so doing causes physical or mental injury to such an adult.

(2) Adult abuse in the third degree is a class B misdemeanor.

SECTION 7. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

In any prosecution under this chapter, it shall not be a defense that a caretaker failed to provide services necessary to maintain the health and welfare of an adult or failed to comply with any other requirement imposed by state or federal law on the grounds that the caretaker was acting pursuant to the orders of a physician or other person.

SECTION 8. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

The terms "intentionally," "wantonly," and "recklessly" shall have the same meaning as defined in KRS 501.020.

Section 9. KRS 209.020 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Secretary" means the secretary of the department for human resources.

(2) "Department" means the department for human resources.

(3) "Bureau" means the bureau for social services of the department for human resources.

(4) "Adult" means a person eighteen (18) years of age or older or a married person without regard to age, who because of mental or physical dysfunctioning, or who is the victim of abuse or neglect inflicted by a spouse, is unable to manage his own resources, carry out the activities of daily living, or protect himself from neglect, hazardous or abusive situations without assistance from others and who has no available, willing, and responsibly able person to assist him and may be in need of protective services.

(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected or exploited and to ensure that he obtains suitable care in or out of his home.

(6) "Caretaker" means *a person, corporation,* [~~an individual or~~] institution, *or other entity or an employe of such person, corporation, institution, or other entity* who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement.

(7) "Abuse or neglect" means the infliction of physical pain, injury, or mental injury, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which an adult, living alone, is unable to provide or obtain for himself the services which are necessary to maintain his health or welfare or a situation in which a person inflicts physical pain or injury upon a spouse or deprives a spouse of reasonable services necessary to maintain the health and welfare of his spouse.

(8) "Exploitation" means the improper use of funds by a caretaker which have been paid [~~by a governmental agency~~] to an adult or to the caretaker for the use or care of the adult.

(9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly cause of death, a coroner's or doctor's report shall be examined as part of the investigation.

(10) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others.

(11) "Emergency protective services" are protective services furnished an adult in an emergency.

(12) "Protective placement" means the transfer of an adult from his present living arrangement to another.

(13) "Court" means the circuit court or the district court if no judge of that circuit court is present in the county.

(14) "Physical injury" means substantial physical pain or any impairment of physical condition.

(15) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(16) "Mental injury" means any injury to the mental or psychological capacity or emotional stability of an adult as testified to by a qualified mental health professional.

(17) "Serious mental injury" means an injury to the mental or psychological capacity or emotional stability of an adult as evidenced by a substantial and observable impairment in the adult's ability to function within his normal range of performance and behavior as testified to by a qualified mental health professional.

(18) "Qualified mental health professional" means:

(a) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of his official duties, and who has completed a residency in psychiatry in an accredited school of medicine and is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(b) A psychologist at the doctoral level licensed under the provisions of KRS Chapter 319;

(c) A psychologist with a master's degree from an accredited institution who has been awarded a certificate of qualification by the Kentucky board of examiners of psychologists under the provisions of KRS Chapter 319, with two (2) years of clinical experience with mentally disordered persons;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years clinical experience with mentally disordered persons; or

(e) A licensed clinical social worker certified for the independent practice of clinical social work under the provisions of KRS Chapter 335, with two (2) years of clinical experience with mentally disordered persons.

Section 10. KRS 209.990 is amended to read as follows:

[~~(1)~~] Anyone knowingly and willfully violating the provisions of KRS 209.030(2) shall be punished by a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200). Each violation shall constitute a separate offense.

[~~(2) Any caretaker who knowingly and willfully abuses, neglects, or exploits an adult within the meaning of this chapter, and in so doing causes serious physical or mental injury or permanent disability to such an adult, is guilty of a Class C felony, or if such abuse, neglect, or exploitation causes minor physical or mental injury or temporary disability to the adult, the caretaker is guilty of a Class A misdemeanor.~~]

Committee Amendment No. 1 to **HB 125** is as follows:

Amend printed copy of **HB 125,** page 3, line 8 by deleting section 7 in its entirety and by renumbering the remaining sections to conform.

Committee Amendment No. 2 to **HB 125** is as follows:

Amend printed copy of **HB 125,** page 8, after line 19, by inserting the following:

"SECTION 11. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall be construed to mean a person is abused, neglected or in need of emergency or protective services for the sole reason he is being furnished or relies upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination; nor shall anything in this Act be construed to authorize, permit, or require any medical care or treatment in contravention of the stated or implied objection of such person."

HB 148, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) No person shall sell or transfer any substance, other than a controlled substance, with the representation or upon creation of an impression that the substance which is sold or transferred is a controlled substance.

(2) No person shall possess for sale or transfer any substance designed in any manner, including but not limited to design of the item or its container, markings, or color, to simulate a controlled substance.

(3) No person shall possess for sale or transfer any substance, not covered by subsection (2) of this section which is not a controlled substance with the representation or upon the creation of an impression that the substance held for sale or transfer is a controlled substance.

(4) No person shall manufacture, package, repackage or mark any substance, which is not a controlled substance, in such a manner as to resemble a controlled substance.

Section 2. KRS 217.065 is amended to read as follows:

Except for violations of Section 1 of this Act, a drug or device shall be deemed to be misbranded:

(1) If its labeling is false or misleading in any particular;

(2) If in package form unless it bears a label containing:

(a) The name and place of business of the manufacturer, packer, or distributor, except that, in the case of a prescription drug, it shall bear the name and place of business of the manufacturer, and the name and place of business of the packer, or distributor, if other than the manufacturer; and

(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided that reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the secretary;

(3) If any word, statement, or other information required by or under authority of KRS 217.005 to 217.215 to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(4) If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulfonmethane, or any chemical derivative of such

substance, which derivative has been by the secretary after investigation, found to be, and by regulations under KRS 217.005 to 217.215 designated as, habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning — May be habit-forming";

(5) If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears:

(a) The common or usual name of the drug, if such there be; and

(b) In case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including whether active or not the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetophenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein; provided that to the extent that compliance with this subsection is impracticable, exemptions shall be established by regulations promulgated by the secretary;

(6) Unless its labeling bears:

(a) Adequate directions for use; and

(b) Such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users; provided that where any requirement of subsection (a) of this subsection, as applied to any drug or device, is not necessary for the protection of the public health, the secretary shall promulgate regulations exempting such drug or device from such requirements;

(7) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein; provided that the method of packing may be modified with a consent of the department. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the United States Pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States, and not to those of the United States Pharmacopoeia;

(8) If it has been found by the department to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the secretary shall by regulations require as necessary for the protection of public health. No such regulation shall be established for any drug recognized in an official compendium until the secretary shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements;

(9) (a) If it is a drug and its container is so made, formed, or filled as to be misleading; or

(b) If it is an imitation of another drug; or

(c) If it is offered for sale under the name of another drug;

(10) If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof;

(11) If:

(a) It is a drug intended for use by man which is a habit forming drug to which subsection (4) of this section applies; or because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use is not safe for use except under the supervision of a practitioner, and is not dispensed upon a prescription unless prior to dispensing its label bears the statement "Caution: Federal law prohibits dispensing without prescription"; or

(b) It is a drug or device and its label (as originally packed) directs that it is to be dispensed or sold only on prescription, unless it is dispensed or sold on a prescription of an authorized practitioner and its label (as dispensed) bears the name and place of business of the dispenser or seller, the serial number and date of such prescription, and the name of such licensed practitioner. Such prescriptions shall not be refilled except on the specific authorization of the prescribing practitioner; provided that where any requirement of this subsection, as applied to any drug or device, is not necessary for the protection of the public health, the secretary shall promulgate regulations exempting such drug or device from such requirement;

(12) A drug sold on a prescription of a practitioner (except a drug sold in the course of the conduct of a business of selling drugs pursuant to diagnosis by mail) shall be exempt from the requirements of this section if:

(a) Such practitioner is licensed by law to administer such drug; and

(b) Such drug bears a label containing the name and place of business of the seller, the serial number and date of such prescription, and the name of such practitioner.

(13) It is not the intention of subsection (2)(a) of this section as amended herein to require the name and place of business of the wholesaler to appear upon the label of the package unless otherwise required by this section.

Section 3. KRS 218A.270 is amended to read as follows:

(1) The following are subject to forfeiture:

(a) All controlled substances which have been manufactured, distributed, dispensed, possessed, being held or acquired in violation of this chapter;

(b) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(c) All property which is used, or intended for use, as a container for property described in paragraphs (a) or (b);

(d) All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraphs (a) or (b), but:

1. No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

2. No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

3. A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission;

4. The forfeiture provisions of paragraph (d) above shall not apply to any offense relating to marijuana.

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter.

(f) All monies acquired from transactions involving property as described in paragraphs (a) and (b) of this subsection and found upon the person or premises of the defendant.

(2) Property subject to forfeiture under this chapter may be seized by any law enforcement agency upon process issued by any court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) The law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(3) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the law enforcement agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the law enforcement agency may:

(a) Remove the property to a place designated by it; or

(b) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(4) When property is forfeited under this chapter the law enforcement agency may:

(a) Retain it for official use;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs. The balance shall be paid to the state treasurer for deposit to the general fund.

(5) Controlled substances listed in schedule I that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in schedule I, which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

(6) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily destroyed or forfeited to the state.

(7) The failure, upon demand by the law enforcement agency or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(8) All substances, machinery or devices used for the manufacture, packaging, repackaging, or marking, and books, papers and records, and all vehicles used for the manufacture, distribution, sale or

transfer of substances in violation of Section 1 of this Act shall be seized and forfeited to the state. Substances manufactured, held, or distributed in violation of Section 1 of this Act shall be deemed contraband.

Section 4. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug, except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell marijuana shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(5) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I or II which is a narcotic drug shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(6) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug, except marijuana, or of any controlled substance classified in schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary for human resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary for human resources or his designee prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary for human resources or his designee shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the department for human resources unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (6) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary for human resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the department to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the department is insufficient to spare one from his regular duties or if no such service may be purchased at regular departmental rates, in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(7) Any person who knowingly and unlawfully possesses for his own use or transfers marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (7) above may be ordered to a facility designated by the secretary for human resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250) or both. Upon discharge of the person from the facility by the secretary for human resources or his designee prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary for human resources or his designee shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the department for human resources unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(8) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(9) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(10) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(11) Any person who violates any of the provisions of Section 1 of this Act shall be guilty of a Class D felony.

Committee Amendment No. 1 to **HB 148** is as follows:

Amend printed copy of **HB 148,** page 1, line 17, following "*repackage*" to add "*, advertise,*".

HB 466, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug *or which is included in KRS 218A.070(1)(d)* shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug *or other than a substance included in KRS 218A.070(1)(d),* except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug *or other than a substance included in KRS 218A.070(1)(d)* except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred

dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell marijuana shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(5) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I or II which is a narcotic drug *or which is included in KRS 218A.070(1)(d)* shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(6) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug *and which is not included in KRS 218A.070(1)(d)*, except marijuana, or of any controlled substance classified in schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary for human resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary for human resources or his designee prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary for human resources or his designee shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the department for human resources unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (6) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary for human resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the department to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the department is insufficient to spare one from his regular duties or if no such service may be purchased at regular departmental rates, in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(7) Any person who knowingly and unlawfully possesses for his own use or transfers marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (7) above may be ordered to a facility designated by the secretary for human resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250) or both. Upon discharge of the person from the facility by the secretary for human resources or his designee prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary for human resources or his designee shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the department for human resources unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(8) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(9) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(10) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

SJR 10, A JOINT RESOLUTION relating to the Craigs Creek Muzzle Loading Club.

WHEREAS, the Craigs Creek Muzzle Loading Club of Woodford County has been officially chartered by the National Muzzle Loading Rifle Association; and

WHEREAS, various members of this renowned and honorable club distinguished themselves via participation in a recent Revolutionary War re-enactment, and have performed admirably in numerous long rifle team exhibitions; and

WHEREAS, such performances and participations have brought plaudits, acclaim and recognition not only to the Craigs Creek Muzzle Loading Club but to the entire Commonwealth of Kentucky; and

WHEREAS, encouraging the preservation of American historical traditions and customs is to be fostered and applauded in all its instances, and particularly as exemplified so nobly by the Craigs Creek Muzzle Loading Club;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Craigs Creek Muzzle Loading Club be and it is hereby designated as the official state representative of pioneer and frontier life in Kentucky.

Section 2. That the Clerk be directed to dispatch a copy of this resolution to the Craigs Creek Muzzle Loading Club.

HB 208, AN ACT relating to cruelty to animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.130 is amended to read as follows:

(1) A person is guilty of cruelty to animals *in the second degree* when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, [~~causing it to fight for pleasure or profit,~~] mutilation, beating, torturing, tormenting, failing to provide adequate food, drink, space or health care, or by any other means; or

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal.

(2) Nothing in this section shall apply to the killing of animals:

(a) Pursuant to a license to hunt, fish or trap;

(b) Incident to the processing as food or for other commercial purposes;

(c) For humane purposes;

(d) For any other purpose authorized by law.

(3) Cruelty to animals *in the second degree* is a Class A misdemeanor.

SECTION 2. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of cruelty to animals in the first degree when he intentionally or wantonly causes it to fight for pleasure or profit.

(2) Cruelty to animals in the first degree is a Class D felony.

Committee Substitute to **HB 208** is as follows:

HB 208, AN ACT relating to cruelty to animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.130 is amended to read as follows:

(1) A person is guilty of cruelty to animals *in the second degree* when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, *participates other than as provided in Section 2 of this Act in* causing it to fight for pleasure or profit, *(including,* *but not limited to being a spectator or vendor at an event where an animal is caused to fight for pleasure or profit)* mutilation, beating, torturing, tormenting, failing to provide adequate food, drink, space or health care, or by any other means; or

(b) Subjects any animal in his custody to cruel neglect; or
(c) Kills any animal.
(2) Nothing in this section shall apply to the killing of animals:
(a) Pursuant to a license to hunt, fish or trap;
(b) Incident to the processing as food or for other commercial purposes;
(c) For humane purposes;
(d) For any other purpose authorized by law.
(3) Cruelty to animals *in the second degree* is a Class A misdemeanor.

SECTION 2. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) The following persons are guilty of cruelty to animals in the first degree whenever an animal is caused to fight for pleasure or profit:
(a) The owner of the animal;
(b) The owner of the property on which the fight is conducted;
(c) Anyone who participates in the organization of the fight.
(2) Cruelty to animals in the first degree is a Class D felony.

SECTION 3. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

All animals of the same species, which are on the property when an animal is caused to fight for pleasure or profit, in violation of the provisions of this Act, shall be confiscated and turned over to the department of agriculture for proper disposition consistent with rules and regulations of the department, which may include destruction of the animals.

Committee Amendment No. 1 to the Committee Substitute to **HB 208** is as follows:

Amend printed copy of Committee Substitute to **HB 208,** page 2, line 9, to delete the word "*an*" and to insert in lieu thereof the words "*a four legged*".

The Committee on Natural Resources and Environment reported **SB 48,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 48, AN ACT relating to waste management.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 109.011 is amended to read as follows:

The general assembly of the Commonwealth of Kentucky hereby finds, determines and declares, as follows:

(1) That an ever-increasing volume of solid waste within the Commonwealth is being generated as a result of increasing economic and commercial activity, continuing technological progress and changes in methods of manufacturing, packaging and marketing of consumer products, which results in additional solid wastes discarded by the users of such products;

(2) That the continued economic and population growth of the Commonwealth has required increased industrial and commercial expansion and has made necessary the demolition of obsolete structures, the construction of new structures, the provision of highways and other avenues of transportation and the construction and installation of public works which, together with pre-existing commercial, industrial and agricultural operations, have resulted in the generation of further volumes of solid wastes;

(3) That the handling of solid wastes has been primarily carried out through the dumping of such wastes on open soil and in landfills, which in some cases are inimical to the public health, safety and welfare;

(4) That by the enactment by the Congress of the United States of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580), *as amended,* the collection, sanitary disposal and recovery of solid wastes has been determined to be a matter of nationwide importance, recognizing that the management of solid wastes should continue to be primarily the function of state, regional and local agencies; and that pursuant to such federal law, the Commonwealth has taken and will take certain actions in respect to the planning and implementation of solid waste plans within the guidelines of time requirements set forth in such federal law;

(5) That as a result of the conditions described in the foregoing findings, problems of solid waste collection, management and treatment and resource recovery activities in connection therewith have become a matter of state-wide concern necessitating action by the general assembly to (a) enable responsible planning and management agencies to be created to define solid waste management requirements, with all of the foregoing subject to regulation by the department for natural resources and environmental protection, and (b) assist those units of government primarily responsible for the management of solid waste and the acquisition, financing and operation of facilities to dispose of same to fulfill their functions in a responsible and proper manner with primary emphasis on the regionalization of such functions; and

(6) That it is the intent of the general assembly of the Commonwealth of Kentucky that the primary responsibility for adequate solid waste collection, management, treatment, disposal and resource recovery shall rest with counties, or combinations of [~~cities and~~] counties *and waste management districts*, subject to *standards set by* [~~rules,~~] regulations[~~, criteria and requirements~~] promulgated by the department for natural resources and environmental protection and subject to approval by such department of the implementation of solid waste collection, treatment, disposal, and resource recovery plans, all for the purpose of effectuating the safe and sanitary management, use and handling of solid waste, the protection of the health, welfare and safety of the citizens and inhabitants of the Commonwealth and for making the most efficient use of all resources for the benefit of the citizens and inhabitants of the Commonwealth.

(7) That the general assembly recognizes that the generation of solid waste is inevitable, but that much of it is unnecessary and should be discouraged; however, where solid waste does exist, it should be considered to the extent possible as a valuable resource, and be made use of wherever and whenever desirable and economically justifiable; therefore, it shall be the policy of the Commonwealth to, above all things, encourage resource conservation and preservation of our natural resources before such waste contributes in a needless fashion to the volumes of solid waste and litter produced by our society, but in dealing with existing solid waste, materials recovery from the solid waste stream is deemed to be the most environmentally sound alternative for handling waste.

(8) It is not the intent of this chapter to prohibit or discourage the participation of the private sector in any aspect of solid waste management. Moreover, it is preferable for solid waste management functions to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in this chapter.

(9) *Notwithstanding any provision of KRS Chapters 82, 83 and 94, it is the intent of the general assembly that this chapter and KRS 67.083 (3)(o) provide counties with exclusive authority to develop a solid waste management system for solid waste generated within the geographical boundaries of the county, consistent with the provisions of this chapter and KRS Chapter 224. It is further the intent of the general assembly that cities be authorized to finance, own, and operate solid waste management systems with the consent of the county or by contract with the county, except that in the event a county fails to submit a plan for solid waste management pursuant to Section 23 of this Act or fails to include in the plan provisions for solid waste management within the city, cities may proceed to develop solid waste management systems consistent with regulations promulgated by the department pursuant to KRS Chapter 224. Cities that develop solid waste management facilities pursuant to this section shall have all the powers and restrictions set forth for counties in KRS 109.041, 109.180, 109.250, and Section 14 of this Act.*

(10) It is the intent of the general assembly that this chapter provide counties with three (3) alternative approaches to the development and implementation of solid waste management plans. With the approval of the department, a single county [~~in conjunction with the cities in that county~~] may function as a solid waste management area as provided in KRS 109.061, or counties may elect to operate as *a* multi-county *area* [~~areas~~] in which they may agree to function pursuant to the terms of a contract as provided in KRS 109.020, or *a county or counties* [~~they~~] may elect to operate as a *waste management* district pursuant to *this chapter* [~~KRS 109.071, 109.120, 109.150, or 109.180~~].

(11) It is the intent of the general assembly that waste management districts and solid waste management areas, which are formed and operated under this chapter, shall comply with the standards set by regulations promulgated by the department pursuant to KRS Chapter 224.

Section 2. KRS 109.012 is amended to read as follows:

(1) "Board of directors" or "board" means the governing body of a solid waste management district.

(2) "City" means an existing city of any class.

(3) "County" means the governing body of a county, including urban county governments.

(4) "Department" means the department for natural resources and environmental protection.

(5) *"Long-term contract" means a contract of sufficient duration to assure the viability of a resource recovery facility to the extent that such viability depends upon solid waste supply* [~~"District" means any solid waste management area electing to operate under the provisions of KRS 109.071, 109.120, 109.150, or 109.180 in conformance with Public Law 94-580~~].

(6) "Person" means *an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body* [~~any and all persons, natural or artificial, including any~~

~~individual, firm or association, any municipal or quasi-municipal corporation or private corporation, any county and any other governmental agency and political subdivision of the Commonwealth or any subdivision or instrumentality of the United States of America~~].

(7) "Resource recovery" means any *reclamation of material or energy from waste* [~~process by which components of solid waste are recovered for reuse or transformed into useful materials, products or energy~~].

(8) "Sanitary landfill" means a facility for the disposal of solid waste consistent with and pursuant to criteria *published under Section 4004 of the Resource Conservation and Recovery Act of 1976, as amended, (P.L. 94-580)* [~~established by the Solid Waste Disposal Act (42 USC 3251) and the Resource Conservation and Recovery Act of 1976, Public Law 94-580~~].

(9) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining *(excluding coal mining waste, coal mining by-products, refuse and oveburden)*, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(10) "Solid waste management" means *the administration of solid waste activities: collection, source separation, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a departmentally approved county or multi-county solid waste management plan* [~~any and all processes by which solid waste is collected, transported, stored, separated, processed or disposed of in any manner according to an orderly and planned program of a county or multi-county solid waste management area duly approved by the department~~].

(11) "Solid waste management area" or "area" means any county or group of counties *so* designated by the department *by approval of the local solid waste management plan* [~~for the purpose of solid waste management~~].

(12) "Solid waste management facility" means any *resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise* [~~solid waste treatment and handling or disposal facility, interim holding or transfer facility, or volume reduction plant consisting of, but not limited to, structures, incinerators, pulverizers, compactors, graters, shredders, bailers, roller grates, heat transferral units, steam and energy generating units and other related facilities which accept and process solid waste~~].

(13) "Waste management district" means any county or group of counties electing to form under the provisions of KRS 109.071 and operate in conformance with the provisions of this chapter and with Section 4006 of the Resource Conservation and Recovery Act of 1976, as amended, (P.L. 94-580).

Section 3. KRS 109.020 is amended to read as follows:

When [~~the governing bodies of~~] two (2) or more counties[~~, and the most populous city of each such county~~] join with each other in the management or solely in the collection or solely in the disposal of solid waste in accordance with the state solid waste management plan they may cause a contract to be prepared and executed which shall set forth:

(1) Whether and to what extent [~~cities and~~] counties shall render services to the area and receive services from the area or from each other.

(2) Whether [~~cities and~~] counties will contract with a private party or parties for the management of solid waste.

(3) The financial responsibilities and contributions of the respective [~~cities and~~] counties in the joint undertaking.

(4) The extent to which the [~~cities and~~] counties will furnish personnel and administrative services to the area.

(5) The terms of the contract or agreement: Provided That such contract may be modified from time to time as conditions may warrant and provided one or more additional counties desiring to participate in the joint undertaking may be permitted to become parties to the contract.

(6) Such other provisions as may be necessary to execute a workable system for solid waste management or solely of collection or solely of disposal of solid waste.

Section 4. KRS 109.041 is amended to read as follows:

(1) In addition to all other powers enumerated in Chapter 67 and other sections of the Kentucky Revised Statutes, counties, acting by and through their fiscal courts, may plan, initiate, acquire, construct and maintain solid waste management facilities and promulgate rules and regulations with respect thereto in accordance with this chapter. It is hereby determined and declared that in the implementation, acquisition, financing and maintenance of solid waste management facilities, and in *the* [~~respect of~~] enforcement of *their*

use [~~thereof~~], counties will be performing state functions duly delegated *to them* [~~thereto~~] for the public welfare. In such regard, the right of counties to condemn land necessary for the acquisition of solid waste management facilities pursuant to the Eminent Domain Act of Kentucky and to exercise the police power in respect thereto is confirmed. Any county may contract with third parties for the management by public or private means of solid waste within the county.

(2) No solid waste management facility shall be acquired and constructed until the construction thereof has been approved in writing by the department. *Planning* [~~Permits~~] for sanitary landfills shall be *conducted* [~~issued~~] only in accordance with the policy set forth in KRS 109.011(7). [~~No county shall prohibit any materials recovery operations unless it is established that such operation would jeopardize a city, county or district's ability to meet financial obligations incurred in the maintenance, operation, or amortization of capital acquisition costs for a solid waste management facility.~~]

(3) *No county or waste management district shall prohibit or otherwise restrict the resource recovery of materials by:*

(a) Any resource recovery operation in existence in the county or district on the effective date of the mandatory program; or

(b) Any person supplying material to resource recovery operations on the effective date of the mandatory program; or

(c) Any new resource recovery operation that reclaims the same type of materials as resource recovery operations included in paragraph (a) of this subsection; or

(d) Any new suppliers to resource recovery operations included in paragraphs (a) and (c) of this subsection; or

(e) Any resource recovery operation for glass, plastic or metal beverage containers, unless a commitment has been made by a local government or other political subdivision of the state, by ordinance or contract, to a solid waste project consistent with the provisions of this chapter, that is dependent upon the resource recovery of glass, plastic or metal beverage containers to meet its financial obligations for said project, and such commitment has been made prior to the operation of any other such resource recovery facility in the county or district; or

(f) Any other resource recovery operation within the county or district not included in paragraphs (a) through (e) of this subsection or the supply of materials to such operation unless it is established that such operation would jeopardize the ability of a local government or other political subdivision of the state to meet financial obligations incurred in the maintenance, operation, or amortization of capital acquisition costs for a solid waste management facility.

(4) No county or waste management district shall regulate special wastes as defined in KRS 224.868 or solid waste from agricultural or mining operations under the provisions of KRS 109.250, Section 14 of this Act or KRS 67.083(3).

(5) Any county undertaking the planning, implementation, construction, installation, acquisition and financing of a solid waste management facility pursuant to this chapter shall have the authority set forth in Chapter 58 of the Kentucky Revised Statutes *concerning* [~~in respect of~~] the financing of such solid waste management facility including the authority to promulgate, enforce and collect reasonable rates, rentals and charges for the use of such solid waste management facility.

(6)[~~(4)~~] Bonds authorized to be issued by any county pursuant to the authority of this chapter for the financing of solid waste management facilities may be sold at either private or public sale as may in the sound discretion of the county be in the best interests of the county.

(7)[~~(5)~~] Any [~~city or~~] county undertaking solid waste management pursuant to the provisions of this chapter may contract with any [~~firm,~~] person[~~, corporation or governmental entity outside the geographical boundaries of such county~~] for the provision of solid waste management services. In connection with solid waste management, any [~~city or~~] county may enter into contracts with any [~~firm,~~] person[~~, corporation or governmental entity~~] for any term of years.

(8)[~~(6)~~] Counties are authorized to charge a reasonable fee to haulers for the handling of their waste at a solid waste management facility approved by the department.

(9)[~~(7)~~] Counties are authorized to sell or market materials and energy recovered from solid waste and to enter into long-term contracts *guaranteeing supply* to insure markets for the sale of recovered products.

(10)[~~(8)~~] In carrying out the provisions of this chapter, counties shall be subject to *standards set by* [~~the rules,~~] regulations [~~and requirements~~] promulgated by the department *on* [~~in respect of solid~~] waste *management pursuant to KRS Chapter 224.*

(11) No county or waste management district shall prohibit long-term contracts by ordinance or other means.

(12) Counties are expressly authorized in addition to the powers enumerated in KRS Chapter 65 and this chapter to contract with one another in order to regionalize solid waste management to the maximum extent practicable.

Section 5. KRS 109.071 is amended to read as follows:

(1) A single county, or [~~Whenever~~] two (2) or more counties *that* elect to join together for the purposes of solid waste management, [~~they~~] may, *by action of the fiscal court,* establish and maintain a *waste management* district. *Waste management* districts shall have all powers and authority set forth in KRS 109.041.

(2) The *waste management* district shall be controlled and managed by a board of directors.

(3) The fiscal court shall determine the composition of the board of directors in one of the following ways:

(a) Appointment [~~consisting~~] of the county *judge/executive* [~~judges/executive~~] of every county, or portion of a county, within that district and the mayor of the most populous city in each county. *Appointment of a third member from each county in the district so that representation on the board shall be in proportion to the urban-rural population distribution in the county. The county judge/executive and the mayor so appointed may delegate a representative to serve in their stead* [~~In the instance that a city is incorporated into a district, and the remainder of the county lies within another district, the mayor of said city shall be represented on the board of that district~~].

(b) Appointment of members by the county judge/executive and confirmed by the respective fiscal court. In the case of multi-county districts, membership on the board shall be apportioned among the counties in ratio to their population with each county having at least one (1) member. In no case shall the total membership of the board consist of less than three (3) persons nor more than twelve (12) persons. When a county has two (2) or more members on the board, members shall be selected from urban or rural areas in the same proportion as the urban-rural population distribution in the county, except that there shall be at least one (1) member each from a rural and from an urban area.

Section 6. KRS 109.120 is amended to read as follows:

The board may adopt such rules and regulations as are necessary to carry out the purposes for which the *waste management* district was created and necessary *for* [~~to~~] the adequate management of solid waste in a manner adequate to protect the public health and consistent with such rules and regulations as may be promulgated by the department.

Section 7. KRS 109.140 is amended to read as follows:

All funds derived from taxes, service charges, sales or other income resulting from the operation of a *waste management* district shall if collected or held by another person be paid [~~over~~] to and expended by the district to carry out its duties, functions and responsibilities.

Section 8. KRS 109.150 is amended to read as follows:

The *waste management* district may acquire by bequest, gift, grant or purchase such real and personal property or any interest therein as may be necessary to accomplish its purposes. Title to all property acquired by the *waste management* district shall *be vested* [~~vest~~] solely in the name of the district. With the approval of the department the *waste management* district may apply for and receive funds [~~made~~] available under federal legislation *such as* [~~in the form of~~] grants and loans [~~and~~] for the purpose of improving solid waste management.

Section 9. KRS 109.160 is amended to read as follows:

The board may by resolution *recite* [~~reciting~~] the need, order the condemnation on behalf of the *waste management* district of any real property or interest therein that in the opinion of the board is necessary for the proposed construction or use of a *solid waste management facility* [~~disposal method~~]. Proceedings for condemnation shall be conducted in the manner prescribed in the Eminent Domain Act of Kentucky.

Section 10. KRS 109.170 is amended to read as follows:

For the purpose of acquiring, creating and maintaining [~~a~~] collection *systems* [~~system~~] and *solid waste management facilities* [~~disposal method~~] any *waste management* district may pursuant to the provisions of KRS chapter 58 borrow money and issue negotiable revenue bonds.

Section 11. KRS 109.180 is amended to read as follows:

(1) Any county or *waste management* district may levy an annual tax, [~~of~~] not to exceed ten cents (10¢) on each one hundred dollars ($100) of assessed valuation of real property within the area subject to taxation for county purposes. The proceeds of such tax shall be used for *solid waste management* expenses of the area and for redemption of any bonds issued.

(2) The county or *waste management* district may in lieu of the tax provided in subsection (1) or in addition thereto finance the maintenance, operation and capital acquisition costs of the area by fees to be collected from all persons receiving services from the area. Such charges shall be fixed in such amounts as can be reasonably expected to yield revenues not in excess of the cost of operation and maintenance of the system and for an adequate depreciation fund and amortization of capital acquisition costs.

(3) The service charges authorized by subsections (1) and (2) of this section may be collected by the area directly or the area may enter into an agreement with other utilities either public or private to collect such charges.

Section 12. KRS 109.190 is amended to read as follows:

[~~This chapter shall not apply to~~] Garbage and refuse districts established pursuant to KRS Chapter 109 *prior to June 17, 1978, whether de jure or de facto,* [~~at the time of enactment of this legislation~~] unless *the department finds that* such do not comply with the federal resource conservation and recovery act and with the state solid waste management plan, *shall be deemed waste management districts and shall have all of the powers and duties of waste management districts as set forth in this chapter.*

Section 13. KRS 109.250 is amended to read as follows:

Any county or [~~solid~~] waste *management* district may require the use of any solid waste management facility or other facility, meeting the standards of the department *set by regulations issued pursuant to* [~~under~~] KRS Chapter *224* [~~109~~] by all persons[~~, firms and governmental entities~~] situated within the geographical boundaries thereof; [~~provided, however, that~~] such mandatory use of any solid waste management facility shall not be applicable to any city [~~situated~~] within the geographical boundaries of any such county *or waste management district provided that:*

(1) The city [~~which~~] owns and operates a municipal solid waste management facility*;* [~~,~~] and

(2) The solid waste management facility is not a sanitary landfill; and

(3) The solid waste management facility was in existence prior to June 17, 1978; and

(4) The solid waste management facility [~~which~~] complies with the intent and purposes *of KRS Chapters 109 and 224* [~~herein provided, other than a sanitary landfill upon June 17, 1978~~].

SECTION 14. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

Any county or waste management district which requires the mandatory use of any solid waste management facility or other facility pursuant to KRS 109.250 may require the use of any collection system or mode by all persons within the geographical boundaries thereof.

SECTION 15. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

(1) No provision of this chapter shall preclude a city from providing solid waste management services pending implementation of the approved solid waste management plan submitted by a county or district pursuant to Section 23 of this Act. Any county or waste management district that includes the provision of solid waste management services to a city in its approved solid waste management plan shall provide the city with written notice at least one (1) year prior to the date it intends to provide such service to the city.

(2) Any solid waste management plan submitted by a county or district pursuant to Section 23 of this Act, that includes any city that has made a financial commitment for a solid waste management system, shall include provisions for insuring sufficient revenues to the city to retire the debt on said system in accordance with the financial obligations incurred by the city.

SECTION 16. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

(1) When the citizens of a county desire to have such county establish a solid waste management plan and as of January 1, 1984 the fiscal court has failed to establish a plan, a number of citizens equivalent to ten percent (10%) of the votes cast in the county for the office receiving the greatest total vote at the last general election, shall file a petition in the county of their residence asking that a solid waste management plan be established.

(2) The petition shall be filed with the county judge/executive asking that the proposition of establishing a solid waste management plan for the county be submitted to the voters of the county at the next general election held in the county that does not occur within less than thirty (30) days after the filing of the petition. Each voter signing the petition shall state his full name and address. Upon the filing of the petition with the county judge/executive he shall enter an order directing that the petition be published in full pursuant to KRS Chapter 424, and shall further enter an order directing the county clerk to have placed before the voters at such election the question, "Are you in favor of having the county establish a solid waste management plan?" with proper spaces in which the voter may indicate a "Yes" or a "No" vote. If the majority of those voting on the proposition vote "Yes," a solid waste management plan shall be developed. The vote shall be canvassed and returned by the board of election commissioners for the general election.

(3) The result of any election with respect to establishing a solid waste management plan shall be certified to the fiscal court of the county, and the fiscal court shall, if the result of the election is certified as in favor of the establishment of the plan, proceed to develop a solid waste management plan for the county.

(4) At the next general election held in the county following the vote of the people in favor of the establishment of a solid waste management plan, the county shall submit to the voters of the county the details of said plan, including the area to be served, the debt to be incurred, any fees or assessments to be levied or other financing proposals. At least thirty (30) days prior to said election the county judge/executive shall enter an order directing that the details of the solid waste management plan be published pursuant to KRS Chapter 424, and shall further enter an order directing the county clerk to have placed before the voters at such election the question, "Are you in favor of the implementation of the solid

waste management plan proposed by the county?" with proper spaces in which the voter may indicate a "Yes" or a "No" vote. If the majority of those voting on the proposition vote "Yes," the solid waste management plan shall be implemented. The vote shall be convassed and returned by the board of election commissioners for the general election.

(5) The result of any election with respect to a solid waste management plan shall be certified to the fiscal court of the county, and the fiscal court shall, if the result of the election is certified as in favor of the plan, forthwith proceed to put the plan into effect. If the result of the election is against the implementation of that solid waste management plan, the county shall proceed to develop another plan to be submitted to the voters of the county at the next general election, following the procedure set forth in subsection (4) of this section.

(6) The result of any election with respect to establishing a waste management district shall be certified to the fiscal court of the counties composing the district to be established, and the fiscal court shall, if the result of the election is certified as in favor of the establishment of the district, forthwith proceed to declare the county or counties a district for the purposes of waste management, and shall proceed to put the district into effect in the same manner as they are authorized to do upon their own initiative.

(7) Waste management districts created under this section may be dissolved or modified pursuant to the provision of KRS 65.166 to 65.176.

SECTION 17. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

(1) In urban-county governments powers delegated in this chapter to the county judge/executive shall be exercised by the official in whom the chief executive power is vested.

(2) In urban-county governments powers delegated in this chapter to the fiscal court shall be exercised by the body in which the chief legislative power is vested.

Section 18. KRS 224.005 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

(1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;

(2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;

(3) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;

(4) "Cesspool" means a cavity in the ground which receives human excrement and domestic wastes to be partially absorbed directly by the surrounding soil;

(5) "Closure" means the time at which a waste treatment, storage or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;

(6) "Commission" means the environmental quality commission;

(7) *"Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness* [~~"Secretary" means the secretary for natural resources and environmental protection~~];

(8) "Department" means the department for natural resources and environmental protection;

(9) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

(10) "District" means an air pollution control district as provided for in KRS chapter 77;

(11) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;

(12) *"Generator" means any person, by site, whose act or process produces hazardous waste* [~~"Generating" means the act or process of producing wastes except that any person who produces hazardous wastes~~

~~in amounts not determined to be harmful to public health or the environment by regulation of the department consistent with the federal resource conservation and recovery act and regulations issued pursuant thereto shall not be a generator of hazardous waste or considered to be engaged in the generation of hazardous waste~~];

(13) "Person" means *an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body* [~~any individual, public or private corporation, political subdivision, government agency, municipality, copartnership, association, firm, trust, estate, or other entity whatsoever~~];

(14) "Post-closure monitoring and maintenance" means the routine care, maintenance and monitoring of a solid waste or hazardous waste treatment, storage or disposal facility following closure of the facility;

(15) "Publicly owned treatment works" means any *device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth* [~~facility for the treatment of pollutants owned by the state, any political subdivision thereof, municipality, or other public entity~~];

(16) "Recovered material" means waste material and byproducts which have been recovered or diverted from waste, but does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process;

(17) "Recycling" means any *treatment* process *for the reclamation of material or energy from waste* [~~by which wastes are transformed into new products, useful materials, products, or energy~~];

(18) "Secretary" means the secretary of the department for natural resources and environmental protection;

[~~(17) "Schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with any limitation or standard;~~]

(19)[~~(18)~~] "Seepage pit" means a dry well, leaching pit or any other cavity in the ground which receives the liquid discharge of a septic tank;

(20)[~~(19)~~] "Septic tank" means a septic toilet, chemical closet and any other watertight enclosure used for storage and decomposition of human excrement and domestic wastes;

(21)[~~(20)~~] "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes or other wastes;

(22)[~~(21)~~] "Termination" means the final actions taken by the department as to a solid waste or hazardous waste treatment, storage or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;

(23)[~~(22)~~] "Waste disposal site or facility" means any place where waste is managed, processed or disposed of by incineration, landfilling or any other method;

(24)[~~(23)~~] "Storage" means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;

(25)[~~(24)~~] "Tank" means *(for purposes of KRS 224.223 to 224.237)* any container when placed on a vehicle to carry in transport wastes removed from a septic tank, cesspool or seepage pit;

(26)[~~(25)~~] "Transportation" means any off-site movement of hazardous waste by any mode, and any loading, unloading, or storage incidental thereto;

(27)[~~(26)~~] "Treatment" means any method, technique, or process *including neutralization,* designed to *change* [~~alter~~] the physical, chemical, or biological character or composition of any [~~pollutant or~~] waste so as to *neutralize such waste or so as to* render *such waste* [~~it less hazardous,~~] nonhazardous, safer for transport, amenable *for recovery* [~~to recycling~~], amenable *for* [~~to~~] storage, or reduced in volume. *Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous*;

(28)[~~(27)~~] "Waste" means:

(a)[~~(b)~~] "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, *coal mining by-products, refuse and overburden*) and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended (86 stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 stat. 923);

(b)[~~(a)~~] "Hazardous waste" means any discarded material or material *intended* to be discarded or substance or combination of such substances *intended* to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored,

transported, or disposed of, or otherwise managed; nothing in this chapter shall be construed to apply to any activity or substance which is subject to the federal Atomic Energy Act of 1954, *as amended (68 stat. 923)* [~~or to agricultural wastes including manures and crop residues, which are returned to the soil as fertilizers or soil conditioners or to pesticides, herbicides or fertilizers or their respective containers when disposed of under label instructions or in accordance with the federal Insecticide, Fungicide, and Rodenticide Act as amended~~];

(29) "Waste management district" means any county or group of counties electing to form under the provisions of KRS 109.071 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended, (PL 94-580);

(30)[~~(28)~~] "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;

(31)[~~(29)~~] "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural or other legitimate purposes;

(32)[~~(30)~~] "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing or recovery of any natural resource which may be discharged into water;

(33)[~~(31)~~] "NPDES" means National Pollutant Discharge Elimination System;

(34)[~~(32)~~] "Manifest" means the *shipping* [~~principal~~] document *originated and signed by the generator,* used in a management control system to trace the movement of hazardous wastes from generation to final disposal;

(35)[~~(33)~~] "Open dump" means any facility or site for the disposal of solid waste which does not meet the criteria for a sanitary landfill under regulations promulgated by the department which shall be consistent with regulations promulgated under section 4004, Resource Conservation and Recovery Act *of 1976, as amended, (*PL 94-580*)*, and which is not a facility for disposal of hazardous waste;

(36)[~~(34)~~] "Solid waste management" means *the administration of solid waste activities: collection, source separation, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a departmentally approved county or multi-county solid waste management plan* [~~any and all processes by which solid waste is collected, transported, stored, separated, processed, or disposed in any manner according to an orderly and planned program of a county or multi-county solid waste management area duly approved by the department~~];

(37) "Solid waste management area" or "area" means any county or group of counties so designated by the department by approval of the local solid waste management plan;

(38)[~~(35)~~] "Solid waste management facility" means any *resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise* [~~solid waste treatment and handling or disposal facility, interim holding or transfer facility, or volume reduction plant consisting of, but not limited to, structures, incinerators, pulverizers, compactors, graters, shredders, balers, roller grates, heat transferral units, steam and energy generating units and other related facilities which accept and process solid wastes~~].

Section 19. KRS 224.994 is amended to read as follows:

(1) Any person who violates KRS 224.060, 224.140, 224.330 or who fails to perform any duties imposed by these sections, or who violates any determination, permit, rule, regulation or order of the department promulgated pursuant thereto shall be liable *for* [~~to~~] a civil penalty not to exceed the sum of ten thousand dollars ($10,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section *and KRS 224.995.*

(2) *Any person who violates KRS 224.255, 224.880, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, rule, regulation or order of the department promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.995.*

(3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the department promulgated pursuant to those sections which have become final shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand

dollars ($1,000) or by imprisonment for a term of not more than one (1) year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(b) For violations by motor vehicles, the fine shall be not less than ten dollars ($10) nor more than fifty dollars ($50) for a first offense, and not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each subsequent offense.

(4) Any person who *knowingly* [~~willfully~~] or with criminal negligence violates KRS 224.060, 224.140, *224.255,* 224.330, *224.880* or any determination, permit, rule, regulation or order of the department promulgated pursuant to those sections which have become final or who knowingly provides false information in any document filed or required to be maintained under this chapter or who knowingly renders inaccurate any monitoring device or method shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than fifteen thousand dollars ($15,000) or by imprisonment for a term of not more than one year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(5) Should any person engage in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter or fail to provide information or to meet reporting requirements required by terms and conditions of a permit or regulations promulgated pursuant to this chapter, and the provisions of KRS 224.071 or subsection (6) of this section do not apply, the secretary shall give notice to the violator of his failure to comply with such requirement. If such violation extends beyond the thirtieth (30th) day after notification, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations in a court of appropriate jurisdiction.

(6) Any person who knowingly is engaged in generation, treatment, storage, transportation or disposal of hazardous waste in violation of this chapter, or contrary to a permit, order, or regulation issued or promulgated under this chapter or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000) for each day of violation or by imprisonment for a term of not less than one (1) year and not more than five (5) years or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(7) Nothing contained in this section shall abridge the right of any person to recover actual compensatory damages resulting from any such violation.

(8)[~~(3)~~] Any person who violates any provision of this chapter *to which no express penalty provision applies* [~~other than KRS 224.060, 224.140, and 224.330~~], except as provided in KRS 224.992, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the department promulgated pursuant thereto shall be liable *for* [~~to~~] a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section *and KRS 224.995.*

(9)[~~(4)~~] The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the department or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders, rules, and regulations of the department promulgated pursuant thereto.

(10)[~~(5)~~] Any person who deposits leaves, clippings, prunings, garden refuse or household waste materials in any litter receptacle except with permission of the owner of such receptacle is guilty of a class B misdemeanor.

(11)[~~(6)~~] Any person who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a class B misdemeanor.

[~~(7) Any person knowingly violating any provision of KRS 224.905 to 224.970 or any rule or regulation adopted hereunder shall be guilty of a class B misdemeanor.~~]

(12)[~~(8)~~] In addition to or in lieu of the penalties set forth in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

Section 20. KRS 224.995 is amended to read as follows:

(1) The penalties set forth in KRS 224.994 may be recoverable in an action brought in the name of the Commonwealth of Kentucky by departmental counsel. In any such action any finding of the department shall be prima facie evidence of the fact or facts found therein.

(2) [~~It shall be the duty of the Attorney General,~~] Upon the request of the department, *the attorney general may appoint departmental counsel as a special attorney general in order to institute* [~~to bring~~] an action for the recovery of the penalties herein provided for, and to bring an action for an injunction against any person violating or threatening to violate any provision of this chapter[~~, except as provided in KRS 224.992~~] or violating or threatening to violate any order or determination of the department promulgated pursuant thereto. In any such action any findings of the department shall be prima facie evidence of the fact or facts found therein.

(3) Nothing contained in this chapter shall abridge the right of any person to recover actual compensatory damages resulting from any violation of this chapter.

SECTION 21. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) No hazardous waste management provision of this chapter shall be construed to apply to any agricultural wastes including manures and crop residues which are returned to the soil as fertilizers or soil conditioners. A farmer disposing of waste pesticides, herbicides or fertilizers from his own use which are hazardous wastes is not required to comply with the hazardous waste management provisions of this chapter for those wastes provided he triple rinses each emptied container and disposes of the waste residues on his own farm in a manner consistent with the disposal instructions on the container label.

(2) Any person who produces hazardous waste in amounts not determined to be harmful to public health or the environment by regulation of the department consistent with the federal resource conservation and recovery act and regulations issued pursuant thereto shall not be a generator of hazardous waste or considered to be engaged in the generation of hazardous waste for purposes of this chapter.

SECTION 22. KRS 109.021 IS AMENDED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 224 TO READ AS FOLLOWS:

The department for natural resources and environmental protection of the Commonwealth of Kentucky is hereby designated as the official planning and management agency of the Commonwealth of Kentucky in the field of solid waste. The department shall have primary responsibility for the promulgation of [~~rules,~~] regulations [~~and criteria~~] for coordinating the solid waste planning and management activities of *waste management districts* [~~cities~~], counties, or any combination thereof and for the approval of solid waste management facilities.

SECTION 23. KRS 109.022 IS AMENDED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 224 TO READ AS FOLLOWS:

(1) The department shall promulgate [~~rules,~~] regulations *pursuant to KRS Chapter 224* [~~, guidelines and criteria~~] for *waste management districts* [~~cities~~] and counties in creating solid waste management areas and *for* planning for the management and recovery of solid waste, consistent with the statewide plan *and the provisions of KRS 109.011.*

(2) Pursuant to such [~~rules,~~] regulations, *waste management districts* [~~criteria and guidelines, cities~~] and counties[~~, acting as solid waste management areas~~] shall *submit to the department* [~~have~~] a solid waste management plan by July 1, *1983* [~~1982~~]. An extension not to exceed six (6) months shall be granted to *waste management districts* [~~cities~~] and counties that can demonstrate a good faith effort is being made to develop a plan.

(3) Any *waste management district, group of waste management districts,* county or group of counties, or combination of *waste management districts* [~~cities~~] and counties acting in accordance with the state comprehensive plan shall apply to the department for designation as a solid waste management area. *The application shall include but not be limited to:*

(a) The agreement or contract establishing the proposed area; and

(b) The by-laws of the proposed area; and

(c) The area plan.

Upon receipt of such application, the department shall either approve the creation of an area for solid waste management purposes or shall disapprove such application, and in the event of disapproval shall state in writing the reasons for such disapproval. *Any changes in the application contents shall be submitted to the department.*

[~~(4) Counties and cities are expressly authorized in addition to the powers enumerated in KRS Chapter 65 to contract with one another in order to regionalize solid waste management to the maximum extent practicable.~~

~~(5) In the event a solid waste management plan is prepared and submitted to and approved by the department by an area development district created pursuant to KRS 147A.050 to 147A.120, inclusive, which includes any entire county or city, such county or city shall be deemed by the filing of such area development district plan to have complied with the provisions of this section.~~]

SECTION 24. KRS 109.031 IS AMENDED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 224 TO READ AS FOLLOWS:

Each area solid waste management plan shall be prepared in accordance with [~~rules and~~] regulations to be promulgated by the department and shall *be required to* include *only* [~~, but not be limited to,~~] the following:

(1) An estimate of the long-range needs for solid waste management facilities projected not less than twenty (20) years into the future;

(2) An inventory and description of all existing *solid waste management* facilities wherein or whereby [~~solid~~] waste is *managed* [~~being treated or disposed of~~], including an inventory of the deficiencies, if any, of such facilities in meeting current solid waste management needs;

(3) A description of the comprehensive land use plan, if any, of such county or counties composing the area describing the interrelationship of the solid waste management plan to such land use plan;

(4) A statement as to the ability of present solid waste management facilities to comply with state and federal environmental laws relating to solid waste;

(5) A *schedule* [~~plan~~] for the acquisition of solid waste management facilities, *that will include* [~~together with~~] a capital construction budget and a financing plan [~~in respect thereto~~];

(6) A demographic study showing current and projected population density of each county and identifying population centers and centers of solid waste generation;

(7) A description of any proposed resource recovery plan or facility*;*

(8) A schedule which establishes and justifies implementation priorities;

(9) A detailed schedule and description of activities to be undertaken; and

(10) Identification of modifications to local laws and regulations necessary to implement the area plan.

SECTION 25. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Following the approval by the department of the area plan and the designation by the department of a solid waste management area, the area shall implement the approved plan.

(2) No penalty of this chapter shall apply to this section; however the right of citizen petition to obtain compliance shall not be abridged.

Section 26. The following KRS sections are repealed:

109.051 Cities, counties, and districts may join together for solid waste disposal.
224.260 Household waste excepted.
224.996 Penalties.

Committee Substitute to **SB 48** is as follows:

SB 48, AN ACT relating to waste management.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 109.011 is amended to read as follows:

The general assembly of the Commonwealth of Kentucky hereby finds, determines and declares, as follows:

(1) That an ever-increasing volume of solid waste within the Commonwealth is being generated as a result of increasing economic and commercial activity, continuing technological progress and changes in methods of manufacturing, packaging and marketing of consumer products, which results in additional solid wastes discarded by the users of such products;

(2) That the continued economic and population growth of the Commonwealth has required increased industrial and commercial expansion and has made necessary the demolition of obsolete structures, the construction of new structures, the provision of highways and other avenues of transportation and the construction and installation of public works which, together with pre-existing commercial, industrial and agricultural operations, have resulted in the generation of further volumes of solid wastes;

(3) That the handling of solid wastes has been primarily carried out through the dumping of such wastes on open soil and in landfills, which in some cases are inimical to the public health, safety and welfare;

(4) That by the enactment by the Congress of the United States of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580), *as amended,* the collection, sanitary disposal and recovery of solid wastes has been determined to be a matter of nationwide importance, recognizing that the management of solid wastes should continue to be primarily the function of state, regional and local agencies; and that pursuant to such federal law, the Commonwealth has taken and will take certain actions in respect to the planning and implementation of solid waste plans within the guidelines of time requirements set forth in such federal law;

(5) That as a result of the conditions described in the foregoing findings, problems of solid waste collection, management and treatment and resource recovery activities in connection therewith have become a matter of state-wide concern necessitating action by the general assembly to (a) enable responsible planning and management agencies to be created to define solid waste management requirements, with all of the foregoing subject to regulation by the department for natural resources and environmental protection, and (b) assist those units of government primarily responsible for the management of solid waste and the acquisition, financing and operation of facilities to dispose of same to fulfill their functions in a responsible and proper manner with primary emphasis on the regionalization of such functions; and

(6) That it is the intent of the general assembly of the Commonwealth of Kentucky that the primary responsibility for adequate solid waste collection, management, treatment, disposal and resource recovery shall rest with counties, or combinations of [~~cities and~~] counties *and waste management districts*, subject to *standards set by* [~~rules,~~] regulations[~~, criteria and requirements~~] promulgated by the department for natural resources and environmental protection and subject to approval by such department of the implementation of solid waste collection, treatment, disposal, and resource recovery plans, all for the purpose of effectuating the safe and sanitary management, use and handling of solid waste, the protection of the health, welfare and safety of the citizens and inhabitants of the Commonwealth and for making the most efficient use of all resources for the benefit of the citizens and inhabitants of the Commonwealth.

(7) That the general assembly recognizes that the generation of solid waste is inevitable, but that much of it is unnecessary and should be discouraged; however, where solid waste does exist, it should be considered to the extent possible as a valuable resource, and be made use of wherever and whenever desirable and economically justifiable; therefore, it shall be the policy of the Commonwealth to, above all things, encourage resource conservation and preservation of our natural resources before such waste contributes in a needless fashion to the volumes of solid waste and litter produced by our society, but in dealing with existing solid waste, materials recovery from the solid waste stream is deemed to be the most environmentally sound alternative for handling waste.

(8) It is not the intent of this chapter to prohibit or discourage the participation of the private sector in any aspect of solid waste management. Moreover, it is preferable for solid waste management functions to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in this chapter.

(9) *Notwithstanding any provision of KRS Chapters 82, 83 and 94, it is the intent of the general assembly that this chapter and KRS 67.083 (3)(o) provide counties with exclusive authority to develop a solid waste management system for solid waste generated within the geographical boundaries of the county, consistent with the provisions of this chapter and KRS Chapter 224. It is further the intent of the general assembly that cities be authorized to finance, own, and operate solid waste management systems with the consent of the county or by contract with the county, except that in the event a county fails to submit a plan for solid waste management pursuant to Section 23 of this Act or fails to include in the plan provisions for solid waste management within the city, cities may proceed to develop solid waste management systems consistent with regulations promulgated by the department pursuant to KRS Chapter 224. Cities that develop solid waste management facilities pursuant to this section shall have all the powers and restrictions set forth for counties in KRS 109.041, 109.180, 109.250, and Section 14 of this Act.*

(10) It is the intent of the general assembly that this chapter provide counties with three (3) alternative approaches to the development and implementation of solid waste management plans. With the approval of the department, a single county [~~in conjunction with the cities in that county~~] may function as a solid waste management area as provided in KRS 109.061, or counties may elect to operate as *a* multi-county *area* [~~areas~~] in which they may agree to function pursuant to the terms of a contract as provided in KRS 109.020, or *a county or counties* [~~they~~] may elect to operate as a *waste management* district pursuant to *this chapter* [~~KRS 109.071, 109.120, 109.150, or 109.180~~].

(11) It is the intent of the general assembly that waste management districts and solid waste management areas, which are formed and operated under this chapter, shall comply with the standards set by regulations promulgated by the department pursuant to KRS Chapter 224.

Section 2. KRS 109.012 is amended to read as follows:

(1) "Board of directors" or "board" means the governing body of a solid waste management district.

(2) "City" means an existing city of any class.

(3) "County" means the governing body of a county, including urban county governments.

(4) "Department" means the department for natural resources and environmental protection.

(5) *"Long-term contract" means a contract of sufficient duration to assure the viability of a resource recovery facility to the extent that such viability depends upon solid waste supply* [~~"District" means any solid waste management area electing to operate under the provisions of KRS 109.071, 109.120, 109.150, or 109.180 in conformance with Public Law 94-580~~].

(6) "Person" means *an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body* [~~any and all persons, natural or artificial, including any~~

~~individual, firm or association, any municipal or quasi-municipal corporation or private corporation, any county and any other governmental agency and political subdivision of the Commonwealth or any subdivision or instrumentality of the United States of America~~].

(7) "Resource recovery" means any *reclamation of material or energy from waste* [~~process by which components of solid waste are recovered for reuse or transformed into useful materials, products or energy~~].

(8) "Sanitary landfill" means a facility for the disposal of solid waste consistent with and pursuant to criteria *published under Section 4004 of the Resource Conservation and Recovery Act of 1976, as amended, (P.L. 94-580)* [~~established by the Solid Waste Disposal Act (42 USC 3251) and the Resource Conservation and Recovery Act of 1976, Public Law 94-580~~].

(9) "Solid waste" means any garbage, refuse, sludge [~~from a waste treatment plant, water supply treatment plant, or air pollution control facility~~] and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining *(excluding coal mining waste, coal mining by-products, refuse and oveburden)*, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(10) "Solid waste management" means *the administration of solid waste activities: collection, source separation, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a departmentally approved county or multi-county solid waste management plan* [~~any and all processes by which solid waste is collected, transported, stored, separated, processed or disposed of in any manner according to an orderly and planned program of a county or multi-county solid waste management area duly approved by the department~~].

(11) "Solid waste management area" or "area" means any county or group of counties *so* designated by the department *by approval of the local solid waste management plan* [~~for the purpose of solid waste management~~].

(12) "Solid waste management facility" means any *resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise* [~~solid waste treatment and handling or disposal facility, interim holding or transfer facility, or volume reduction plant consisting of, but not limited to, structures, incinerators, pulverizers, compactors, graters, shredders, bailers, roller grates, heat transferral units, steam and energy generating units and other related facilities which accept and process solid waste~~].

(13) "Waste management district" means any county or group of counties electing to form under the provisions of KRS 109.071 and operate in conformance with the provisions of this chapter and with Section 4006 of the Resource Conservation and Recovery Act of 1976, as amended, (P.L. 94-580).

Section 3. KRS 109.020 is amended to read as follows:

When [~~the governing bodies of~~] two (2) or more counties[~~, and the most populous city of each such county~~] join with each other in the management or solely in the collection or solely in the disposal of solid waste in accordance with the state solid waste management plan they may cause a contract to be prepared and executed which shall set forth:

(1) Whether and to what extent [~~cities and~~] counties shall render services to the area and receive services from the area or from each other.

(2) Whether [~~cities and~~] counties will contract with a private party or parties for the management of solid waste.

(3) The financial responsibilities and contributions of the respective [~~cities and~~] counties in the joint undertaking.

(4) The extent to which the [~~cities and~~] counties will furnish personnel and administrative services to the area.

(5) The terms of the contract or agreement: Provided That such contract may be modified from time to time as conditions may warrant and provided one or more additional counties desiring to participate in the joint undertaking may be permitted to become parties to the contract.

(6) Such other provisions as may be necessary to execute a workable system for solid waste management or solely of collection or solely of disposal of solid waste.

Section 4. KRS 109.041 is amended to read as follows:

(1) In addition to all other powers enumerated in Chapter 67 and other sections of the Kentucky Revised Statutes, counties, acting by and through their fiscal courts, may plan, initiate, acquire, construct and maintain solid waste management facilities and promulgate rules and regulations with respect thereto in accordance with this chapter. It is hereby determined and declared that in the implementation, acquisition, financing and maintenance of solid waste management facilities, and in *the* [~~respect of~~] enforcement of *their*

use [~~thereof~~], counties will be performing state functions duly delegated *to them* [~~thereto~~] for the public welfare. In such regard, the right of counties to condemn land necessary for the acquisition of solid waste management facilities pursuant to the Eminent Domain Act of Kentucky and to exercise the police power in respect thereto is confirmed. Any county may contract with third parties for the management by public or private means of solid waste within the county.

(2) No solid waste management facility shall be acquired and constructed until the construction thereof has been approved in writing by the department. *Planning* [~~Permits~~] for sanitary landfills shall be *conducted* [~~issued~~] only in accordance with the policy set forth in KRS 109.011(7). [~~No county shall prohibit any materials recovery operations unless it is established that such operation would jeopardize a city, county or district's ability to meet financial obligations incurred in the maintenance, operation, or amortization of capital acquisition costs for a solid waste management facility.~~]

(3) No county or waste management district shall prohibit or otherwise restrict the resource recovery of materials by:

(a) Any resource recovery operation in existence in the county or district on the effective date of the mandatory program; or

(b) Any person supplying material to resource recovery operations on the effective date of the mandatory program; or

(c) Any new resource recovery operation that reclaims the same type of materials as resource recovery operations included in paragraph (a) of this subsection; or

(d) Any new suppliers to resource recovery operations included in paragraphs (a) and (c) of this subsection; or

(e) Any resource recovery operation for glass, plastic or metal beverage containers, unless a commitment has been made by a local government or other political subdivision of the state, by ordinance or contract, to a solid waste project consistent with the provisions of this chapter, that is dependent upon the resource recovery of glass, plastic or metal beverage containers to meet its financial obligations for said project, and such commitment has been made prior to the operation of any other such resource recovery facility in the county or district; or

(f) Any other resource recovery operation within the county or district not included in paragraphs (a) through (e) of this subsection or the supply of materials to such operation unless it is established that such operation would jeopardize the ability of a local government or other political subdivision of the state to meet financial obligations incurred in the maintenance, operation, or amortization of capital acquisition costs for a solid waste management facility.

(4) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, no county or waste management district shall regulate special wastes as defined in KRS 224.868 or solid waste from agricultural or mining operations.

(5) Any county undertaking the planning, implementation, construction, installation, acquisition and financing of a solid waste management facility pursuant to this chapter shall have the authority set forth in Chapter 58 of the Kentucky Revised Statutes *concerning* [~~in respect of~~] the financing of such solid waste management facility including the authority to promulgate, enforce and collect reasonable rates, rentals and charges for the use of such solid waste management facility.

(6)[~~(4)~~] Bonds authorized to be issued by any county pursuant to the authority of this chapter for the financing of solid waste management facilities may be sold at either private or public sale as may in the sound discretion of the county be in the best interests of the county.

(7)[~~(5)~~] Any [~~city or~~] county undertaking solid waste management pursuant to the provisions of this chapter may contract with any [~~firm,~~] person[~~, corporation or governmental entity outside the geographical boundaries of such county~~] for the provision of solid waste management services. In connection with solid waste management, any [~~city or~~] county may enter into contracts with any [~~firm,~~] person[~~, corporation or governmental entity~~] for any term of years.

(8)[~~(6)~~] Counties are authorized to charge a reasonable fee to haulers for the handling of their waste at a solid waste management facility approved by the department.

(9)[~~(7)~~] Counties are authorized to sell or market materials and energy recovered from solid waste and to enter into long-term contracts *guaranteeing supply* to insure markets for the sale of recovered products.

(10)[~~(8)~~] In carrying out the provisions of this chapter, counties shall be subject to *standards set by* [~~the rules,~~] regulations [~~and requirements~~] promulgated by the department *on* [~~in respect of solid~~] waste *management pursuant to KRS Chapter 224.*

(11) No county or waste management district shall prohibit long-term contracts by ordinance or other means.

(12) Counties are expressly authorized in addition to the powers enumerated in KRS Chapter 65 and this chapter to contract with one another in order to regionalize solid waste management to the maximum extent practicable.

Section 5. KRS 109.071 is amended to read as follows:

(1) A single county, or [~~Whenever~~] two (2) or more counties *that* elect to join together for the purposes of solid waste management, [~~they~~] may, *by action of the fiscal court,* establish and maintain a *waste management* district. *Waste management* districts shall have all powers and authority set forth in KRS 109.041.

(2) The *waste management* district shall be controlled and managed by a board of directors.

(3) The fiscal court shall determine the composition of the board of directors in one of the following ways:

(a) Appointment [~~consisting~~] of the county *judge/executive* [~~judges/executive~~] of every county, or portion of a county, within that district and the mayor of the most populous city in each county. *Appointment of a third member from each county in the district so that representation on the board shall be in proportion to the urban-rural population distribution in the county. The county judge/executive and the mayor so appointed may delegate a representative to serve in their stead* [~~In the instance that a city is incorporated into a district, and the remainder of the county lies within another district, the mayor of said city shall be represented on the board of that district~~].

(b) Appointment of members by the county judge/executive and confirmed by the respective fiscal court. In the case of multi-county districts, membership on the board shall be apportioned among the counties in ratio to their population with each county having at least one (1) member. In no case shall the total membership of the board consist of less than three (3) persons nor more than twelve (12) persons. When a county has two (2) or more members on the board, members shall be selected from urban or rural areas in the same proportion as the urban-rural population distribution in the county, except that there shall be at least one (1) member each from a rural and from an urban area.

Section 6. KRS 109.120 is amended to read as follows:

The board may adopt such rules and regulations as are necessary to carry out the purposes for which the *waste management* district was created and necessary *for* [~~to~~] the adequate management of solid waste in a manner adequate to protect the public health and consistent with such rules and regulations as may be promulgated by the department.

Section 7. KRS 109.140 is amended to read as follows:

All funds derived from taxes, service charges, sales or other income resulting from the operation of a *waste management* district shall if collected or held by another person be paid [~~over~~] to and expended by the district to carry out its duties, functions and responsibilities.

Section 8. KRS 109.150 is amended to read as follows:

The *waste management* district may acquire by bequest, gift, grant or purchase such real and personal property or any interest therein as may be necessary to accomplish its purposes. Title to all property acquired by the *waste management* district shall *be vested* [~~vest~~] solely in the name of the district. With the approval of the department the *waste management* district may apply for and receive funds [~~made~~] available under federal legislation *such as* [~~in the form of~~] grants and loans [~~and~~] for the purpose of improving solid waste management.

Section 9. KRS 109.160 is amended to read as follows:

The board may by resolution *recite* [~~reciting~~] the need, order the condemnation on behalf of the *waste management* district of any real property or interest therein that in the opinion of the board is necessary for the proposed construction or use of a *solid waste management facility* [~~disposal method~~]. Proceedings for condemnation shall be conducted in the manner prescribed in the Eminent Domain Act of Kentucky.

Section 10. KRS 109.170 is amended to read as follows:

For the purpose of acquiring, creating and maintaining [~~a~~] collection *systems* [~~system~~] and *solid waste management facilities* [~~disposal method~~] any *waste management* district may pursuant to the provisions of KRS chapter 58 borrow money and issue negotiable revenue bonds.

Section 11. KRS 109.180 is amended to read as follows:

(1) Any county or *waste management* district may levy an annual tax, [~~of~~] not to exceed ten cents (10¢) on each one hundred dollars ($100) of assessed valuation of real property within the area subject to taxation for county purposes. The proceeds of such tax shall be used for *solid waste management* expenses of the area and for redemption of any bonds issued.

(2) The county or *waste management* district may in lieu of the tax provided in subsection (1) or in addition thereto finance the maintenance, operation and capital acquisition costs of the area by fees to be collected from all persons receiving services from the area. Such charges shall be fixed in such amounts as can be reasonably expected to yield revenues not in excess of the cost of operation and maintenance of the system and for an adequate depreciation fund and amortization of capital acquisition costs.

(3) The service charges authorized by subsections (1) and (2) of this section may be collected by the area directly or the area may enter into an agreement with other utilities either public or private to collect such charges.

Section 12. KRS 109.190 is amended to read as follows:

[~~This chapter shall not apply to~~] Garbage and refuse districts established pursuant to KRS Chapter 109 *prior to June 17, 1978, whether de jure or de facto,* [~~at the time of enactment of this legislation~~] unless *the department finds that* such do not comply with the federal resource conservation and recovery act and with the state solid waste management plan, *shall be deemed waste management districts and shall have all of the powers and duties of waste management districts as set forth in this chapter.*

Section 13. KRS 109.250 is amended to read as follows:

Any county or [~~solid~~] waste *management* district may require the use of any solid waste management facility or other facility, meeting the standards of the department *set by regulations issued pursuant to* [~~under~~] KRS Chapter *224* [~~109~~] by all persons[~~, firms and governmental entities~~] situated within the geographical boundaries thereof; [~~provided, however, that~~] such mandatory use of any solid waste management facility shall not be applicable to any city [~~situated~~] within the geographical boundaries of any such county *or waste management district provided that:*

(1) The city [~~which~~] owns and operates a municipal solid waste management facility*;* [~~,~~] and

(2) The solid waste management facility is not a sanitary landfill; and

(3) The solid waste management facility was in existence prior to June 17, 1978; and

(4) The solid waste management facility [~~which~~] complies with the intent and purposes *of KRS Chapters 109 and 224* [~~herein provided, other than a sanitary landfill upon June 17, 1978~~].

SECTION 14. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

Any county or waste management district which requires the mandatory use of any solid waste management facility or other facility pursuant to KRS 109.250 may require the use of any collection system or mode by all persons within the geographical boundaries thereof.

SECTION 15. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

(1) No provision of this chapter shall preclude a city from providing solid waste management services pending implementation of the approved solid waste management plan submitted by a county or district pursuant to Section 23 of this Act. Any county or waste management district that includes the provision of solid waste management services to a city in its approved solid waste management plan shall provide the city with written notice at least one (1) year prior to the date it intends to provide such service to the city.

(2) Any solid waste management plan submitted by a county or district pursuant to Section 23 of this Act, that includes any city that has made a financial commitment for a solid waste management system, shall include provisions for insuring sufficient revenues to the city to retire the debt on said system in accordance with the financial obligations incurred by the city.

SECTION 16. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

(1) When the citizens of a county desire to have such county establish a solid waste management plan and as of January 1, 1984 the fiscal court has failed to establish a plan, a number of citizens equivalent to ten percent (10%) of the votes cast in the county for the office receiving the greatest total vote at the last general election, shall file a petition in the county of their residence asking that a solid waste management plan be established.

(2) The petition shall be filed with the county judge/executive asking that the proposition of establishing a solid waste management plan for the county be submitted to the voters of the county at the next general election held in the county that does not occur within less than thirty (30) days after the filing of the petition. Each voter signing the petition shall state his full name and address. Upon the filing of the petition with the county judge/executive he shall enter an order directing that the petition be published in full pursuant to KRS Chapter 424, and shall further enter an order directing the county clerk to have placed before the voters at such election the question, "Are you in favor of having the county establish a solid waste management plan?" with proper spaces in which the voter may indicate a "Yes" or a "No" vote. If the majority of those voting on the proposition vote "Yes," a solid waste management plan shall be developed. The vote shall be canvassed and returned by the board of election commissioners for the general election.

(3) The result of any election with respect to establishing a solid waste management plan shall be certified to the fiscal court of the county, and the fiscal court shall, if the result of the election is certified as in favor of the establishment of the plan, proceed to develop a solid waste management plan for the county.

(4) At the next general election held in the county following the vote of the people in favor of the establishment of a solid waste management plan, the county shall submit to the voters of the county the details of said plan, including the area to be served, the debt to be incurred, any fees or assessments to be levied or other financing proposals. At least thirty (30) days prior to said election the county judge/executive shall enter an order directing that the details of the solid waste management plan be published pursuant to KRS Chapter 424, and shall further enter an order directing the county clerk to have placed before the voters at such election the question, "Are you in favor of the implementation of the solid

waste management plan proposed by the county?" with proper spaces in which the voter may indicate a "Yes" or a "No" vote. If the majority of those voting on the proposition vote "Yes," the solid waste management plan shall be implemented. The vote shall be convassed and returned by the board of election commissioners for the general election.

(5) The result of any election with respect to a solid waste management plan shall be certified to the fiscal court of the county, and the fiscal court shall, if the result of the election is certified as in favor of the plan, forthwith proceed to put the plan into effect. If the result of the election is against the implementation of that solid waste management plan, the county shall proceed to develop another plan to be submitted to the voters of the county at the next general election, following the procedure set forth in subsection (4) of this section.

(6) The result of any election with respect to establishing a waste management district shall be certified to the fiscal court of the counties composing the district to be established, and the fiscal court shall, if the result of the election is certified as in favor of the establishment of the district, forthwith proceed to declare the county or counties a district for the purposes of waste management, and shall proceed to put the district into effect in the same manner as they are authorized to do upon their own initiative.

(7) Waste management districts created under this section may be dissolved or modified pursuant to the provision of KRS 65.166 to 65.176.

SECTION 17. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

(1) In urban-county governments powers delegated in this chapter to the county judge/executive shall be exercised by the official in whom the chief executive power is vested.

(2) In urban-county governments powers delegated in this chapter to the fiscal court shall be exercised by the body in which the chief legislative power is vested.

Section 18. KRS 224.005 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

(1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;

(2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;

(3) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;

(4) "Cesspool" means a cavity in the ground which receives human excrement and domestic wastes to be partially absorbed directly by the surrounding soil;

(5) "Closure" means the time at which a waste treatment, storage or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;

(6) "Commission" means the environmental quality commission;

(7) *"Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness* [~~"Secretary" means the secretary for natural resources and environmental protection~~];

(8) "Department" means the department for natural resources and environmental protection;

(9) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

(10) "District" means an air pollution control district as provided for in KRS chapter 77;

(11) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;

(12) *"Generator" means any person, by site, whose act or process produces hazardous waste* [~~"Generating" means the act or process of producing wastes except that any person who produces hazardous wastes~~

~~in amounts not determined to be harmful to public health or the environment by regulation of the department consistent with the federal resource conservation and recovery act and regulations issued pursuant thereto shall not be a generator of hazardous waste or considered to be engaged in the generation of hazardous waste~~];

(13) "Person" means *an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body* [~~any individual, public or private corporation, political subdivision, government agency, municipality, copartnership, association, firm, trust, estate, or other entity whatsoever~~];

(14) "Post-closure monitoring and maintenance" means the routine care, maintenance and monitoring of a solid waste or hazardous waste treatment, storage or disposal facility following closure of the facility;

(15) "Publicly owned treatment works" means any *device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth* [~~facility for the treatment of pollutants owned by the state, any political subdivision thereof, municipality, or other public entity~~];

(16) *"Recovered material" means waste material and byproducts which have been recovered or diverted from waste, but does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process;*

(17) "Recycling" means any *treatment* process *for the reclamation of material or energy from waste* [~~by which wastes are transformed into new products, useful materials, products, or energy~~];

(18) "Secretary" means the secretary of the department for natural resources and environmental protection;

[~~(17) "Schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with any limitation or standard;~~]

(19)[~~(18)~~] "Seepage pit" means a dry well, leaching pit or any other cavity in the ground which receives the liquid discharge of a septic tank;

(20)[~~(19)~~] "Septic tank" means a septic toilet, chemical closet and any other watertight enclosure used for storage and decomposition of human excrement and domestic wastes;

(21)[~~(20)~~] "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes or other wastes;

(22)[~~(21)~~] "Termination" means the final actions taken by the department as to a solid waste or hazardous waste treatment, storage or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;

(23)[~~(22)~~] "Waste disposal site or facility" means any place where waste is managed, processed or disposed of by incineration, landfilling or any other method;

(24)[~~(23)~~] "Storage" means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;

(25)[~~(24)~~] "Tank" means *(for purposes of KRS 224.223 to 224.237)* any container when placed on a vehicle to carry in transport wastes removed from a septic tank, cesspool or seepage pit;

(26)[~~(25)~~] "Transportation" means any off-site movement of hazardous waste by any mode, and any loading, unloading, or storage incidental thereto;

(27)[~~(26)~~] "Treatment" means any method, technique, or process *including neutralization,* designed to *change* [~~alter~~] the physical, chemical, or biological character or composition of any [~~pollutant or~~] waste so as to *neutralize such waste or so as to* render *such waste* [~~it less hazardous,~~] nonhazardous, safer for transport, amenable *for recovery* [~~to recycling~~], amenable *for* [~~to~~] storage, or reduced in volume. *Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;*

(28)[~~(27)~~] "Waste" means:

(a)[~~(b)~~] "Solid waste" means any garbage, refuse, sludge [~~from a waste treatment plant, water supply treatment plant, or air pollution control facility~~] and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, *coal mining by-products, refuse and overburden*) and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended (86 stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 stat. 923);

(b)[~~(a)~~] "Hazardous waste" means any discarded material or material *intended* to be discarded or substance or combination of such substances *intended* to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored,

transported, or disposed of, or otherwise managed; nothing in this chapter shall be construed to apply to any activity or substance which is subject to the federal Atomic Energy Act of 1954, *as amended (68 stat. 923)* [~~or to agricultural wastes including manures and crop residues, which are returned to the soil as fertilizers or soil conditioners or to pesticides, herbicides or fertilizers or their respective containers when disposed of under label instructions or in accordance with the federal Insecticide, Fungicide, and Rodenticide Act as amended~~];

(29) "Waste management district" means any county or group of counties electing to form under the provisions of KRS 109.071 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended, (PL 94-580);

(30)[~~(28)~~] "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;

(31)[~~(29)~~] "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural or other legitimate purposes;

(32)[~~(30)~~] "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing or recovery of any natural resource which may be discharged into water;

(33)[~~(31)~~] "NPDES" means National Pollutant Discharge Elimination System;

(34)[~~(32)~~] "Manifest" means the *shipping* [~~principal~~] document *originated and signed by the generator,* used in a management control system to trace the movement of hazardous wastes from generation to final disposal;

(35)[~~(33)~~] "Open dump" means any facility or site for the disposal of solid waste which does not meet the criteria for a sanitary landfill under regulations promulgated by the department which shall be consistent with regulations promulgated under section 4004, Resource Conservation and Recovery Act *of 1976, as amended, (*PL 94-580*)*, and which is not a facility for disposal of hazardous waste;

(36)[~~(34)~~] "Solid waste management" means *the administration of solid waste activities: collection, source separation, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a departmentally approved county or multi-county solid waste management plan* [~~any and all processes by which solid waste is collected, transported, stored, separated, processed, or disposed in any manner according to an orderly and planned program of a county or multi-county solid waste management area duly approved by the department~~];

(37) "Solid waste management area" or "area" means any county or group of counties so designated by the department by approval of the local solid waste management plan;

(38)[~~(35)~~] "Solid waste management facility" means any *resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise* [~~solid waste treatment and handling or disposal facility, interim holding or transfer facility, or volume reduction plant consisting of, but not limited to, structures, incinerators, pulverizers, compactors, graters, shredders, balers, roller grates, heat transferral units, steam and energy generating units and other related facilities which accept and process solid wastes~~].

Section 19. KRS 224.994 is amended to read as follows:

(1) Any person who violates KRS 224.060, 224.140, 224.330 or who fails to perform any duties imposed by these sections, or who violates any determination, permit, rule, regulation or order of the department promulgated pursuant thereto shall be liable *for* [~~to~~] a civil penalty not to exceed the sum of ten thousand dollars ($10,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section *and KRS 224.995.*

(2) *Any person who violates KRS 224.255, 224.880, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, rule, regulation or order of the department promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.995.*

(3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the department promulgated pursuant to those sections which have become final shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand

dollars ($1,000) or by imprisonment for a term of not more than one (1) year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(b) For violations by motor vehicles, the fine shall be not less than ten dollars ($10) nor more than fifty dollars ($50) for a first offense, and not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each subsequent offense.

(4) Any person who *knowingly* [~~willfully~~] or with criminal negligence violates KRS 224.060, 224.140, *224.255,* 224.330, *224.880* or any determination, permit, rule, regulation or order of the department promulgated pursuant to those sections which have become final or who knowingly provides false information in any document filed or required to be maintained under this chapter or who knowingly renders inaccurate any monitoring device or method shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than fifteen thousand dollars ($15,000) or by imprisonment for a term of not more than one year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(5) Should any person engage in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter or fail to provide information or to meet reporting requirements required by terms and conditions of a permit or regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations in a court of appropriate jurisdiction.

(6) Any person who knowingly is engaged in generation, treatment, storage, transportation or disposal of hazardous waste in violation of this chapter, or contrary to a permit, order, or regulation issued or promulgated under this chapter or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000) for each day of violation or by imprisonment for a term of not less than one (1) year and not more than five (5) years or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any such violation.

(8)[~~(3)~~] Any person who violates any provision of this chapter *to which no express penalty provision applies* [~~other than KRS 224.060, 224.140, and 224.330~~], except as provided in KRS 224.992, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the department promulgated pursuant thereto shall be liable *for* [~~to~~] a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section *and KRS 224.995.*

(9)[~~(4)~~] The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the department or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders, rules, and regulations of the department promulgated pursuant thereto.

(10)[~~(5)~~] Any person who deposits leaves, clippings, prunings, garden refuse or household waste materials in any litter receptacle except with permission of the owner of such receptacle is guilty of a class B misdemeanor.

(11)[~~(6)~~] Any person who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a class B misdemeanor.

[~~(7) Any person knowingly violating any provision of KRS 224.905 to 224.970 or any rule or regulation adopted hereunder shall be guilty of a class B misdemeanor.~~]

(12)[~~(8)~~] In addition to or in lieu of the penalties set forth in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

Section 20. KRS 224.995 is amended to read as follows:

(1) The penalties set forth in KRS 224.994 may be recoverable in an action brought in the name of the Commonwealth of Kentucky by departmental counsel. In any such action any finding of the department shall be prima facie evidence of the fact or facts found therein.

(2) It shall be the duty of the Attorney General, upon the request of the department, *to appoint departmental counsel as a special attorney general in order to institute* [~~to bring~~] an action for the recovery

of the penalties herein provided for, and to bring an action for an injunction against any person violating or threatening to violate any provision of this chapter[~~, except as provided in KRS 224.992~~] or violating or threatening to violate any order or determination of the department promulgated pursuant thereto. In any such action any findings of the department shall be prima facie evidence of the fact or facts found therein.

(3) Nothing contained in this chapter shall abridge the right of any person to recover actual compensatory damages resulting from any violation of this chapter.

SECTION 21. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) No hazardous waste management provision of this chapter shall be construed to apply to any agricultural wastes including manures and crop residues which are returned to the soil as fertilizers or soil conditioners. A farmer disposing of waste pesticides, herbicides or fertilizers from his own use which are hazardous wastes is not required to comply with the hazardous waste management provisions of this chapter for those wastes provided he triple rinses each emptied container and disposes of the waste residues on his own farm in a manner consistent with the disposal instructions on the container label.

(2) Any person who produces hazardous waste in amounts not determined to be harmful to public health or the environment by regulation of the department consistent with the federal resource conservation and recovery act and regulations issued pursuant thereto shall not be a generator of hazardous waste or considered to be engaged in the generation of hazardous waste for purposes of this chapter.

SECTION 22. KRS 109.021 IS AMENDED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 224 TO READ AS FOLLOWS:

The department for natural resources and environmental protection of the Commonwealth of Kentucky is hereby designated as the official planning and management agency of the Commonwealth of Kentucky in the field of solid waste. The department shall have primary responsibility for the promulgation of [~~rules,~~] regulations [~~and criteria~~] for coordinating the solid waste planning and management activities of *waste management districts* [~~cities~~], counties, or any combination thereof and for the approval of solid waste management facilities.

SECTION 23. KRS 109.022 IS AMENDED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 224 TO READ AS FOLLOWS:

(1) The department shall promulgate [~~rules,~~] regulations *pursuant to KRS Chapter 224* [~~, guidelines and criteria~~] for *waste management districts* [~~cities~~] and counties in creating solid waste management areas and *for* planning for the management and recovery of solid waste, consistent with the statewide plan *and the provisions of KRS 109.011.*

(2) Pursuant to such [~~rules,~~] regulations, *waste management districts* [~~criteria and guidelines, cities~~] and counties[~~, acting as solid waste management areas~~] shall *submit to the department* [~~have~~] a solid waste management plan by July 1, *1983* [~~1982~~]. An extension not to exceed six (6) months shall be granted to *waste management districts* [~~cities~~] and counties that can demonstrate a good faith effort is being made to develop a plan.

(3) Any *waste management district, group of waste management districts,* county or group of counties, or combination of *waste management districts* [~~cities~~] and counties acting in accordance with the state comprehensive plan shall apply to the department for designation as a solid waste management area. *The application shall include but not be limited to:*

(a) The agreement or contract establishing the proposed area; and

(b) The by-laws of the proposed area; and

(c) The area plan.

Upon receipt of such application, the department shall either approve the creation of an area for solid waste management purposes or shall disapprove such application, and in the event of disapproval shall state in writing the reasons for such disapproval. *Any changes in the application contents shall be submitted to the department.*

[~~(4) Counties and cities are expressly authorized in addition to the powers enumerated in KRS Chapter 65 to contract with one another in order to regionalize solid waste management to the maximum extent practicable.~~

~~(5) In the event a solid waste management plan is prepared and submitted to and approved by the department by an area development district created pursuant to KRS 147A.050 to 147A.120, inclusive, which includes any entire county or city, such county or city shall be deemed by the filing of such area development district plan to have complied with the provisions of this section.~~]

SECTION 24. KRS 109.031 IS AMENDED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 224 TO READ AS FOLLOWS:

Each area solid waste management plan shall be prepared in accordance with [~~rules and~~] regulations to be promulgated by the department and shall *be required to* include *only* [~~, but not be limited to,~~] the following:

(1) An estimate of the long-range needs for solid waste management facilities projected not less than twenty (20) years into the future;

(2) An inventory and description of all existing *solid waste management* facilities wherein or whereby [~~solid~~] waste is *managed* [~~being treated or disposed of~~], including an inventory of the deficiencies, if any, of such facilities in meeting current solid waste management needs;

(3) A description of the comprehensive land use plan, if any, of such county or counties composing the area describing the interrelationship of the solid waste management plan to such land use plan;

(4) A statement as to the ability of present solid waste management facilities to comply with state and federal environmental laws relating to solid waste;

(5) A *schedule* [~~plan~~] for the acquisition of solid waste management facilities, *that will include* [~~together with~~] a capital construction budget and a financing plan [~~in respect thereto~~];

(6) A demographic study showing current and projected population density of each county and identifying population centers and centers of solid waste generation;

(7) A description of any proposed resource recovery plan or facility*;*

(8) A schedule which establishes and justifies implementation priorities;

(9) A detailed schedule and description of activities to be undertaken; and

(10) Identification of modifications to local laws and regulations necessary to implement the area plan.

SECTION 25. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Following the approval by the department of the area plan and the designation by the department of a solid waste management area, the area shall implement the approved plan.

(2) No penalty of this chapter shall apply to this section; however the right of citizen petition to obtain compliance shall not be abridged.

Section 26. KRS 224.868 is amended to read as follows:

(1) (a) For purposes of this section and KRS 224.876(6) [~~"~~]special wastes[~~"~~] *are* [~~mean~~] those [~~hazardous~~] wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and *waste water* [~~sewage~~] treatment facilities, cement kiln dust, gas and oil drilling muds and oil production brines. [~~and any~~] Other *wastes may be* [~~waste so~~] designated *special wastes* by the department.

(b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.866 but may be regulated by the department consistent with P.L. 94-580 and regulations issued pursuant thereto unless *the special waste received is listed or meets the criteria of a hazardous waste in regulations pursuant to KRS 224.864 (3).* [~~a specified site or facility poses or may pose a threat of imminent hazard to public health or substantial environmental impact in which case~~] *If the special waste is a hazardous waste as specified in regulations pursuant to KRS 224.864 (3),* the site or facility *shall* [~~may~~] be required by the department to comply with the provisions of KRS 224.866 *but shall not be subject to the requirements of KRS 224.855 (5).*

(c) Generators of special wastes shall register with the department and be subject to the provisions of KRS 224.866, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350.

(d) The department *may* [~~shall~~] promulgate special waste regulations that recognize the distinct differences between the category of special wastes and other hazardous and solid wastes due to the fact that special wastes have large volume but low hazardousness. The department's regulations for the generation, transport, record keeping, reporting, *treatment,* storage and disposal shall reflect those distinct differences. The department's regulations shall recognize and incorporate where appropriate and if consistent with the policies of KRS 224.864 to 224.874 any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government.

(2) Generators of waste oil shall be exempt from the provisions of KRS 224.864 and 224.866 *so long as waste oil is not specified as a hazardous waste in regulations pursuant to KRS 224.864 (3)* but may be regulated by the department consistent with P.L. 94-580 and regulations issued pursuant thereto.

Section 27. The following KRS sections are repealed:

109.051 Cities, counties, and districts may join together for solid waste disposal.
224.260 Household waste excepted.
224.996 Penalties.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Farrow filed a request to have his name added as a co-sponsor of **HB 541.**

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, February 25, 1982.

On the roll call the vote was yeas 56-Arnold, Barrows, Bennett, Boswell, Brinkley, Burch, Caldwell, Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Freibert, Fryman, Haering, Hancock, Harper, Head, Hines, R. Jones, T. Jones, Kenton, Kidd, Layman, Lile, List, Little, Long, McBee, Mobery, Nett, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, Worthington. Nays 14-Clarke, Cowan, Endicott, Ford, Guenthner, Handy, Holbrook, Holloway, LeMaster, Maggard, Mann, Meyer, Perkins, Schmidt.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 25, 1982

THIRTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Bob Donovan, First Baptist Church, Olive Hill, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Lefevers and Petty.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 24, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 177, SCR 37, HB 187** with Senate Amendment, and **HB 235.**

Introduction of Bills and Resolutions

HB 611, by Representatives Endicott and Deskins: AN ACT relating to Kentucky educational television.

HB 612, by Representatives Lundergan and Cyrus: AN ACT relating to unemployment insurance.

HB 613, by Representative Barrows: AN ACT relating to revenue bonds.

HB 614, by Representative Barrows: AN ACT relating to industrial revenue bonds.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 609.**

Business Organizations and Professions: **HB 602.**

Cities: **HB 597.**

Counties and Special Districts: **HB 598, HB 607.**

Education: **HB 610.**

Energy: **HB 599.**

Judiciary-Civil: **HB 600.**

State Government: **HB 601, HB 603, HB 604, HB 608, HR 44.**

Transportation: **HB 605, HB 606, SB 140.**

Report of Committees

The Committee on Rules reported **HB 313, HB 326, HB 178, HB 323, HB 324, HB 442, HR 41, SB 104,** and **SB 133** have been posted for passage in Orders of the Day, February 26, 1982.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 1, HB 440.**

Labor and Industry: **SB 54.**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 413,** with Committee Amendment attached thereto, and **SB 200** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 413, AN ACT relating to the state fair board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.090 is amended to read as follows:
(1) The state fair board shall be composed of *fourteen (14)* [~~twelve (12)~~] members, as follows:
(a) The governor;
(b) The commissioner;
(c) The dean of the college of agriculture of the University of Kentucky; [~~and~~]
(d) Nine (9) members appointed from the state at large by the governor with due consideration to geographical distribution throughout the state*; and*
(e) Two (2) members appointed from the state-at-large, one (1) appointment by the president pro tempore of the senate of the Kentucky general assembly and one (1) appointment by the speaker of the house of representatives of the Kentucky general assembly.
(2) The terms of the appointed members of the board shall be for four years, dating from the beginning of the terms for which they were respectively appointed, and until their successors are appointed and qualify. As the terms of each group of members expire, the governor shall appoint successors for terms of four years and until their successors are appointed and qualify. Beginning with the appointments to be made for the terms commencing December 12, 1948, one member of the first group of successor members to be appointed shall be appointed from a list of six nominees consisting of three names from each of the two political parties polling the largest number of votes in the state at general elections submitted to the governor by the governing body of the Kentucky livestock improvement association, and beginning December 12, 1972, one member of the first group shall be appointed from a list of six nominees so submitted by the governing body of the Kentucky state national farmers organization; one member of the second such group shall be appointed from a list of six nominees so submitted by the governing body of the American saddle horse breeders association; and one member of the third group shall be appointed from a list of six nominees so submitted by the governing body of the Kentucky farm bureau federation. It is the intention of the general assembly that the political affiliation of the appointed members shall be as evenly divided as possible between the two political parties polling the largest number of votes in the state at general elections.
(3) In case of a vacancy among the appointed members of the board, the unexpired term so occurring shall be filled by the governor, who shall appoint a person having the same required qualifications as the person who theretofore held such office.

Committee Amendment No. 1 to **HB 413** is as follows:

Amend printed copy of **HB 413,** page 1, line 16, by inserting the following after the ".": "*One (1) of these two (2) members shall be appointed from a list provided by the Kentucky association of fairs and horse shows of six (6) eligible members of the association.*"

SB 200, AN ACT relating to garden week in Kentucky.
WHEREAS, The Garden Club of Kentucky, Incorporated, promotes horticulture and the planting and cultivation of formal and informal flower gardens of artistic form and beauty; and
WHEREAS, The Garden Club of Kentucky, Incorporated, promotes the propagation of native flora in Kentucky and the planting of wildflowers for the preservation of natural beauty in our state; and
WHEREAS, The Garden Club of Kentucky, Incorporated, promotes the planting and cultivation of vegetable gardens for natural foods in our state; and

WHEREAS, The Garden Club of Kentucky, Incorporated, annually celebrates "Garden Week" during the first week of June;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The first week of June of each year is "Garden Week."

The Committee on Education reported **HB 377, HB 394, HB 396,** and **SB 4** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 377, AN ACT relating to the Kentucky higher education assistance authority and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The authority is authorized, but not by way of limitation, to enter into such agreements as may be necessary under the federal act to provide a program of auxiliary loans to assist students in accordance with Section 428B of the federal act as amended and this chapter. Whenever necessary to carry out the provisions of the federal act and this chapter the terms "student", "student borrower", and "qualified student" shall include a parent borrower.

Section 2. Whereas, there are anticipated changes to federally legislated student loan programs, which if enacted will eliminate the eligibility for many Kentucky residents, and whereas this legislation will provide an alternate means for these citizens of the Commonwealth to finance their education, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the governor.

HB 394, AN ACT relating to suspension of teaching contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.800 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Seniority" means length of service as a teacher in a school district beginning on the date the teacher is hired by the board of education and ending when the teacher's contract is terminated, except that nonrenewal of a limited contract pursuant to KRS 161.750 shall not cause seniority to end if the teacher is rehired at any time during the next school year. Suspension of a teaching contract under this section or leave granted by the board of education shall not terminate or cause a hiatus in seniority.

(b) "Certification" means the grade levels, subject areas and other positions to which a teacher may be legally assigned in the school district as evidenced by the certificate issued to the teacher pursuant to KRS 161.020 to 161.120 and regulations adopted thereunder.

(2) When by reason of decreased enrollment of pupils, [~~or by reason of suspension of schools or~~] territorial changes affecting the *school* district *or by reason of other causes not related to teacher performance*, a board of education decides that it will be necessary to reduce the number of teachers, it shall have full authority to make reasonable reduction. But, in making such reduction, the board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who shall[~~, within each teaching field affected,~~] give preference to teachers [~~on continuing contracts and to teachers~~] who have greater seniority *and who shall permit teachers affected to displace those with lesser seniority in any area of certification held by the teachers with greater seniority. Such recommendation procedure requires the contracts of teachers with least seniority to be suspended except in cases where a teacher does not hold certification permitting displacement of a teacher with lesser seniority.*

(3) (a) Teachers whose [~~continuing~~] contracts are suspended shall have the right of restoration *to the contract status held prior to suspension* [~~in continuing service status~~] in the order of *greatest* seniority

[~~of service in the district~~] if and when teaching positions become vacant or are created for which any of such teachers *hold certification at the time of such restoration* [~~are or become qualified~~].

(b) Notice of restoration of contract from suspended status shall be served upon the affected teacher by mail, with return receipt requested, at the teacher's address on file in the school district office. Verification of the teacher's mailing address for correctness and changes in address during the period of suspension shall be the responsibility of the teacher.

(c) The teacher shall have twenty (20) calendar days from receipt of the notice of restoration of contract status to notify the school district that he or she intends to return to the teaching position. If the teacher fails to so notify the school district within twenty (20) calendar days or if the teacher advises in writing that he or she will not return to the teaching position, the contract of the teacher shall terminate.

(4) In cases where the seniority of teachers is equal, the board of education shall adopt a tie breaking procedure which will give each teacher a position on the school district seniority list. The tie breaking procedure shall be objective and shall not be based on age, sex, race, residence, test scores, evaluations or the alphabet.

(5) A current seniority list shall be maintained by each school district. The seniority list is a public record according to the provisions of KRS 61.870 to 61.884, and shall not be excluded from inspection under KRS 61.878. The seniority list shall contain the name, areas of certification, and ranking by seniority for each teacher plus the same information for teachers whose contracts have been suspended.

Section 2. KRS 161.810 is amended to read as follows:

If an entire school district or [~~that~~] part of a school district [~~which comprises the territory in which a school or schools are situated~~] is *merged or consolidated with* [~~transferred to~~] any other district, [~~or if the schools in an independent or county school district are consolidated or centralized,~~] the teachers in such *merged or* consolidated *district shall hold the same contract status they held prior to the merger or consolidation. Teachers employed in the affected school districts immediately prior to merger or consolidation shall be employes of the school district formed by the consolidation or merger and the seniority lists of each former district shall be combined. If it is necessary to suspend teaching contracts in the newly formed school district, the procedures set forth in KRS 161.800 shall be followed* [~~or centralized schools employed on continuing contracts immediately prior to such transfer, consolidation, or centralization shall, subject to the limitations imposed by KRS 161.800, have continuing service status in the newly centralized or consolidated school, or in the district to which the territory is transferred~~].

HB 396, AN ACT relating to sick leave for public school employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state.

(b) *"Employe" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part time basis.*

(c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, parents and spouse's parents without reference to the location or residence of said relative.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill or that the teacher was absent for the purpose of attending to a member of his immediate family who was ill. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section. Any accumulated sick leave days, not to exceed thirty (30) days, credited to a teacher shall remain so credited in the event he transfers his place of employment from one school district to another within the state.

(4) Accumulated days of sick leave shall be granted to a teacher, if prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

(5) After July 1, 1981, a district board of education may compensate, at the time of retirement, *an employe or* a teacher for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the *employe's or* teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service. The accumulation of such days includes unused sick leave days held by the *employe or* teacher at the time of implementation of such a program.

SB 4, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

If a board of trustees or regents of a state supported institution of higher learning provides access to its campus or its student directory information to persons or groups which make students aware of occupational or educational options, the board shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

If a board of education of a public school district provides access to its campus or its student directory information to persons or groups which make students aware of occupational or educational options, the board shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

The Committee on Labor and Industry reported **HB 490** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 490, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.100 is amended to read as follows:

(1) In determining for any purpose under this chapter whether or not any work is suitable for a worker the secretary shall consider, among other pertinent conditions, the degree of risk involved to his health, safety and morals; his physical fitness and prior training; his experience and prior earnings; his length of unemployment and prospects for securing local work in his customary occupation; and the distance of the available work from his residence.

(2) For the purpose of this chapter, no work shall be suitable nor shall benefits be denied under this chapter to any otherwise eligible worker for refusing to accept new work or new conditions of work under one or more of the following:

(a) If the position offered is vacant due directly to a strike, lock-out or other labor dispute;

(b) *If acceptance of such work would displace another employe;*

(c) If the wages, hours, or other conditions of the work offered are substantially less favorable than those prevailing for similar work in the locality;

(d)[~~(c)~~] If, as a condition of being employed, the worker would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(e)[~~(d)~~] If the acceptance of such work would be prejudicial to the continuance of an established employer-employe relationship to which the worker is a party.

Section 2. KRS 341.370 is amended to read as follows:

(1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:

(a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or

(b) He has been discharged for misconduct or dishonesty connected with his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or

(c) He has left his most recent suitable work voluntarily without good cause attributable to the employment.

(2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for such additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.

(3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the department for human resources and the worker in writing of the alleged voluntary quitting or the discharge for misconduct; provided, however, that nothing in this subsection shall restrict the right of the secretary for human resources to disqualify a worker whose employer has refused or failed to notify the department for human resources of the alleged voluntary quitting or discharge for misconduct if such alleged voluntary quitting or discharge for misconduct is known to the secretary for human resources prior to the time benefits are paid to such worker; provided, further, that the exercise of such right by the secretary for human resources, in the absence of timely notice from the employer, shall not relieve the employer's reserve account of benefit charges under the provisions of subsection (3) of KRS 341.530.

(4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding such week of unemployment was seasonal, intermittent or temporary in nature, most recent work may be construed as that work last preceding such seasonal, intermittent or temporary work.

Section 2. KRS 341.370 is amended to read as follows:

(1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:

(a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or

(b) He has been discharged for misconduct or dishonesty connected with his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or

(c) He has left his most recent suitable work voluntarily without good cause attributable to the employment.

(2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for such additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.

(3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the department for human resources and the worker in writing of the alleged voluntary quitting or the discharge for misconduct; provided, however, that nothing in this subsection shall restrict the right of the secretary for human resources to disqualify a worker whose employer has refused or failed to notify the department for human resources of the alleged voluntary quitting or discharge for misconduct if such alleged voluntary quitting or discharge for misconduct is known to the secretary for human resources prior to the time benefits are paid to such worker; provided, further, that the exercise of such right by the secretary for human resources, in the absence of timely notice from the employer, shall not relieve the employer's reserve account of benefit charges under the provisions of subsection (3) of KRS 341.530.

(4) No worker shall be disqualified from receiving benefits because of any provision in a collective bargaining agreement or because of any past practice which provides procedures for maintaining a partial work force during a shutdown.

(5) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding such week of unemployment was seasonal, intermittent or temporary in nature, most recent work may be construed as that work last preceding such seasonal, intermittent or temporary work.

Calendar

HB 103, HB 228, HB 338, HB 393, HB 424, SB 224, HB 370, HB 398, HR 26, HB 321, HR 35, HR 37, HB 360, HB 520, HB 275, SB 44, HB 427, HB 105, HB 125, HB 148, HB 466, SR 10, HB 208,

and **SB 48** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

SB 47, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blandford moved the adoption of the Floor Amendment No. 3 to **SB 47.** Agreed.

Representative Deskins moved that **SB 47,** as amended, be passed.

On the roll call the vote was yeas 84-Arnold, Barrows, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Kenton, Kidd, Layman, LeMaster, Lile, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, White, Yates. Nays 1-Bennett.

SB 47, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 47,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 385, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Amendment No. 1 to **HB 385.** Agreed.

Representative LeMaster moved that **HB 385,** as amended, be passed.

On the roll call the vote was yeas 76-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Hancock, Handy, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Pearman, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Van Horn, White, Williams, Worthington, Yates. Nays 5-Allen, Haering, Perkins, Seum, Turner.

HB 385, was amended was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 385,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 5 taken from the Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **SB 5** be passed.

On the roll call the vote was yeas 85-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noland, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 1-Turner.

SB 5 was passed and the title agreed to.

Representative Arnold moved that the vote by which **SB 5** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 358, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ellington moved the adoption of the Committee Amendment No. 1 to **HB 358.** Agreed.

Representative Ellington moved that **HB 358,** as amended, be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 3-Dunn, T. Jones, Williams.

HB 358, as amended, was passed and the title agreed to.

Representative Ellington moved that the vote by which **HB 358,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 373, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Amendment No. 1 to **HB 373.** Agreed.

Representative Richards moved that **HB 373,** as amended, be passed.

On the roll call the vote was yeas 86-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Yates. Nays 0.

HB 373, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 373,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 439, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Amendment No. 1 to **HB 439.** Agreed.

Representative Moberly moved that **HB 439,** as amended, be passed.

On the roll call the vote was yeas 90-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 439, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 439,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 34 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Craddock moved the adoption of **HJR 34.**

On the roll call the vote was yeas 87-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kidd, Layman, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HJR 34 was adopted and the title agreed to.

Representative Craddock moved that the vote by which **HJR 34** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 25 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **SB 25** be passed.

On the roll call the vote was yeas 85-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, Richards, B. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-T. Jones, Mann.

SB 25 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 25** was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 15 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Tobin moved that **SJR 15** be adopted.

On the roll call the vote was yeas 89-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Layman, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SJR 15 was adopted and the title agreed to.

Representative Tobin moved that the vote by which **SJR 15** was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

Representative Donnermeyer moved that **HB 160** be taken from the Clerk's desk and placed in Orders of the Day for February 26, 1982. Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, **HR 26, HCR 39, HR 40, HB 580, HB 583, HB 610, HR 43;** Representative Boswell, **HB 413;** Representative Bruce, **HB 610;** Representative Cline, **HB 106, HB 379;** Representative Gray, **HB 106;** Representative Guenthner, **HB 535;** Representative Holloway, **HB 610;** Representative Kenton, **HB 106;** Representative Kidd, **HB 609;** Representative Meyer, **HB 303;** Representative Moore, **HB 485, HB 543, HB 544, HB 557, HB 578, HB 583, HB 594, HB 596;** Representative F. Smith, **HB 106;** Representative Turner, **HB 583.**

Representative F. Smith moved that **HB 13** be taken from the Clerk's desk and placed in Orders of the Day for Friday, February 26, 1982. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 615, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 616, by Representatives Todd, Boswell, and Ellington: AN ACT relating to motor vehicle registration.

HB 617, by Representatives Barrows, Meyer, Freibert, Mann, Caldwell, Thomason, Heleringer, Kenton, Johnson, and Moberly: AN ACT relating to wages and hours.

HB 618, by Representatives Moberly, Noe, Cowan, and Nett: AN ACT relating to psychologists and psychology.

HB 619, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 620, by Representatives Holloway, O'Brien, Burch, and Clark: AN ACT relating to local government.

HB 621, by Representative Farrow: AN ACT relating to county police.

HB 622, by Representatives Richards, Curd, Nett, Craddock, Blevins, B. Smith, Clark, and Moberly: AN ACT relating to financial management of state supported institutions of higher education.

HB 623, by Representative Farrow: AN ACT relating to sureties.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 500, HB 498, HB 346, HB 456, HB 572.**

Business Organizations and Professions: **HB 602, HB 562, HB 578.**

Transportation: **HB 92, HB 320, HB 472, HB 501, SB 2, SB 20.**

Banking and Insurance: **SB 207.**

Report of Committees

The Committee on Labor and Industry reported **HB 207,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 207, AN ACT relating to the sale and merchantability of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Dealer" means any person who is a new motor vehicle dealer franchised by a manufacturer and licensed under KRS Chapter 190.

(2) "Manufacturer" means any person, resident or non-resident, engaged in the business of manufacturing or assembling motor vehicles.

(3) "Motor vehicle" means a new automobile or truck licensed to bear six thousand (6,000) pounds or less which has never been the subject of a first sale for use.

(4) "Price paid by the owner" includes the original purchase price of the motor vehicle, including the value of any traded motor vehicle involved in the transaction.

(5) A "major correctable defect" is one which would cost the vehicle owner more than five percent (5%) of the price paid by the owner to repair if he were paying the cost of the repair, and which when repaired in a normal fashion would not leave any permanent effects on the performance or enjoyment of the motor vehicle.

(6) A "major non-correctable defect" is one which would cost the vehicle owner more than five percent (5%) of the price paid by the owner to repair if he were paying the cost of the repair, and which, when repaired in the normal fashion, would substantially impair the performance or enjoyment of the motor vehicle.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 355.2-316 to the contrary, no manufacturer or dealer shall disclaim, exclude, or impair the warranty of merchantability of a new motor vehicle pursuant to KRS 355.2-314.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any motor vehicle that, within the first twelve (12) months or first twelve thousand (12,000) miles, whichever occurs first, has a major non-correctable defect, requires the repair of a given major

correctable defect three (3) times, or is out of service by reason of repair at a franchised dealer for a cumulative total of more than forty (40) days since delivery of the motor vehicle, shall be presumed to be non-merchantable.

(2) In computing the forty (40) days pursuant to subsection (1) of this section, a day shall mean a calendar day or any portion thereof.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The presumption of non-merchantability of a motor vehicle set out in Section 3 of this Act may be rebutted by a showing that the condition of the motor vehicle is due to hard usage by the owner, by an accident, or some other condition outside of the control of the manufacturer or the dealer.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A consumer shall give the manufacturer notice by certified mail, with return receipt requested, with a copy to the dealer in the Commonwealth from whom he originally purchased the vehicle as soon as practicable, a list of the conditions that render the motor vehicle non-merchantable under Section 3 of this Act and of his decision to exercise his rights under Section 9 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Within twenty (20) days after the receipt of a notice under Section 5 of this Act, the manufacturer or his representative shall either examine the motor vehicle within twenty (20) miles of the owner's home or pay for transporting the motor vehicle to a place designated by the manufacturer for examination and shall notify the owner in writing that the manufacturer either:

(1) Finds no defect;

(2) Finds a defect but believes it is due to abuse or wreck;

(3) Finds a defect but can and will put the motor vehicle in a merchantable condition and will agree to a four (4) month, or four thousand (4,000) miles extension of the owner's right under this Act, or;

(4) Accepts the owner's determination that it is non-merchantable.

SECTION 7. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

If the manufacturer notifies the owner that the motor vehicle can be put in a merchantable condition pursuant to Section 6 of this Act, the owner must make the vehicle available within three (3) days after such notification for such repair before any rights vest under this Act; but if the condition that rendered the vehicle non-merchantable continues to exist after repair, there is created an absolute presumption of non-merchantability.

SECTION 8. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

If any examination or repair, for mechanical malfunction, by a manufacturer, his representative or a dealer pursuant to this Act or within the first twelve (12) months or twelve thousand (12,000) miles results in a motor vehicle being kept by such manufacturer, his representative, or a dealer for more than ten (10) days with the subsequent loss of use by the owner, the manufacturer shall on the eleventh day furnish a motor vehicle without cost to the owner for suitable use during this intervening time or compensate the owner for renting such a vehicle.

SECTION 9. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) In the case of a non-merchantable motor vehicle, the manufacturer shall, at his option, return the price paid by the seller less any depreciation incurred by abuse or accident, or shall supply a new motor vehicle of the same model at the owner's residence which shall be warranted by the manufacturer as though originally purchased.

(2) In the case of a motor vehicle deemed non-merchantable where the manufacturer returns the purchase price or furnishes a new motor vehicle pursuant to subsection (1) of this section the consumer shall surrender and transfer to the manufacturer the originally purchased motor vehicle at the time the new vehicle is delivered or the purchase price refunded and the consumer shall pay to the manufacturer or have deducted from the refund the sum of .04 cents per mile the motor vehicle has been driven; provided, however, that such sum shall not be less than fifty dollars ($50). For the basis of computing the amount to be deducted from the refund or paid to the manufacturer the mileage appearing on the motor vehicle's odometer shall be prima facie evidence of the number of miles the vehicle has been driven.

(3) No usage tax pursuant to KRS 138.460 or state sales tax shall be charged when motor vehicles are transferred pursuant to subsection (1) of this section; provided, however, that to avoid such tax the consumer shall be required to provide a notarized statement certifying the transaction on a form which shall be prescribed by the commissioner of revenue and the manufacturer or his agent must file a notarized statement certifying the above fact to the commissioner of revenue.

SECTION 10. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any case in which a consumer timely notifies the manufacturer of the non-merchantability of the motor vehicle under Section 3 of this Act and the manufacturer wrongfully refuses to replace the motor vehicle under Section 9 of this Act, the owner may bring an action to recover the price paid by the owner less any depreciation incurred by abuse or accident, and shall be entitled to his reasonable attorney fees if he prevails in the action.

SECTION 11. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) No manufacturer shall exclude any warranty issued elsewhere in the sale of its motor vehicles in Kentucky in retaliation for the provisions of this bill.

(2) The cost of any replacement or repair necessitated by this Act shall be borne by the manufacturer and shall not be directly or indirectly passed on to the dealer.

(3) Nothing in this section shall prevent the manufacturer from increasing the price of its motor vehicles in Kentucky by the amount actually necessary to meet the costs incurred by this Act; provided, however, that the manufacturer shall be required to furnish the attorney general's office with verified actuarial data supporting any such increase before it is put into effect.

SECTION 12. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any dealer or manufacturer making a repair on a new motor vehicle must state in writing to the consumer at the time of the delivery of the motor vehicle after repair the nature of any defect repaired by such dealer or manufacturer. The statement must contain sufficient detail so that a determination can be made as to whether the consumer may have a right that is accruing pursuant to this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Each purchaser of a new motor vehicle shall be furnished by the dealer selling the vehicle with a listing of his rights under this Act and the address of the manufacturer or manufacturer's regional director.

SECTION 14. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any dealer who fails to provide a statement under Section 12 of this Act or a notice under Section 13 of this Act shall be liable for a civil penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the attorney general.

(2) Any dealer or manufacturer who falsifies a statement under Section 12 of this Act shall be liable for a civil penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action of the attorney general.

Committee Substitute to **HB 207** is as follows:

HB 207, AN ACT relating to the sale and merchantability of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in this section unless the context requires otherwise:

(1) "Buyer" means any resident person who buys or contracts to buy a new motor vehicle in the Commonwealth of Kentucky.

(2) "Manufacturer" means any person, resident or nonresident, who manufactures or assembles new motor vehicles which are sold in the Commonwealth of Kentucky.

(3) "Motor vehicle" means any two-axle, motor-driven vehicle with at least four wheels which is required to be registered or licensed in the Commonwealth of Kentucky before being operated upon the highways and is used or bought for use primarily for personal, family, or household purposes.

(4) "New motor vehicle" means a motor vehicle which, after its final assembly, is either in the possession of the manufacturer, factory branch or distributor, or an authorized dealer operating under a franchise with the manufacturer, factory branch or distributor, and the legal or equitable title to which has never been the subject of a sale or transfer other than to another dealer operating under a similar franchise with the same manufacturer, factory branch or distributor.

(5) "System" means an informal resolution dispute procedure adopted by each manufacturer to resolve questions of law and fact relating to disputes between the buyer and the manufacturer arising within

the first two (2) years or twenty-five thousand (25,000) miles of the buyer's ownership, whichever occurs first, including but not limited to unsatisfactory warranty repairs of the buyer's motor vehicle, mechanical malfunctions of the buyer's motor vehicle, or other problems relating to the performance of the buyer's motor vehicle.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Effective January 1, 1983, each motor vehicle manufacturer shall offer to the buyer a comprehensive informal dispute resolution system. By transacting business in the Commonwealth of Kentucky, each manufacturer is deemed to have voluntarily consented to participate in the system. Each system shall operate pursuant to written rules and procedures which:

(a) Ensure that the system is impartial, accessible to the buyer, and expeditious, and shall operate at no cost to the buyer;

(b) Provide that if the buyer elects to submit the dispute to the system, the manufacturer shall not refuse to submit the dispute to the system as long as the subject of the dispute occurred during the first two (2) years or twenty-five thousand (25,000) miles, whichever occurs first, of the buyer's ownership of the motor vehicle involved in the dispute;

(c) Provide that the system shall provide for an oral hearing, unless the buyer agrees in writing that the system shall render a decision based solely on documents submitted to it;

(d) Shall include, but is not limited to, procedures for informing the buyer of the existence of the system, preparing the agreement between the buyer and the manufacturer whereby the dispute may be submitted to the system, selecting the members of the decision-making panel, notifying the parties of the complaint, investigating the complaint, providing for hearings, rendering a fair and expeditious decision, and informing parties of the decision.

(2) The decision of the system shall be legally binding on the parties. The written agreement between the buyer and the manufacturer whereby the dispute is submitted to the system shall include in conspicuous, bold-faced type the following statement:

"YOU SHOULD REMEMBER THAT BY ENTERING INTO THIS AGREEMENT YOU ARE DECIDING TO USE THIS DISPUTE RESOLUTION SYSTEM TO SETTLE YOUR DISPUTE INSTEAD OF GOING TO COURT. AFTER A DECISION BY AN ARBITRATOR, NORMALLY A COURT WILL REFUSE TO HEAR THE FACTS IN A CASE IN ALL BUT THE MOST UNUSUAL SITUATIONS. YOUR SIGNATURE IS REQUIRED IMMEDIATELY BELOW TO INDICATE THAT YOU HAVE READ THIS DISCLOSURE.

"

____
SIGNATURE OF BUYER

(3) Before a dispute may be submitted to the system, the buyer shall sign the disclosure statement required by subsection (2) above.

(4) Each manufacturer shall take steps reasonably calculated to make the buyer aware of the existence of the system at the time the dispute arises.

(5) Each manufacturer shall take all steps necessary to ensure that the system is sufficiently insulated from the manufacturer so that the decisions of the system are not influenced by the manufacturer. The system's decision-making panel shall be composed of members at least fifty-one percent (51%) of whom have no involvement in the manufacture, distribution or sale of motor vehicles. No member deciding a dispute shall be a party to the dispute; nor shall any member deciding a dispute be an employe or agent of a party to the dispute, unless solely for the purpose of impartially deciding disputes.

(6) Nothing herein shall prohibit the manufacturer from participating in a system sponsored or administered by an impartial third party having no direct involvement in the manufacture, distribution, sale, or service of motor vehicles.

(7) Each dispute resolution system shall provide to the office of the attorney general, upon request, the name and address of each buyer whose complaint is resolved through its system. The attorney general shall have the authority to monitor each dispute resolution system as well as review the records on each complaint, upon request. An annual report shall be prepared and published by the office of the attorney general evaluating the performance, effectiveness, and benefits of the system, and shall include in this report recommendations for continuing, modifying, or terminating the requirement of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Noncompliance with this Act by a manufacturer shall be unlawful. The attorney general shall have authority to enforce this Act in accordance with powers provided by KRS 367.190 and 367.230-.300, pertaining to acts declared unlawful by KRS 367.170.

Section 4. KRS 138.460 is amended to read as follows:

(1) On and after July 1, 1972 a tax levied upon its retail price at the rate of five percent shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time

and in the manner provided in this section. In the case of trucks of gross weight in excess of ten thousand pounds (10,000 lbs.) the tax shall be levied upon ninety percent of the retail price of the vehicle.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state,

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the department of revenue on forms provided by the department and on such forms as the department may prescribe. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to two and one-half percent of the tax collected and accounted for.

(4) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration and license fees.

(5) When a resident of this state offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and ownership mailed to the department.

(7) Notwithstanding the provisions of KRS 138.450(3), in no case shall the tax be less than five dollars ($5.00) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where such vehicle is exempt from tax under KRS 138.470.

(8) Where a new motor vehicle is sold by a dealer [~~in this state~~] and the original purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a new vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the department of revenue as a result of the registration of the returned vehicle. The registration of the returned vehicle shall be cancelled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the department of revenue as a result of the first registration. No person shall be entitled to a refund unless he shall have filed with the department of revenue an affidavit from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

The Committee on State Government reported **HCR 2** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 2, A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States for the purpose of requesting appropriate action by the Congress, either acting by consent of two-thirds of both Houses or, upon the application of the legislatures of two-thirds of the several states, calling a constitutional convention to propose an amendment to the Federal Constitution to require, with certain exceptions, that the total of all federal appropriations may not exceed the total of all estimated federal revenues in any fiscal year.

WHEREAS, with each passing year this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceed hundreds of billions of dollars; and

WHEREAS, inflation is the greatest threat which faces our nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

WHEREAS, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments. We believe such action vital;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That this body proposes to the Congress of the United States that procedures be instituted in the Congress to add a new Article to the Constitution of the United States, and that this body requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring, in the absence of a national emergency, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

Section 2. That, alternatively, this body makes application and requests that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

Section 3. That this body also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution; or requiring the Congress to call a constitutional convention for proposing such an amendment to the Federal Constitution.

Section 4. That this application by this body constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V; but if the United States Congress proposes an amendment to the United States Constitution identical in subject matter to that contained in this concurrent resolution, then this petition for a constitutional convention shall no longer be of any force or effect.

Section 5. That this application and request be deemed null and void, rescinded and of no effect in the event that such convention not be limited to such specific and exclusive purpose.

Section 6. That copies of this Resolution be sent by the Secretary of State to the members of Congress from Kentucky.

Section 7. That the Secretary of State of this state is directed to send copies of this Joint Resolution to the Secretary of State and presiding officers of both Houses of the Legislature of each of the other states in the Union, the Clerk of the United States House of Representatives, Washington, D. C. and the Secretary of the United States Senate, Washington, D. C.

Announcements

The following Floor Amendments were filed to Bills and Resolutions.

Floor Amendment No. 2 to Committee Substitute to **HB 13,** by Representative F. Smith:

Amend printed copy of Committee Substitute to **HB 13,** page 1, after line 10, by adding the following new language:

"*'Dealer' shall also include but not be limited to all people who explicitly advertise to buy or sell precious metals. "Dealer" under this bill shall not include occasional transactions by individuals, non-profit or charitable organizations who would deal with precious metals on a non-permanent basis.*"

Floor Amendment No. 3 to Committee Substitute to **HB 13,** by Representative Patrick:

Amend printed copy of Committee Substitute to **HB 13,** page 1, line 10, after the word "*pawnbrokers.*" by inserting the following: "*Dealers who meet the following criteria shall be exempted from provisions of this Act:*

(a) Dealers who are required to secure and hold any other license to conduct business.

(b) Dealers whose gross annual sales or purchases are less than seven thousand dollars ($7,000).

(c) All charitable organizations.

(d) Any business which pays any business license fee or tax or any other fee required as a condition to doing business."

Floor Amendment No. 3 to Committee Substitute to **HB 97,** by Representative Morris:

Amend printed copy of Committee Substitute to **HB 97,** on page 4, line 9, by deleting section 3 in its entirety.

Floor Amendment No. 2 to **HB 160,** by Representative Long:

Amend printed copy of **HB 160,** on page 1, line 9, by adding the following: "*Each joint owner of property shall be counted as a separate freeholder.*"

and on page 1, line 12, by inserting after "*consult*" the following: "*with the landowners whose names appear*", and by placing brackets "[]" around "the names", and by deleting "*appearing*";

and on page 11, line 26, by inserting after "*consult*" the following: "*with the landowners whose names appear*", and by placing brackets "[]" around "the names", and by deleting "*appearing*".

Floor Amendment No. 4 to **HB 280,** by Representative Burnette:

Amend printed copy of **HB 280,** page 2, line 24, by inserting after the word "*another*" the following: "*who grows and cultivates ginseng for a cash, agricultural product*"

and on page 3, following line 9, by inserting the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

"*Each digger, buyer, dealer, or grower of ginseng shall pay an annual license fee of ten dollars ($10) to the department of agriculture for the administration of this Act.*"

and on page 3, line 10, by renumbering "SECTION 5" to SECTION 6"

and on page 3, line 20, by renumbering "Section 6" to "Section 7"

Floor Amendment No. 5 to **HB 280,** by Representative Burnette:

Amend printed copy of **HB 280,** page 3, lines 12-19, by deleting said lines in their entirety and inserting in lieu thereof the following:

"*Penalties for the violation of this Act shall be as follows:*

(1) Any person who violates any license requirement of this Act or regulations issued by the department to conform with this Act shall be fined the amount of the license fee and shall pay all court costs arising from the violation.

(2) Any person who violates Section 3 of this Act shall make payment to the owner for all damages done to the ginseng gardens, and in the event the ginseng dug and returned to the grower shall be a less amount, or damaged, rotten, improperly dried, or in a non-marketable state, compensation shall be paid to the grower by the violator in such amount as determined by fair market value for good cultivated root.

(3) Any person who fails to maintain and report accurate and complete records as required by this Act or regulations issued by the department to conform with this Act shall, in addition to being fined five hundred dollars ($500.00), have his license revoked for that calendar year and it shall be at the discretion of the department as to whether a future license will be issued.

(4) Any person who violates any section of this Act governing or related to the seasons, digging, buying, selling, processing, exporting, or possession of wild or cultivated ginseng shall be fined one hundred dollars ($100.00) for the first offense and five hundred dollars ($500.00) for each subsequent offense, plus the revocation of license for a period of two (2) years."

Floor Amendment No. 1 to Committee Substitute to **HB 301,** by Representative Morris:

Amend printed copy of Committee Substitute to **HB 301,** on page 4, line 22, after the word "*trailer.*" by adding the following: "*No motor vehicle dealer shall be responsible for the payment of a tax lien on a motor vehicle which is received as trade-in or otherwise obtained by the dealer.*"

and on page 50, line 1, after the "*(1)*" by inserting the following language: "*Nothing in*"

Floor Amendment No. 2 to Committee Substitute to **HB 342,** by Representative Clarke:

Amend printed copy of Committee Substitute for **HB 342,** page 1, line 8, by adding after the subsection number "(3)" the following:

For tax years beginning on or after January 1, 1982, except as otherwise provided in this Act,

after line 11, by adding the following:

but excluding the provisions of section 168 (f)(8) of the Internal Revenue Code,

Page 5, lines 22 through 26, and on page 6, lines 1 and 2, by deleting paragraph (13)(b) in its entirety and substituting in its place the following:

(b) 1. The total of the deductions allowed under Section 168 of the Internal Revenue Code shall be determined by dividing the total by a factor of one and four-tenths (1.4). The taxpayer's basis in any individual property shall be the same as the basis in such property for federal income tax purposes.

2. Effective for tax years beginning on and after July 1, 1984, the total of the deductions allowed for any tax year under Section 168 of the Internal Revenue Code shall be the total allowed for Kentucky tax purposes.

3. Effective for the tax year beginning on or after July 1, 1984, and for the nine successive tax years thereafter, corporations which computed depreciation deductions under the provisions of paragraph (b)1. of this subsection shall be allowed to deduct from gross income one-tenth (1/10) of the total difference between the amount of depreciation calculated under Section 168 of the Internal Revenue Code and the amount of depreciation determined under the provisions of paragraph (b)1. of this subsection.

4. The provisions of KRS Chapter 45 notwithstanding, the department of revenue shall compute and transmit to the Governor and the Legislative Research Commission, on or before December 1, 1983, an estimate of corporate income tax revenues which would accrue to the state's general fund for each of the fiscal years 1984-85 and 1985-86 under the following premises:

a. that the provisions of paragraphs (b)2. and (b)3. of this subsection are in effect for those fiscal years;

b. that the provisions of paragraph (b)2. of this subsection are repealed effective for tax year beginning on or after July 1, 1984;

c. that the provisions of paragraph (b)3. of this subsection are repealed effective for tax years beginning on or after July 1, 1984; and

d. that the provisions of paragraphs (b)2. and (b)3. of this subsection are repealed effective for tax years beginning on or after July 1, 1984.

Floor Amendment No. 1 to **HB 463,** by Representative Boswell:

Amend printed copy of **HB 463,** on page 3, line 1, after the word "issued", by inserting the following language: "*a space for*"

Floor Amendment No. 2 to **SB 53,** by Representative Clapp:

Amend printed copy of **SB 53,** page 1, after line 18,

SECTION 2. KRS 250.040 IS REPEALED AND REENACTED AND AMENDED TO READ AS FOLLOWS:

(1) Except as provided in subsections (2) and (3) of this section, every lot of agricultural seeds, when in bulk or a container of one (1) pound or more, or in the case of tobacco seed of one-twelfth (1/12) ounce or more, shall have affixed, in a conspicuous place on the exterior of the container of the seeds, a label in plainly written or printed English, in a manner prescribed by the director, stating:

(a) The name of the kind and variety for each agricultural seed component present in excess of five percent (5%) of the whole and the percentage by weight of each. Provided, that the director may by regulation omit the requirement for variety designation for those kinds of seeds not commonly sold by variety name, and if the person labeling the seed does not know and is unable to determine the variety, the term "Variety Unknown" may be used in lieu of the variety designation. Hybrids shall be labeled as hybrids;

(b) Lot number or other lot identification;

(c) Percentage by weight of all weed seeds;

(d) Percentage by weight of inert matter;

(e) Percentage by weight of agricultural seeds other than those required to be on the label;

(f) The name and rate of occurrence per pound of noxious weed seed present; and

(g) For each named agricultural seed;

1. Percentage of germination, exclusive of hard seed;

2. Percentage of hard seeds, if present;

3. Origin, state or foreign country, if known. If the origin is unknown, this fact shall be stated;

4. The calendar month and year in which the germination test was completed; and

5. Name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within this state.

(2) The seal of certification of the Kentucky Seed Improvement Association approved by the director of the Kentucky agricultural experiment station shall be accepted in lieu of the written or printed tag or label required herein.

(3) *It shall be unlawful to sell or offer for sale in Kentucky tobacco seed for seeding purposes unless the seed has been certified by the Kentucky Seed Improvement Association or by the agency responsible for certification in the state, province, or country where the seed originated, and then only when the standards there are in no way lower than those of the Kentucky Seed Improvement Association, except as provided in KRS 250.030.* [~~A gummed label approved by the director of the Kentucky agricultural experiment station shall be accepted on packages of uncertified tobacco seed in lieu of the written or printed tag or label required herein. Each package of uncertified tobacco seed shall have clearly written or printed on the container the name and address of the seedsman, kind and variety of seed, approximate percentage of pure seed, approximate percentage of germination and the month and year the germination test was made. This test shall be made during the nine (9) month period just prior to the date the seed is offered for sale.~~

~~(4) It shall be unlawful to sell or offer for sale tobacco seed that have been grown in one year, and commingled with those grown in any other year.~~]

SECTION 3. KRS 250.070 IS REPEALED AND REENACTED AND AMENDED TO READ AS FOLLOWS:

(1) The labels specified in KRS 250.040 shall be purchased from the director or his agent. Prices of the labels shall be twelve cents (12¢) each for one hundred (100) pound labels, ten cents (10¢) each for seventy-five (75) pound labels, eight cents (8¢) each for fifty (50) pound labels and four cents (4¢) each for twenty-five (25) pound labels for alfalfa, sweet clover and all grass and clover seeds or mixtures of any of these, and eight cents (8¢) each for one hundred (100) pound labels, six cents (6¢) each for seventy-five (75) pound labels, four cents (4¢) each for fifty (50) pound labels, and two cents (2¢) each for twenty-five

(25) pound labels, for all other agricultural seeds except tobacco. [~~The gummed labels for uncertified tobacco seed shall be furnished for two cents (2¢) each.~~]

(2) The director may permit a seedsman, labeler of seed, to provide his own labels in lieu of labels furnished by the director and pay a quarterly fee equivalent to that which would have been paid had the director furnished labels. The procedure for obtaining a permit and the responsibilities of the permit holders shall be established by regulation promulgated by the director. Permits shall be revoked if the director determines that the permit holder is not complying with the provisions of KRS 250.020 to 250.190.

SECTION 4. KRS 250.040 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as provided in subsections (2) and (3) of this section, every lot of agricultural seeds, when in bulk or a container of one (1) pound or more, or in the case of tobacco seed of one-twelfth (1/12) ounce or more, shall have affixed, in a conspicuous place on the exterior of the container of the seeds, a label in plainly written or printed English, in a manner prescribed by the director, stating:

(a) The name of the kind and variety for each agricultural seed component present in excess of five percent (5%) of the whole and the percentage by weight of each. Provided, that the director may by regulation omit the requirement for variety designation for those kinds of seeds not commonly sold by variety name, and if the person labeling the seed does not know and is unable to determine the variety, the term "Variety Unknown" may be used in lieu of the variety designation. Hybrids shall be labeled as hybrids;

(b) Lot number or other lot identification;

(c) Percentage by weight of all weed seeds;

(d) Percentage by weight of inert matter;

(e) Percentage by weight of agricultural seeds other than those required to be on the label;

(f) The name and rate of occurrence per pound of noxious weed seed present; and

(g) For each named agricultural seed;

1. Percentage of germination, exclusive of hard seed;

2. Percentage of hard seeds, if present;

3. Origin, state or foreign country, if known. If the origin is unknown, this fact shall be stated;

4. The calendar month and year in which the germination test was completed; and

5. Name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within this state.

(2) The seal of certification of the Kentucky Seed Improvement Association approved by the director of the Kentucky agricultural experiment station shall be accepted in lieu of the written or printed tag or label required herein.

(3) A gummed label approved by the director of the Kentucky agricultural experiment station shall be accepted on packages of uncertified tobacco seed in lieu of the written or printed tag or label required herein. Each package of uncertified tobacco seed shall have clearly written or printed on the container the name and address of the seedsman, kind and variety of seed, approximate percentage of pure seed, approximate percentage of germination and the month and year the germination test was made. This test shall be made during the nine (9) month period just prior to the date the seed is offered for sale.

(4) It shall be unlawful to sell or offer for sale tobacco seed that have been grown in one year, and commingled with those grown in any other year.

SECTION 5. KRS 250.070 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The labels specified in KRS 250.040 shall be purchased from the director or his agent. Prices of the labels shall be twelve cents (12¢) each for one hundred (100) pound labels, ten cents (10¢) each for seventy-five (75) pound labels, eight cents (8¢) each for fifty (50) pound labels and four cents (4¢) each for twenty-five (25) pound labels for alfalfa, sweet clover and all grass and clover seeds or mixtures of any of these, and eight cents (8¢) each for one hundred (100) pound labels, six cents (6¢) each for seventy-five (75) pound labels, four cents (4¢) each for fifty (50) pound labels, and two cents (2¢) each for twenty-five (25) pound labels, for all other agricultural seeds except tobacco. The gummed labels for uncertified tobacco seed shall be furnished for two cents (2¢) each.

(2) The director may permit a seedsman, labeler of seed, to provide his own labels in lieu of labels furnished by the director and pay a quarterly fee equivalent to that which would have been paid had the director furnished labels. The procedure for obtaining a permit and the responsibilities of the permit holders shall be established by regulation promulgated by the director. Permits shall be revoked if the director determines that the permit holder is not complying with the provisions of KRS 250.020 to 250.190.

On page 1, line 19 by changing "Section 2" to "Section 6"; and

On page 3, following line 20 by inserting the following:

Section 7. 1980 Acts, Chapter 342, is repealed.

Section 8. Sections 2 and 3 of this Act shall become effective on July 15, 1984.

Section 9. Whereas, 1980 Acts, Chapter 342 becomes effective on July 1, 1982, an emergency is declared to exist and Sections 4, 5, and 7 of this Act shall become effective on July 1, 1982.

Floor Title Amendment No. 1 to **SB 133,** by Representative List:

Amend printed copy of **SB 133,** Title Amendment, delete in the title the words "urban-county governments"; and inserting therein the words "*local governments*"

The following meetings were announced.

Committee on Rules: On adjournment, Room 316.

Majority Caucus: Fifteen minutes after adjournment, Room 109.

Counties and Special Districts: Special Meeting, Friday, 8:00 a.m.

Adjournment

Representative LeMaster moved that the House adjourn until 10:00 a.m., Friday, February 26, 1982.

On the roll call the vote was yeas 59-Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Boswell, Bronger, Bruce, Burch, Caldwell, Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Harper, Head, Hines, Kenton, Kidd, Layman, LeMaster, Little, Long, McBee, Moberly, Morris, Nett, Noe, Noland, Pearman, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, Stumbo, Thomason, Todd, Turner, Van Horn, White, Yates. Nays 12-Deskins, Endicott, Handy, Lile, Maggard, Meyer, Moore, O'Brien, Overstreet, Perkins, Schmidt, Stone.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 26, 1982

THIRTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Dennis W. Jones, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Lefevers and Petty.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 25, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 624, by Representative Morris: AN ACT relating to sales and use tax.

HB 625, by Representatives White and Head: AN ACT relating to surface mining.

HB 626, by Representative Farrow: AN ACT relating to district courts.

HB 627, by Representative Donnermeyer: AN ACT relating to banks.

HB 628, by Representative Donnermeyer: AN ACT relating to nonprofit hospital, medical-surgical, dental and health service corporation.

HB 629, by Representatives Arnold, Worthington, Crupper, and P. Richardson: AN ACT relating to education.

HB 630, by Represenratives Arnold and Crupper: AN ACT relating to the school term.

HB 631, by Representative Arnold: AN ACT relating to article 9 of the uniform commercial code.

HB 632, by Representative Tobin: AN ACT relating to local governments.

HB 633, by Representative Barrows: AN ACT relating to periodic review of children in foster care.

HB 634, by Representatives Bennett and Van Horn: AN ACT relating to business closings, relocations and reduction of operations.

HB 635, by Representatives Hancock, Long, Patrick, Noe, Caldwell, Bruce, Barrows, Kenton, Freibert, and Burnette: AN ACT relating to the department of transportation.

HR 45, by Representatives Kidd and Hines: A RESOLUTION recognizing National Black History Month and adjourning in commemoration thereof.

HCR 46, by Representatives Arnold and B. Richardson: A CONCURRENT RESOLUTION directing the formation of a special jail study committee to study the Commonwealth's county jail system and to make recommendations for legislative action..

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 613, HB 614, HB 615, HB 619.**

Cities: **HB 620.**

Counties and Special Districts: **HB 621.**

Education: **HB 622.**

Health and Welfare: **HB 618.**

Judiciary-Civil: **HB 623.**

Labor and Industry: **HB 612, HB 617.**

Natural Resources and Environment: **HB 611.**

State Government: **SB 177, SR 37.**

Transportation: **HB 616.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: **SB 190, HB 541.**

Judiciary-Civil: **HB 458, HB 471, HB 480, HB 495, SB 35.**

Cities: **HB 311, HB 483, HB 429, HB 538, HB 585, HB 589, HB 565.**

The Clerk announced the following Bills have been withdrawn from Committee consideration:

Cities: **HB 365, HB 297, HB 233.**

Report of Committees

The Committee on Rules reported **HB 116, HB 301, HB 312, HB 463, HB 486, HB 105, HB 148, HB 228, HB 424, HR 26, HR 37, SB 141, SB 48** and **SB 224** have been posted for passage in Orders of the Day, March 1, 1982.

The committee on Rules reported the following Bills and Resolutions have been recommitted:

Appropriations and Revenue: **HB 484, HB 338.**

Judiciary-Civil: **HB 370, HB 520.**

The Committee on Judiciary-Criminal reported **HB 149,** with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 149, AN ACT relating to the compensation of crime victims.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

(1) There is established in the state treasury the "crime victims' compensation fund," hereinafter referred to as the "fund," to be administered by the crime victims' compensation board. In all cases in which

defendants are given a sentence of imprisonment or are placed under the supervision of the state parole board or have been placed on probation or other form of conditional release, after an adjudication of guilty or after imposition of sentence, whether upon a plea of guilty or after trial, the court shall enter judgment of twenty-five dollars ($25.00) against the defendant in favor of the state. Wilful failure of the defendant to satisfy the judgment shall be cause for revocation of probation, parole or conditional release. The clerk of the court shall forward in the same manner that he forwards fines and forfeitures, the sum of twenty-five dollars ($25.00) to the state treasurer, to be deposited in the fund. Nothing herein shall be construed to limit the power of the court to order additional forms of restitution including public or charitable work or reparation to the victim, to the fund, or otherwise as authorized by law.

(2) The fund shall consist of monies from the following: appropriations by the general assembly; the federal government; payments by the defendant pursuant to subsection (1) of this section and any other public or private source. Any unexpended balance remaining in the fund at the end of the biennium shall not lapse and be transferred to the general fund, but shall remain in the crime victims' compensation fund. In the event there are insufficient funds in the fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no monies in the fund, then no claim shall be paid until monies have again accumulated. In addition to payment of claims, monies in the fund shall be used to pay all the necessary and proper expenses of the crime victims' compensation board.

(3) When judgment is entered against a defendant in the sum of twenty-five dollars ($25.00) as provided in this section and each sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Kentucky to such defendant an amount equal to the unpaid amount of the judgment. The amount shall be paid to the crime victims' compensation fund and satisfaction of the judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for such twenty-five dollar ($25.00) judgment.

Committee Substitute to **HB 149** is as follows:

HB 149, AN ACT relating to the compensation of crime victims.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

(1) There is established in the state treasury the "crime victims' compensation fund," hereinafter referred to as the "fund," to be administered by the crime victims' compensation board. In all cases in which defendants are given a sentence of imprisonment or are placed under the supervision of the state parole board or have been placed on probation or other form of conditional release, after an adjudication of guilty or after imposition of sentence, whether upon a plea of guilty or after trial, there shall be imposed as an additional cost the sum of fifteen dollars ($15.00) for felonies and ten dollars ($10.00) for misdemeanors, except for misdemeanors for which a peace officer may issue a citation instead of making an arrest pursuant to KRS 431.015. The clerk of the court shall collect the cost and forward it monthly to the state treasurer, to be deposited in the fund. Nothing herein shall be construed to limit the power of the court to order additional forms of restitution including public or charitable work or reparation to the victim, to the fund, or otherwise as authorized by law.

(2) The fund shall consist of monies from the following: appropriations by the general assembly; the federal government; payments by the defendant pursuant to subsection (1) of this section and any other public or private source. Any unexpended balance remaining in the fund at the end of the biennium shall not lapse and be transferred to the general fund, but shall remain in the crime victims' compensation fund. Any funds not utilized by the board may be used to provide assistance to programs for victims and the board may allocate such funds to any agency providing services to victims. In the event there are insufficient funds in the fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no monies in the fund, then no claim shall be paid until monies have again accumulated. In addition to payment of claims, monies in the fund shall be used to pay all the necessary and proper expenses of the crime victims' compensation board.

(3) When judgment is entered against a defendant in the sum of twenty-five dollars ($25.00) as provided in this section and each sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Kentucky to such defendant an amount equal to the unpaid amount of the judgment. The amount shall be paid to the crime victims' compensation fund and satisfaction of the judgment shall be entered on the court record.

Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for such twenty-five dollar ($25.00) judgment.

Committee Amendment No. 1 to Committee Substitute to **HB 149** is as follows:

Amend printed copy of Committee Substitute to **HB 149,** page 1, line 15, following "*ors*" by deleting the remainder of the line and inserting in lieu thereof "*Under KRS Chapter 189*"

And on page 1, line 16, by deleting "*instead of making arrest pursuant to KRS 431.015*"

And on page 2, line 11, by deleting "*may*" and inserting in lieu thereof "*shall*"

And on page 2, line 12, by deleting "*may*" and inserting in lieu thereof "*shall*"

And on page 2, line 21, by deleting "*in*"

And on page 2, line 22, by deleting "*the sum of twenty-five dollars ($25)*"

And on page 3, line 6, by deleting "*such twenty-five dollar ($25)*"

Committee Amendment No. 2 to Committee Substitute to **HB 149** is as follows:

Amend printed copy of Committee Substitute to **HB 149,** page 1, line 7, by deleting "*are given a sentence of imprisonment or*"

and on page 1, line 9, following the word "*probation*" by inserting "*, shock probation*"

The Committee on Counties and Special Districts reported **HB 290** and **HB 441,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 290, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.111 is amended to read as follows:
As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employe, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) *"Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, but not including residential building development, where such activities constituted the principal use of the tract.*

(3) "Board" means the board of adjustments unless the context indicates otherwise;

(4)[~~(3)~~] "Citizen member" means any member of the planning commission or board of adjustments who is not an elected or appointed official or employe of the city or county;

(5)[~~(4)~~] "Commission" means planning commission;

(6)[~~(5)~~] "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7)[~~(6)~~] "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustments, consisting of two (2) parts;

(a) A statement of the factual determination by the board of adjustments which justifies the issuance of the permit; and

(b) A statement of the specific conditions which must be met in order for the use to be permitted.

(8)[~~(7)~~] "Dimensional variance" means a departure from the terms of the zoning regulation pertaining to height or width of structures and size of yards and open spaces, where such departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the actions of the applicant, the literal enforcement of the zoning regulations would result in unnecessary and undue hardship;

(9)[~~(8)~~] "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10)[~~(9)~~] "Housing or building regulation" means any regulation incorporating any housing, building or safety code, including, but not limited to such codes as plumbing, electrical, elevator, boiler, fire safety, and minimum housing, or any other regulation;

(11)[~~(10)~~] "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12)[~~(11)~~] "Mayor" means the chief elected official of the city whether the official designation of his office is mayor, chairman of the board of trustees, or otherwise;

(13)[~~(12)~~] "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14)[~~(13)~~] "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15)[~~(14)~~] "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16)[~~(15)~~] "Plat" means the map of a subdivision;

(17)[~~(16)~~] "Political subdivision" means any city or county;

(18)[~~(17)~~] "Regulation" means any enactment by the legislative body of a city or county whether it is an ordinance, resolution, or an order and shall include regulations for the subdivision of land adopted by the planning commission;

(19)[~~(18)~~] "Several" means two or more;

(20)[~~(19)~~] "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(21)[~~(20)~~] "Street" means any vehicular way;

(22)[~~(21)~~] "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(23)[~~(22)~~] "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban county government where a subdivision means the division of a parcel of land into two or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; *provided* [~~providing~~] that *the commission may upon application from the landowner determine that* a division of land *in agricultural use* for *continued* agricultural *use* [~~purposes~~] into lots *or* [~~of~~] parcels [~~of five (5) acres, or more~~] and not involving a new street shall not be deemed a subdivision. The term includes re-subdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land [~~into parcels of less than one acre~~] occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section.

(24)[~~(23)~~] "Unit" means planning unit.

HB 441, AN ACT relating to jails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

As used in Section 1 to Section 21 of this Act, unless the context requires otherwise:

(1) "Agreement" means a written contract between the authority and any person, firm, corporation, local government, or public entity providing for the construction, reconstruction, improvement or repair and financing of one (1) or more projects of the authority;

(2) "Authority" means the Kentucky local correctional facilities construction authority, a body corporate and politic, and an agency and instrumentality of the Commonwealth of Kentucky created by this Act;

(3) "Bonds" mean revenue bonds, notes or other obligations issued under the provisions of this Act;

(4) "Cost" means the expenditures for construction, acquisition, financing charges, interest prior to and during construction, principal and interest on any bonds or notes or obligations issued by the authority, engineering and legal expenses, plans, specifications, cost and revenue estimates, other expenses necessary or incidental to determining the feasibility or practicability of constructing any project, administrative expenses, and such other expenses necessary or incident to the construction of and placing into operation a project, the financing of such construction and the acquisition of the project;

(5) "Lease" means a written lease executed by the authority as lessor and any local government as lessee;

(6) "Project" means any undertaking to construct, reconstruct, improve, or repair any jail or appurtenant facilities thereof for any county or urban-county government, together with all property, rights, easements and interests which may be acquired by the authority for the construction, reconstruction or repair of any jail or appurtenant facilities;

(7) "Jail" means any county jail and correctional or detention facilities, including correctional facilities defined in KRS 67B.020 and juvenile detention and treatment facilities, operated by and under the supervision of any county or urban-county government;

(8) "Local government" means any county or urban-county government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) This Act is intended solely to provide an additional and alternative method of constructing, reconstructing, improving, or repairing and financing jails and appurtenant facilities for any local government in this state to the end that such projects expedite the provision of safe and proper facilities by a local government for the incarceration of prisoners as defined by KRS 441.005. Nothing in this Act shall be construed as prohibiting a local government from providing for the construction, reconstruction, improvement or repair and financing of a jail and appurtenant facilities as may be otherwise provided by law.

(2) Nothing in this Act shall be construed as prohibiting two (2) or more local governments from entering into a cooperative agreement for the purpose of participating with the authority in providing for the construction, reconstruction, improvement or repair and financing of a jail and appurtenant facilities for the use and benefit of all local governments agreeing to such cooperative undertaking.

(3) Subsection (2) of this section is intended solely as an alternative method to KRS 65.210 to 65.300.

SECTION 3. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) There is created and established within the department of finance a Kentucky local correctional facilities construction authority, composed of seven (7) members who shall be:

(a) The secretary of finance, or his designee;
(b) The secretary of corrections, or his designee;
(c) The president of the Kentucky jailers association;
(d) The president of the Kentucky county judges/executive association;
(e) The president of the Kentucky association of counties; and
(f) Two (2) citizen members appointed by the governor.

(2) The secretary of finance, the secretary of corrections and the presidents of the Kentucky jailers association, Kentucky county judges/executive association and the Kentucky association of counties, and their successors shall serve for the term of their respective office.

(3) Citizen members shall begin their terms on August 1, 1982, and shall be appointed for a term of four (4) years; however, in making initial appointments, the governor shall appoint one (1) member for a term of two (2) years, and one (1) member for a term of three (3) years.

(4) Vacancies occurring in the term of any member shall be filled in the same manner as the original appointment.

(5) The seven (7) members of this authority and their successors are a body corporate and politic constituting a public corporation and governmental agency and instrumentality of the Commonwealth, with perpetual succession and with power in that name to contract and be contracted with, to acquire and convey property, to sue and be sued, to have and use a corporate seal, and to exercise all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(6) The members of the authority shall receive no compensation for their services, but are entitled to reimbursement for all reasonable expenses necessary and incidental to the performance of their duties and function as members of this authority.

(7) The chairman of the authority shall be the secretary of finance. The members of the authority shall elect a vice-chairman and secretary from their membership.

(8) The secretary of finance shall designate an employe of his department to serve as treasurer of the authority. The treasurer shall give bond to the authority for a faithful accounting for all funds coming into his custody, in such amount as the authority may prescribe, drawn upon a surety company qualified to do business in the Commonwealth, premium therefor to be paid by the Commonwealth.

(9) The authority shall establish and maintain an office and the secretary of the authority shall maintain therein complete records of the authority's actions and proceedings, as public records open to inspection. The department of finance is directed and authorized to provide such funds, staff assistants, facilities and materials as may be required by the authority in the conduct of its duties and functions. The secretary of finance may require the bureau of corrections to share in the expenses incurred by the department of finance in maintaining and operating offices of the authority.

SECTION 4. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) If any of the officers of the authority whose signatures or facsimiles thereof appear on any bonds of the authority, or on any interest coupons appurtenant thereto, or on any other instruments or documents pertaining to the functions of the authority, shall cease to be such officers before delivery of the bonds, or before the effective date or occasion of such instruments or documents, the signatures, and facsimiles thereof, shall nevertheless be valid for all purposes the same as if the officers had remained in office until such delivery or effective date or occasion.

(2) Any four (4) members of the authority shall constitute a quorum.

(3) The authority shall meet not less than every six (6) months beginning no later than sixty (60) days after this Act shall become effective, and at such other times as it may be called as provided in this section. Special meetings of the authority may be called by the chairman, and upon written request of two (2) members the chairman shall call a special meeting of the authority to be held not later than twenty (20) days following receipt of the written request. The chairman shall give notice through the secretary by certified mail, return receipt requested, to each member of the authority at least ten (10) days prior to the time of any meeting, unless all members of the authority waive notice in writing. The offices of the authority shall be at the seat of state government.

(4) The authority may adopt bylaws relating to its organization and internal management, and may alter the same at will. Through its bylaws, or by resolution, it shall establish stated times and places for regular meetings; and may adjourn the same from time to time. If a quorum be present at any special meeting, and it shall appear from the minutes that reasonable notice was given to absent members, or waived by them, or the minutes subsequently consented to by them, any business transacted or action taken thereat shall be as fully regular and official as if transacted or taken at a regular meeting or an adjournment thereof.

(5) The authority may adopt rules and regulations for the conducting of its business and affairs, subject to the provisions of KRS Chapter 13.

SECTION 5. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

The authority is hereby authorized and empowered:

(1) To construct, reconstruct, improve or repair any jail and appurtenant facilities in any local government in this state, as may be determined by the authority and provided for in an agreement or agreements;

(2) To acquire and to convey real estate and any improvements and buildings and facilities located thereon, for which a project is undertaken, and in such manner and under such terms as may be provided by agreement;

(3) To issue revenue bonds, and revenue bond anticipation notes of the authority payable solely from the revenues, rentals, and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any one (1) or more projects, and to refund any of its bonds;

(4) To combine for financing purpose any two (2) or more projects;

(5) To lease as lessor any project to any local government as lessee, pursuant to the terms and provisions of a lease;

(6) To employ consulting engineers, attorneys, accountants, construction and financial experts, managers, and other employes and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(7) To make and enter into such contracts and agreements with other parties as may be necessary and incidental to the performance of its duties and execution of its powers under this Act;

(8) To establish and enforce rules, regulations, and specifications in respect to any project undertaken by the authority, except during any period which such powers are assigned to a lessee pursuant to a lease agreement;

(9) To receive, accept and expend funds or other contributions from any source, both public and private, for or in aid of any project undertaken by the authority;

(10) To create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the authority; and

(11) To do all acts necessary and proper to the implement of the powers expressly granted in this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

If the authority deems it suitable, feasible, necessary or expedient that any project or projects be financed or refinanced and constructed by the authority, the authority may make one (1) or more written agreements in which the parties may include provisions as to any of the following:

(1) Identify the project to be financed by the authority, setting forth specifications and design of such facilities to be constructed, reconstructed, improved, or repaired, and any other information which is deemed necessary and proper for the development of the project;

(2) Set forth what portions, if any, of the cost of the project have been or shall thereafter be contributed by the authority from the funds and other resources available to it during the then current biennium and not previously obligated;

(3) Set forth agreements for planning, design, acquisition of property, soliciting construction bids, awarding construction contracts, issuing of work orders, and such other steps as may be necessary or incidental to the construction of the project, and authorizing and selling bonds for the project;

(4) Agree that upon completion of the project the lessee will continuously pay all of the cost of repairing, maintaining and operating the project;

(5) Agree that upon the happening of stated events and the performance of stated conditions not inconsistent with law, the authority shall convey the project to the lessee;

(6) Set forth the terms and provisions of lease or proposed conveyance to be entered into by and between the authority and any local government;

(7) Agree that upon determination of the amount of bonds to be issued by the authority for the project and the interest rate or rates the bonds are to bear, and prior to the delivery of any bonds to the purchaser thereof, the rental to be paid during the term of the lease and each term for which the lease may be renewed shall be established according to a method of computation set forth therein and in the proposed lease, and that the authority and lessee, each by authorized persons, shall execute such lease and file the original or a signed counterpart thereof in the office of the authority, and the secretary of state of the Commonwealth; and

(8) Agree to establish any method of interim financing by the authority during the construction of any project, with borrowed funds from any bank, trust company, or banking institution, such funds to be amortized from money obtained through the sale of revenue bonds before, during, or at completion of the construction of such project of projects.

SECTION 7. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

The authority and any local government are authorized and empowered to enter into a lease with respect to any project according to any agreement or agreements made pursuant to Section 6 of this Act. Any lease may contain, in substance, any of the following provisions and such other provisions not inconsistent herewith as the authority and local government may deem appropriate and desirable:

(1) That the lease is for the remainder of the fiscal period in which it is dated and executed, and is automatically renewable for the succeeding fiscal period, one (1) at a time, until the final maturity date of the bond issue to which the lease is related, or until the local government notifies the authority in writing within sixty (60) days before the expiration of the lease that the local government will not renew said lease;

(2) That with respect to the fiscal period in which the lease is dated and executed, the local government shall otherwise be firmly bound only (a) to contribute to the authority such portions, if any, of the cost of the project as the agreement prescribes shall be paid by the local government; and (b) to pay the authority the rental prescribed for such fiscal period;

(3) That if the local government shall fully perform all such obligations during such initial term of the lease, it shall have an exclusive option to automatically renew the lease at the time and in the manner prescribed for the ensuing fiscal period, effective on the first day thereof; no local government shall be or become in any way obligated to pay the rental stipulated for such fiscal year unless the lease be so automatically renewed; and that the local government shall, upon any such renewal, be firmly bound to pay to the authority the rental stipulated for such fiscal period as a general obligation of the local government to be paid from any funds available to the local government required by law or by previous binding contract to be devoted to some other purpose;

(4) In like manner and subject to the same conditions and provisions as are set forth in subsection (3) of this section, if the local government shall in the first ensuing fiscal year fully perform its obligations and pay to the authority the rental stipulated for such fiscal period, the local government shall have another exclusive option to automatically renew such lease for another fiscal year, and so on for successive fiscal periods until the final fiscal period for which the lease may be renewed;

(5) That so long as the lease is renewed from time to time and the local government fully performs all its obligations as lessee, including payment of the rental stipulated in the lease,

(a) The revenues of the project shall be collected, segregated, distributed, deposited, secured, disbursed and accounted for in strict conformity with the proceedings and trust indenture of the authority, and the aggregate of such revenues properly accounted for and deposited pursuant to said proceedings and trust indenture shall, to the extent provided in the lease, be a credit against the local government's rental or other obligations for the current fiscal period under the term of the lease, and

(b) Any revenues collected pursuant to Section 17 of this act, or other funds as may be provided and made available to the authority by the Commonwealth or other sources, and set aside pursuant to an agreement, shall be applied as provided in said proceedings and trust indenture and shall, to the extent provided in the lease, be a credit against the local government's rental or other obligations for the then current fiscal period under the lease.

SECTION 8. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The authority may provide for the issuance of revenue bonds to pay all or any part of the cost of any projects undertaken pursuant to an agreement and lease; provided that, the authority shall not issue bonds before July 15, 1983, and until the total amount of revenues collected and deposited in the authority's fund equals or exceeds two million dollars ($2,000,000). The principal and interest on such bonds are payable solely from the funds provided for such payment. Any issue may be in one (1) or more series and any such series may enjoy equal or subordinate status with respect to the pledge of funds from which they are payable, shall be dated, shall bear interest at such rate or rates as established by the authority, shall mature at such time or times not exceeding forty (40) years from their date or dates, all as may be provided by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination of the bonds and the place or places for payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth or at the office of the department of finance. The bonds shall be signed by the facsimile signature of the chairman or secretary of the authority, and the seal of the authority or a facsimile thereof shall be affixed thereto and attested by the manual signature of the secretary or chairman of the authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. All bonds issued under the provisions of this Act shall have all the qualities and incidents of negotiable instruments under the uniform commercial code, KRS Chapter 355. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds in a manner prescribed by law.

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue exceed such cost, the surplus shall be deposited to the credit of the sinking fund or funds for such bonds or any account or accounts therein as the authority shall have provided in the proceedings or trust indenture authorizing and securing such bonds.

(3) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue notes or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

SECTION 9. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

Bonds issued by the authority under the provisions of this Act do not constitute a debt of the Commonwealth or of any political subdivision thereof, or a pledge of the faith and credit of the Commonwealth *or of any such political subdivision, but such bonds shall be payable solely from the funds, and security, provided therefor under the provisions of this Act, and all such bonds shall contain on the face thereof a statement to that effect.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

In the discretion of the authority, any bonds issued under the provisions of this Act may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in or outside of Kentucky. Such trust indenture or the proceedings providing for the issuance of such bonds may pledge or assign the rents and other revenues to be received. The trust indenture or proceedings may contain provisions for protecting and enforcing the rights and remedies of the bondholders which are reasonable and proper and not in violation of law, including convenants setting forth the duties of the authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, and insurance of the project or projects in connection with which such bonds are authorized, the rates or rental charges, and the custody, safeguarding and application of all monies, and may restrict the individual right of action by bondholders. It is lawful for any bank or trust company which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the rights and remedies of the bondholders and of the trustee. In addition, any such trust indenture or proceedings may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust indenture or proceedings may be treated as a part of the cost of the project or projects.

SECTION 11. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

Any holder of bonds issued under the provisions of this Act or any of the coupons appertaining thereto, and the trustee under any trust indenture, except to the extent the rights herein given may be restricted by such trust indenture, may, either at law or in equity, by suit, action, mandamus or other proceedings, protest and enforce any and all rights under the laws of the Commonwealth or granted under this Act or under such trust indenture or proceedings to be performed by the authority or by any officer or employes thereof, including the fixing, charging and collecting of rents.

SECTION 12. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

Bonds issued by the authority are securities in which all public officers and public bodies, agencies and instrumentalities of the Commonwealth and its political subdivisions, all insurance companies, trust companies, bank associations, investment companies, executors, administrators, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may hereafter be authorized by law.

SECTION 13. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The authority may provide for the issuance of revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if the authority shall so determine, for the additional purpose of constructing improvements, extensions, or enlargements of the project or projects in connection with which the bonds to be refunded shall have been issued. The authority may also provide for the issuance of its revenue bonds for the combined purpose of:

(a) Refunding any bonds then outstanding which are issued under the provisions of this Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and

(b) Paying all or any part of the cost of any additional project or projects.

(2) The issuance of such bonds, maturities and other details thereof, for rights of the holders thereof, and the rights, duties, and obligations of the authority in respect of the same, shall be governed by the provisions of this Act insofar as the same may be applicable.

SECTION 14. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

All monies, received under the provisions of this Act, either from the sale of bonds or as revenues, are to be held and applied solely as provided in this Act. The proceedings or the trust indenture shall provide that any officer with whom, or any bank or trust company with which, such monies are deposited shall *act as trustee of such monies and shall hold and apply the same for the purposes hereof, subject to such regulation as this Act and such proceedings or trust indenture may provide.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

The authority is not required to pay any taxes or assessments of any nature whatsoever, upon any project or projects owned by the authority or leased by the authority; or any property acquired or used by the authority under the provisions of this Act; or upon the incomes or revenues from the lease or use of such property. Nor will there be any tax or assessment of the Commonwealth on any bonds issued under the provisions of this Act, their transfer or the income therefrom.

SECTION 16. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

The authority shall convey in fee simple and at no additional costs to the lessee, any project to the lessee when all bonds issued under the provisions of this Act in connection with said project and all interest thereon shall have been paid or a sufficient amount for the payment of such bonds and interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the bondholders.

SECTION 17. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) There is created and established a Kentucky local correctional facilities construction authority fund which shall consist of the following:

(a) Rentals received under leases made by the authority pursuant to this Act;

(b) Appropriations by the general assembly;

(c) Contributions, grants and gifts from any source, both public and private, which may be used by the authority for any project or projects;

(d) Monies collected and deposited in the state treasury as provided by subsection (6) of Section 19 of this Act; and

(e) All interest earned on investments made by the state from monies deposited in this fund.

(2) Monies accruing to this fund shall be deposited by the state treasurer in the fund's trust and agency account, and shall be invested by the state for the benefit and use of the authority, pending their application to the expenses of the authority and to payments of interest and principal of bonds, notes and other obligations of the authority. Notwithstanding the provisions of the foregoing sentence, at such time or times as the monies contained in the fund are sufficient to pay the principal on all bonds, notes and obligations of the authority that would become due in the next ensuing twelve (12) month period, the authority may use monies in the fund in excess thereof for such purposes as provided for in this Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

Nothing in KRS 56.440 to 56.540 and KRS 45.360 shall be construed to apply to any project undertaken by the authority pursuant to Sections 1 to 21 of this Act.

Section 19. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the district court shall be:

(a) For an offense for which prepayment is permitted under KRS 189.394, 431.451, or 431.452 and for which prepayment has been made prior to trial as required by law *$25.00* [~~$20.00~~]

(b) For an offense for which prepayment is not permitted or has not been made *$30.00* [~~$25.00~~]

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3) Additional costs shall be assessed in district court criminal matters as follows:

(a) Preparing an attestation $ .50

(b) Preparing a certification 1.00

(c) Preparing a copy of a document (per page) .25

(4) Taxation of costs against a defendant, upon conviction, *including persons sentenced to a drivers' improvement program as provided under KRS 186.574,* shall be mandatory and shall not be probated or suspended.

(5) The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5.00) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail *and shall include among his reports to the administrative office of the courts the amounts paid to the county.*

(6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5.00) from each court cost collected pursuant to subsection (1) of this section to the state treasury for the benefit and use of the Kentucky local correctional facilities construction authority pursuant to Sections 1 to 21 of this Act.

SECTION 20. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

By January 30 each year the authority shall make an annual report of its activities for the preceding calendar year to the governor and to the general assembly. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The authority shall provide for an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction of the project. Such audits shall be public records within the meaning of KRS 61.870 to 61.884.

SECTION 21. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

No officer or employe of the authority shall have any interest, direct or indirect, in the sale or purchase of any bonds authorized by this Act. Violation of this provision shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both.

Committee Amendment No. 1 to **HB 441** is as follows:

Amend printed copy of **HB 441,** page 2, line 18, following "*detention*" by deleting the word "*and*"; and

On page 2, line 19, by deleting the word "*treatment*"; and

On page 3, line 25, following "*of*" by deleting "*seven (7)*" and inserting in lieu thereof the following: "*nine (9)*"; and

On page 4, line 8, after the semicolon";" by deleting "*and*"; and

On page 4, line 10 after "*nor*" and before the period "." by inserting "; *and*"; and

On page 4, following line 10 and before line 11, by adding the following: "*(g) Two (2) members of the general assembly appointed by the chairmen of the legislative research commission.*"; and

On page 4, line 16, following the word "*office.*" by adding the following: "*The legislative members of the authority shall serve at the pleasure of the chairmen of the legislative research commission.*"; and

On page 4, line 26 following the word "*The*" by deleting "*seven (7)*" and inserting in lieu thereof the following: "*nine (9)*"; and

On page 6, line 24 following the word "*Any*" by deleting "*four (4)*" and inserting in lieu thereof the following: "*five (5)*"; and

On page 9, line 14 following the word "*agreement*" and before the semicolon ";" by inserting the following words: "*, provided that such rules, regulations and specifications shall be consistent with state laws and regulations pertaining to jails*"

Calendar

HB 413, SB 200, HB 377, HB 394, HB 396, SB 4, HB 490, HB 207, and **HCR 2** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 235** had been examined and found correctly enrolled. **HB 235** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 10:23 a.m.)

HB 235, delivered to the Senate, signed by President. Ordered delivered to the Governor.

Senate Message

Announcing passage of **SB 137, SB 142, SB 216, SB 229, SB 255, SB 261, SB 293, SJR 27, HB 26** with Senate Amendment, **HB 69** with Senate Amendment, **HB 88, HB 197, HB 273,** and **HCR 5.**

Orders of the Day

HB 402, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Floor Amendment No. 1 to **HB 402.**

On the roll call the vote was yeas 43-Arnold, Bennett, Blandford, Brinkley, Brown, Burch, Caldwell, Clark, Clarke, Cowan, Crupper, Curd, Cyrus, Deskins, Dunn, Foster, Gray, Hancock, Handy, Johnson, R. Jones, T. Jones, LeMaster, List, Long, Mann, Meyer, Moberly, Nett, Noe, Perkins, Priddy, Rapier, B. Richardson, Robinson, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Van Horn, Yates. Nays 35-Blevins, Boswell, Bronger, Bruce, Burnette, Dawahare, Endicott, Freibert, Fryman, Guenthner, Haering, Harper, Head, Heleringer, Hines, Holbrook, Layman, Lile, Little, Lundergan, Maggard, McBee, Moore, Morris, Noland, Overstreet, Patrick, Pearman, Rattliff, Richards, P. Richardson, Schmidt, Seum, B. Smith, Turner.

Floor Amendment No. 1 to **HB 402** was adopted.

Representative Clarke moved that **HB 402,** as amended, be passed.

On the roll call the vote was yeas 65-Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Burch, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Deskins, Dunn, Farrow, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, Little, Long, Mann, McNutt, Moberly, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, B. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Van Horn, White, Williams. Nays 25-Allen, Blevins, Bruce, Burnette, Crupper, Dawahare, Donnermeyer, Ellington, Endicott, Ford, Fryman, Haering, Head, Heleringer, Layman, List, Maggard, McBee, Meyer, Moore, Noland, Patrick, Rattliff, Richards, Turner.

HB 402, as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 402,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 160, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Floor Amendment No. 2 to **HB 160.**

On the roll call the vote was yeas 79-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, Patrick, Pearman, Perkins, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Tobin, Todd, Van Horn, White, Williams. Nays 0.

Floor Amendment No. 2 to **HB 160** was adopted.

Representative Donnermeyer moved that **HB 160,** as amended, be passed.

On the roll call the vote was yeas 88-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams. Nays 0.

HB 160, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 160,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 178, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Van Horn moved the adoption of the Committee Substitute to **HB 178.** Agreed.

Representative Van Horn moved that **HB 178,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lile, List, Little, Long, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Tobin, Todd, Turner, Van Horn, White, Williams, Yates. Nays 2-T. Jones, P. Richardson.

HB 178, by way of Committee Substitute, was passed and the title agreed to.

Representative Van Horn moved that the vote by which **HB 178,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 323, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clark moved the adoption of the Committee Amendment No. 1 to **HB 323.** Agreed.

Representative Clark moved that **HB 323,** as amended, be passed.

On the roll call the vote was yeas 59-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Farrow, Foster, Gray, Guenthner, Haering, Hancock, Handy, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, Kidd, List, Little, Long, Lundergan, Moberly, Moore, Morris, Nett, Noe, O'Brien, Pearman, Perkins, Priddy, Rapier, Richards, Riner, Seum, B. Smith, Stone, Van Horn, White, Yates. Nays 25-Allen, Barrows, Caldwell, Clarke, Ellington, Endicott, Ford, Freibert, Harper, Heleringer, T. Jones, Kenton, Lile, Maggard, Mann, McBee, Overstreet, Rattliff, B. Richardson, F. Smith, Thomas, Tobin, Todd, Turner, Williams.

HB 323, as amended, was passed and the title agreed to.

Representative Clark moved that the vote by which **HB 323,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 324, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the Committee Amendment No. 1 to **HB 324.** Agreed.

Representative Arnold moved that **HB 324,** as amended, be passed.

On the roll call the vote was yeas 85-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Caldwell, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Yates. Nays 5-Brown, Clarke, Maggard, Meyer, Perkins.

HB 324, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 324,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 442, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 442** be passed.

On the roll call the vote was yeas 77-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Brown, Bruce, Burch, Caldwell, Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Haering, Hancock, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Layman, LeMaster, Lile, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Yates. Nays 1-Gray.

HB 442 was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 442** was passed be reconsidered and said motion be placed on the table. Agreed.

Speaker Pro Tempore Thomason presiding.

HR 41, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Harper moved the adoption of the following **HR 41:**

HR 41, A RESOLUTION honoring Notre Dame Academy.

WHEREAS, the distinguished Notre Dame Academy of Park Hills, Kentucky, this year celebrates its seventy-fifth anniversary; and

WHEREAS, the week of March 1 through March 5 has been set aside to mark this milestone; and

WHEREAS, the City of Park Hills has officially joined faculty, students, alumni and friends in praise of the ennobling efforts of this fine institution toward the educational and religious development of over five thousand young women;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives congratulates Notre Dame Academy on the occasion of public recognition of its proud achievements and wishes it every success in the future.

Section 2. That the Clerk be directed to forward a copy of this resolution to the principal of Notre Dame Academy.

HR 41 was adopted by voice vote.

Representative LeMaster moved that the vote by which **HR 41,** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 104, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Boswell moved that **SB 104** be passed.

On the roll call the vote was yeas 83-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moore, Nett, Noland, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, F. Smith, Stone, Stumbo, Thomas, Tobin, Todd, Turner, Van Horn, White, Williams, Yates. Nays 2-Handy, O'Brien.

SB 104 was passed and the title agreed to.

Representative Boswell moved that the vote by which **SB 104** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions.

Floor Amendment No. 4 to the Committee Substitute to **HB 13,** by Representative F. Smith:

Amend printed copy of Committee Substitute to **HB 13,** page 1, after line 10, by adding the following new language:

"*'Dealer' shall also include but not be limited to all people who explicitly advertise to buy or sell precious metals. "Dealer" under this bill shall not include occasional transactions by non-profit or charitable organizations who would deal with precious metals on a non-permanent basis.*"; and

On line 13, by deleting the word "*circuit*" and inserting in lieu thereof the word "*county*"; and

On line 19, by deleting the word "*circuit*" and inserting in lieu thereof the word "*county*"; and

On line 20, by deleting the word "*circuit*" and inserting in lieu thereof the word "*county*"; and

On line 21, by deleting the word "*cir-*"; and

On page 2, line 1, by deleting the word "*cuit*" and inserting in lieu thereof the word "*county*"; and

On line 4, by deleting the word "*circuit*" and inserting in lieu thereof the word "*county*"

Floor Amendment No. 1 to **HB 105,** by Representative Farrow:

Amend printed copy of **HB 105,** page 3, after line 14, by inserting the following:

(8) The bureau of corrections and office of community services shall for each person released under its supervision keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk and report delinquencies to the court.

Floor Amendment No. 1 to Committee Substitute to **HB 116,** by Representative Bronger:

Amend printed copy of Committee Substitute to **HB 116,** page 1, line 5, by deleting "seven (7)" and inserting in lieu thereof "*nine (9)* [~~seven (7)~~]";

And on line 5, by deleting "four (4)" and inserting in lieu thereof "*six (6)* [~~four (4)~~]"

Floor Amendment No. 2 to the Committee Substitute to **HB 116,** by Representative Bronger:

Amend printed copy of Committee Substitute to **HB 116,** page 1, line 3, after "(1)" by inserting:

"*Except as otherwise provided herein,*";

And on line 5 after the word "of" inserting "*nine (9)*" and place brackets around and strike through "[~~seven (7)~~]";

And on line 5 after "members," by inserting "*six (6)*" and place brackets around and strike through "[~~four (4)~~]."

Floor Amendment No. 1 to **HB 148,** by Representative Seum:

Amend printed copy of **HB 148,** page 1, line 20, after the word "*substance*" by adding the following: "*, for the purpose of creating the impression that the substance is a controlled substance*"

And on line 21, by adding the following:

"*(5) For the purpose of determining whether this section has been violated, the Court or other authority shall include in its consideration the following:*

(a) Whether the non-controlled substance was packaged in a manner normally used for the illegal sale of controlled substances;

(b) Whether the sale or attempted sale included an exchange of or demand for money or other property as consideration, and whether the amount of the consideration was substantially greater than the reasonable value of the non-controlled substance.

(c) Whether the physical appearance of the non-controlled substance is substantially identical to that of a controlled substance.

(6) In any prosecution brought under this section, it is not a defense to a violation of this section that the defendant believed the non-controlled substance to actually be a controlled dangerous substance."

And on page 22, line 10, after the word "*a*" by adding the words: "*Class A misdemeanor for the first offense and a*"

And on line 11, after the word "*felony*" by adding the words: "*for subsequent offenses*"

Floor Amendment No. 6 to **HB 280,** by Representative Allen:

Amend printed copy of **HB 280,** page 3, following line 9, by inserting the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this Act shall apply to the following: mushrooms, hickory nuts, sassafras root, May apple root, yellowroot, and pokeweed.

(2) Pokeweed must be at least twelve inches (12") tall before harvesting, and the person harvesting pokeweed shall measure the pokeweed before harvesting to determine that it is at least twelve inches (12") tall.

SECTION 6. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

Before any plant is harvested in accordance with this Act, a person shall obtain a marketing card issued by the department of agriculture. The department of agriculture shall issue regulations providing for the issuance of marketing cards."

And on page 3, line 10, by renumbering "SECTION 5" to "SECTION 7"

And on page 3, line 20, by renumbering "Section 6" to "Section 8"

Floor Amendment No. 3 to Committee Substitute to **HB 342,** by Representative Clarke:

Amend printed copy of Committee Substitute to **HB 342,** page 1, line 8, by adding after the subsection number "(3)" the following:

For tax years beginning on or after January 1, 1982, except as otherwise provided in this Act,

After line 11, by adding the following: *but excluding the provisions of section 168 (f) (8) of the Internal Revenue Code,*

Page 5, line 22 through 26, and

on page 6, lines 1 and 2, by deleting paragraph (13)(b) in its entirety and substituting in its place the following:

(b) 1. The total of the deductions allowed under Section 168 of the Internal Revenue Code shall be determined by dividing the total by a factor of one and four-tenths (1.4). The taxpayer's basis in any individual property shall be the same as the basis in such property for federal income tax purposes.

2. Effective for tax years beginning on and after July 1, 1984, the total of the deductions allowed for any tax year under Section 168 of the Internal Revenue Code shall be the total allowed for Kentucky tax purposes.

3. Effective for the tax year beginning on or after July 1, 1984 and for the five (5) successive tax years thereafter, corporations which computed depreciation deductions under the provisions of paragraph (b) 1. of this subsection shall be allowed to deduct from gross income one sixth (1/6) of the total difference between the amount of depreciation calculated under Section 168 of the Internal Revenue Code and the amount of depreciation determined under the provisions of paragraph (b) 1. of this subsection.

4. The provisions of KRS Chapter 45 notwithstanding, the department of revenue shall compute and transmit to the Governor and the Legislative Research Commission, on or before December 1, 1983, an estimate of corporation income tax revenues which would accrue to the state's general fund for each of the fiscal years 1984-85 and 1985-86 under the following premises:
a. That the provisions of paragraph (b)2. and (b)3. of this subsection are in effect for those fiscal years;

b. That the provisions of paragraph (b)2. of this subsection are repealed effective for tax year beginning on or after July 1, 1984;

c. That the provisions of paragraph (b)3. of this subsection are repealed effective for tax years beginning on or after July 1, 1984; and

d. That the provisions of paragraphs (b)2. and (b)3. of this subsection are repealed effective for tax years beginning on or after July 1, 1984.

Floor Amendment No. 1 to **HB 378,** by Representative Burnette:

Amend printed copy of **HB 378,** page 1, line 19, by inserting after "and" and before "not" the following: "*with the approval of the fiscal court*"

And on line 20, by deleting "*any other county official*" and by substituting therefore "*the sheriff or county clerk or jailer*"

Floor Amendment No. 1 to House Committee Substitute to **HB 398,** by Representative Tobin:

Amend printed copy of Committee Substitute to **HB 398,** page 9, line 10, by deleting "*treasurer of the*"

And on page 9, line 11, by deleting "*Commonwealth of Kentucky*" and inserting in lieu thereof "*surface owners*"

And on page 10, line 7, by deleting "*treasurer of the Commonwealth of Kentucky*" and inserting in lieu thereof "*then surface owners*"

Floor Amendment No. 2 to Committee Substitute to **HB 398,** by Representative Tobin:

Amend printed copy of Committee Substitute to **HB 398,** page 2, line 13, on page 2, line 13, by inserting before the "period" the following: "*provided that all owners vested with any interest in fee simple in the surface estate overlying the particular minerals sought to be developed agree to the declaration of such trust and appointment of a trustee*"

And on page 3, line 12, by inserting before the "period" the following: "*and all persons who are vested with any interest in fee simple in the surface estate overlying the particular minerals sought to be developed if such persons have not instituted proceedings for the declaration of the trust and appointment of a trustee*"

And on page 5, line 25, by inserting after the "comma" the following: "*and all owners of any interest in fee simple in the surface estate overlying the particular minerals sought to be developed agree to the declaration of the trust and appointment of a trustee*"

Floor Amendment No. 1 to **HB 428,** by Representative LeMaster:

Amend printed copy of **HB 428,** page 9, after line 33 by adding:

"Hanover Shoe, Inc. 111 North Forney Avenue Hanover, Pa. 17331	$ 251.82
New Albany Ford Tractor Sales 705 Bank Street New Albany, Indiana 47150	$ 141.72
Walt Disney Educational Media, Co. 500 South Buena Vista Street Burbank, California 91521	$ 565.00
Weldon, Williams and Lock, Inc. P. O. Box 168 Fort Smith, Arkansas 72902	$ 128.26
Mary M. White 324 North Main Street Barbourville, Kentucky 40906	$ 2,033.43
The Wright Machine Company 321 East Second Street Owensboro, Kentucky 42301	$ 2,498.00
Frank W. Sower 217-219 St. Clair Street Frankfort, Kentucky 40601	$ 481.40
James E. Fennel Route #6 Benton, Kentucky 42025	$ 24.00
The Travelers One Tower Square Hartford, Ct. 06115	$ 716.40
Jefferson County Board of Education Louisville, Kentucky	$44,891.90

Don & J. Green
188 Tusculium Road
Antioch, Tennessee 37013 $ 36.00”

And on Page 11, after line 34, by adding the following:

“Louise Teague
Continental Apt. 706
2121 Nicholasville Road
Lexington, Kentucky 40503 $ 395.00

(d) Western Kentucky University is authorized to make payment from their Trust and Revolving Fund account for payment of legal services provided during the period August 1, 1981 through January 29, 1982, the sums hereinafter specified:

Birch, Stewart, Kolasch and Birch
301 North Washington Street
Falls Church, Virginia 22046 $ 652.68”

Floor Amendment No. 1 to **HB 561,** by Representative Schmidt:

Amend printed copy of **HB 561,** page 1, by deleting lines 3, 4 and 5 in their entirety, and inserting in lieu thereof the following:

(1) A credit union operating in Kentucky whose field of membership primarily consists of state employes or state university employes and/or faculty, shall not be subsidized in any manner from the general fund, agency funds, or university funds.

(2) State or university buildings or portions thereof shall not be used for the purpose of operating a credit union, unless the credit union pays, from its own funds, a rental equal to the current market rate for like space within that area.

(3) State or state university owned equipment shall not be used for credit union business unless the state agency or state university is reimbursed by the credit union, from its own funds, a reasonable rate for the use thereof.

Representative Brown moved that **HB 383,** as amended, be taken from the Clerk’s desk and placed in Orders of the Day. Agreed.

Representative Endicott moved the adoption of the following Legislative Citations Nos. 26, 27, 28, 29, 30, 31, 32, 33, and 34. All were adopted by voice vote.

The House of Representatives of the Commonwealth of Kentucky hereby commends you, a member of the Johnson County Rescue Squad, for your benevolent spirit and your excellent volunteer service in providing help in various and immediate emergencies. Your humanitarian acts, so vital to the well-being of your fellowman, prove your ultimate concern and compassion. Your willingness to serve is most evident at school, civic and recreational activities and projects. In the midst of disasters, accidents, catastrophies, calamities and tragedies, it is comforting to know that you are available and in the line of service. Your self-sacrifice and self-denial will help build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Endicott)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, a member of the Oil Springs Fire Department of Johnson County, for your indispensible and outstanding services to your community in fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. This dedication, self-sacrifice and humanitarian spirit have made your community a better place in which to live.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Endicott)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, a member of the W. R. Castle Fire Department of Johnson County, for your indispensible and outstanding services to your community in fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. This dedication, self-sacrifice and humanitarian spirit have made your community a better place in which to live.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Endicott)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, a member of the Thealka Fire Department of Johnson County, for your indispensible and outstanding services to your community in fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. This dedication, self-sacrifice and humanitarian spirit have made your community a better place in which to live.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Endicott)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, a member of the River Fire Department of Johnson County, for your indispensible and outstanding services to your community in fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. This dedication, self-sacrifice and humanitarian spirit have made your community a better place in which to live.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Endicott)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, a member of the Thelma Fire Department of Johnson County, for your indispensible and outstanding services to your community in fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. This dedication, self-sacrifice and humanitarian spirit have made your community a better place in which to live.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Endicott)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, a member of the Flat Gap Fire Department of Johnson County, for your indispensible and outstanding services to your community in fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. This dedication, self-sacrifice and humanitarian spirit have made your community a better place in which to live.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Endicott)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, a member of the West Van Lear Fire Department of Johnson County, for your indispensible and outstanding services to your community in fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. This dedication, self-sacrifice and humanitarian spirit have made your community a better place in which to live.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Endicott)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, a member of the Paintsville Fire Department of Johnson County, for your indispensible and outstanding services to your community in fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. This dedication, self-sacrifice and humanitarian spirit have made your community a better place in which to live.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Endicott)

Representative Tobin moved the adoption of the following Legislative Citation No. 35:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates you, Alfred and Edna Frank, of Garfield, Kentucky, on this your blissful Golden Anniversary. Love and affection have cemented many tender ties of a beautiful and happy relationship for you. God blessed you with his priceless gift of love - your children. Sharing life's joys and sorrows for fifty years is the ultimate in living the good life.

May God's eternal goodness crown you with lasting love, health and happiness.

This prestigious body extends to you and family our sincere and very best wishes. (Sponsored by Representative Tobin)

Agreed.

Representative Morris moved that **HB 97,** by way of Committee Substitute as amended, be taken from the Clerk's desk and placed in Orders of the Day. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 88, HB 197, HB 273, HCR 5, SJR 15, SB 25,** and **SB 5** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 11:15 a.m.)

HB 88, HB 197, HB 273, and **HCR 5** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions and Communications (continued)

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsors requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

Representative Cline, **HB 622;** Representative Cyrus, **HB 622;** Representative T. Jones, **HB 643;** Representative List, **HB 622;** Representative Long, **HR 2;** Representative Lundergan, **HB 622;** Representative McNutt, **HB 622;** Representative Noe, **HB 622;** Representative Stumbo, **HB 622;** Representative Thomason, **HB 622.**

The following meetings were announced:

Committee on Rules: On adjournment, Room 316.

Judiciary-Civil: Monday, 2 p.m., Room 105.

Appropriations and Revenue: Special meeting, Monday, noon, Room 104.

State Government: Special meeting; Monday, 1 p.m.

Jefferson County Delegation: No meeting on Monday.

Board Election Contest: Monday, 10 a.m., Room 109.

Subcommittee of Appropriations and Revenue: 10 a.m., Monday.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HCR 47, by Representative Holbrook and List: A CONCURRENT RESOLUTION ESTABLISHING A Municipal Pension Study Commission.

HCR 48, by Representative LeMaster: A CONCURRENT RESOLUTION inviting Governor John Y. Brown, Jr. to address a joint session of the General Assembly.

HCR 49, by Representative Arnold: A CONCURRENT RESOLUTION directing a study of county official's compensation.

HB 636, by Representative Mann: AN ACT relating to electricians.

HB 637, by Representative Rapier: AN ACT relating to corporations.

HB 638, by Representatives Van Horn, Clark, Gray, and Bennett: AN ACT relating to motor vehicle usage tax.

HB 639, by Representatives R. Jones and Schmidt: AN ACT granting functions relating to onside sewage disposal to the department for human resources.

HB 640, by Representative Bennett: AN ACT relating to horse racing.

HB 641, by Representatives Bennett, Bronger, Burch, Kidd, Yates, Nett, Priddy, Haering, Hines, Handy, Maggard, Endicott, and Little: AN ACT relating to taxation and revenue.

HB 642, by Representative Nett: AN ACT relating to revenue and taxation.

HB 643, by Representatives Hancock, Hines, Farrow, Williams, Nett, Barrows, Kidd, Long, and Crupper: AN ACT establishing the Institute of Government and making an appropriation therefor.

HB 644, by Representatives Head, White, Stone, Dawahare, Brinkley, Stumbo, Noe, Boswell, and Deskins: AN ACT relating to surface mining and declaring an emergency.

HB 645, by Representative LeMaster: AN ACT relating to product liabilities.

HB 646, by Representative Johnson: AN ACT relating to personal jurisdiction of courts over nonresidents.

HB 647, by Representatives Farrow and Arnold: AN ACT relating to repayment of monetary damages.

HB 648, by Representatives LeMaster, B. Richardson, Thomason, Donnermeyer, Dunn, and List: AN ACT relating to block grants.

HB 649, by Representatives B. Richardson, Thomason, LeMaster, Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Bronger, Brown, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lile, List, Little, Long, Lundergan, Maggard, Mann, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Patrick, Perkins, Priddy, Rapier, Richards, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stumbo, Todd, Turner, Van Horn, White, and Yates: AN ACT relating to budget and financial administration.

HB 650, by Representative Morris: AN ACT relating to costs.

HB 651, by Representatives Clapp, McBee, P. Richardson, Craddock, Harper, Stone, and Rattliff: AN ACT relating to organizations receiving deposits or investments.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 595.**

Judiciary-Criminal: **HB 596, HB 489, HB 590.**

Counties and Special Districts: **HB 582.**

Natural Resources and Environment: **SB 56, HB 611.**

Education: **SB 100, SB 162, SB 228, HB 314.**

State Government: **HB 543, HR 33.**

Health and Welfare: **HB 231, HB 531, HB 532, HB 369, SB 161, SB 151, SB 163.**

Representative McBee moved that the rules be suspended to allow a call of the roll to show additional co-sponsors of **HB 651.** Agreed.

The following members requested that their names be added as co-sponsors of **HB 651:** Arnold, Boswell, Brinkley, Burch, Clapp, Craddock, Curd, Dunn, Ellington, Ford, Foster, Fryman, Handy, Harper, Hines, Holbrook, Layman, Lile, McNutt, Meyer, Morris, Rapier, B. Richardson, P. Richardson, Stone, Tobin, Turner, Yates.

Adjournment

Representative LeMaster moved that the House adjourn until 4 p.m., Monday, March 1, 1982.

On the roll call the vote was yeas 49-Bendl, Bennett, Boswell, Burch, Burnette, Caldwell, Clapp, Clark, Craddock, Crupper, Curd, Donnermeyer, Dunn, Ellington, Farrow, Foster, Freibert, Fryman, Haering, Hancock, Harper, Head, Hines, Johnson, R. Jones, Kenton, Layman, List, Long, McBee, Moberly, Moore, Morris, Noe, Noland, O'Brien, Pearman, Rapier, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, Todd, Turner, Van Horn, Yates. Nays 13-Blevins, Cowan, Endicott, Ford, Guenthner, Handy, Holbrook, Lile, Little, Maggard, Meyer, Perkins, Schmidt.

The motion to adjourn was adopted.

MONDAY, MARCH 1, 1982

THIRTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Billy G. Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Deskins, Ellington and Lefevers.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 26, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HCR 50, by Representative Farrow: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the public advocacy system.

HR 51, by Representatives Holbrook and Perkins: A RESOLUTION urging the Department for Human Resources to fund Parents Anonymous of Kentucky, Inc. a self-help group for parents who abuse or neglect their children.

HB 652, by Representative Allen: AN ACT relating to sales and use tax.

HB 653, by Representative Farrow: AN ACT relating to circuit clerk's compensation and making an appropriation therefor.

HB 654, by Representatives McNutt, Pearman, Foster, R. Jones, Craddock, Allen, Holloway, and Long: AN ACT relating to wages and hours.

HB 655, by Representatives Head, Brinkley, Stone, and White: AN ACT relating to surface mining and declaring an emergency.

HB 656, by Representative Stumbo: AN ACT relating to judgments concerning real property.

Reference of Bills and Resolutions

The clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 624, HB 638, HB 641, HB 642, HB 643, HB 648, HB 649.**

Banking and Insurance: **HB 627, HB 628, HB 651.**

Business Organizations and Professions: **HB 631, HB 637, HB 640, SB 261, SB 293.**

Cities: **HCR 47.**

Counties and Special Districts: **HB 632, HCR 46, HR 49.**

Education: **HB 629, HB 630.**

Energy: **HB 636.**

Health and Welfare: **HB 633, SB 216.**

Judiciary-Civil: **HB 626, HB 645, HB 646, HB 650, SB 229.**

Judiciary-Criminal: **HB 647.**

Labor and Industry: **HB 634, SB 255.**

Natural Resources and Environment: **HB 625, HB 639, HB 644, SR 27.**

State Government: **HR 45, HCR 48, SB 142.**

Transportation: **HB 635, SB 137.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

Judiciary-Civil: **HB 246, HB 623, HR 42.**

Report of Committees

The Committee on Rules reported **HB 378, HB 379, HB 393, HB 466, HR 35,** and **SB 171** have been posted for passage in Orders of the Day, March 2, 1982.

The Committee on Rules reported **HB 321** has been recommitted to the Committee on Appropriations and Revenue.

Senate Message

Announcing passage of **SB 72, SB 150, SB 153, SB 173, SB 193, SB 233, SB 241, SB 256, SB 266, SB 271, SB 277, SB 278, SB 280, SB 281, SB 282, SB 283, SB 285, HB 175, HB 212, HB 335, HB 350.**

The following letter was received in regard to the Proposed Regulation 815 KAR 7:050: The Senate has adopted Senate Resolution 40 reiterating the Administrative Regulation Review Subcommittee's rejection of 815 KAR 7:050 because of nonconformance with statutory authority and legislative intent. The Senate respectfully requests the same action from this Honorable Body.

Calendar

HB 149, HB 290, and **HB 441** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 342, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Committee Substitute to **HB 342.** Agreed.

Representative Clarke moved the adoption of the Floor Amendment No. 3 to the Committee Substitute to **HB 342.**

Representative Barrows moved that the fiscal note be attached to the Floor Amendment No. 3 to **HB 342.** Rejected.

Representative Clarke moved the adoption of the Floor Amendment No. 3 to the Committee Substitute to **HB 342.** Agreed.

Representative Clarke moved that **HB 342,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 342, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 342,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 104** had been examined and found correctly enrolled. **SB 104** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:32 p.m.)

Orders of the Day (continued)

SB 67, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Committee Amendment No. 1 to **SB 67.** Agreed.

Representative Farrow moved that **SB 67,** as amended, be passed.

On the roll call the vote was yeas 89-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SB 67, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **SB 67,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 13, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved the adoption of the Committee Substitute to **HB 13.** Agreed.

Representative F. Smith moved the adoption of the Floor Amendment No. 4 to the Committee Substitute to **HB 13.** Agreed.

Representative Schmidt moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 13.** Agreed.

Representative F. Smith moved that **HB 13,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 42-Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Bruce, Caldwell, Clark, Donnermeyer, Dunn, Foster, Gray, Handy, Harper, Heleringer, Holbrook, T. Jones, Kidd, Mann, McBee, Meyer, Moberly, Morris, Noe, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, Robinson, Schmidt, F. Smith, Thomas, Thomason, Van Horn, Williams, Worthington, Yates. Nays 47-Allen, Blevins, Burch, Clapp, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Endicott, Farrow, Ford, Freibert, Fryman, Guenthner, Haering, Hancock, Holloway, R. Jones, Kenton, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McNutt, Moore, Nett, Noland, O'Brien, Patrick, Perkins, Rattliff, Riner, Seum, B. Smith, Stone, Stumbo, Tobin, Todd, Turner, White.

HB 13, by way of Committee Substitute as amended, was defeated.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 175, HB 212, HB 335,** and **HB 350** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:45 p.m.)

HB 175, HB 212, HB 335, and **HB 350** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 326 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 326** be passed.

On the roll call the vote was yeas 88-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Fryman, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, White, Worthington, Yates. Nays 4-Bruce, Freibert, Gray, Van Horn.

HB 326 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 326** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 133, with Committee Amendment and Floor Title Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative List moved the adoption of the Committee Amendment No. 1 to **SB 133.** Agreed.

Representative List moved that **SB 133,** as amended, be passed.

On the roll call the vote was yeas 71-Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Burch, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Handy, Harper, Head, Hines, Holbrook, Holloway, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Turner, Worthington, Yates. Nays 13-Allen, Barrows, Crupper, Fryman, Gray, Guenther, Haering, Hancock, Layman, Rapier, Van Horn, White, Williams.

SB 133, as amended, was passed.

Representative List moved the adoption of the Floor Title Amendment to **SB 133.** Agreed.

Representative LeMaster moved that the vote by which **SB 133,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 97, by way of Committee Substitute as amended by Floor Amendment No. 1 and with Floor Amendments and Committee Amendments attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of the Floor Amendment No. 3 to the Committee Substitute to **HB 97.** Agreed.

Representative Morris moved that **HB 97,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 85-Allen, Barrows, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, B. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 97, by way of Committee Substitute as amended, was passed.

Representative Noe moved the adoption of the Committee Title Amendment to **HB 97.** Agreed.

Representative Noe moved that the vote by which **HB 97,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 116, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only. Agreed by a majority of members elected.

Representative Yates moved the adoption of the Committee Substitute to **HB 116.** Agreed.

Representative Yates moved the adoption of the Floor Amendment No. 2 to the Committee Substitute to **HB 116.** Agreed.

Representative Yates moved that **HB 116,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 79-Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Dunn, Endicott, Farrow, Ford, Foster, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Kidd, LeMaster, List, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Noe, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Allen, Schmidt.

HB 116, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 116,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 211, HB 39** with Senate Amendments, **HB 65** with Senate Amendment, **HB 322,** and **HB 375.**

Orders of the Day (continued)

HR 37 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Williams moved that **HR 37** be adopted.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HR 37 was adopted and the title agreed to.

HB 301, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **HB 301.** Agreed.

Representative Donnermeyer moved that **HB 301,** by way of Committee Substitute, be passed.

Representative Barrows moved that **HB 301,** by way of Committee Substitute, be laid on the Clerk's desk.

Representative P. Richardson moved that **HB 301,** by way of Committee Substitute be laid on the table. Rejected.

On the roll call the vote was yeas 32-Allen, Arnold, Barrows, Blandford, Boswell, Brown, Bruce, Clapp, Crupper, Curd, Dawahare, Endicott, Farrow, Ford, Foster, Fryman, Gray, Layman, Maggard, Moberly, Moore, Noe, Noland, Overstreet, Perkins, Rapier, F. Smith, Stone, Stumbo, Turner, Van Horn, White. Nays 51-Bendl, Bennett, Blevins, Bronger, Burch, Caldwell, Clark, Clarke, Cowan, Craddock, Cyrus, Donnermeyer, Dunn, Freibert, Guenthner, Haering, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, Meyer, Morris, Nett, O'Brien, Pearman, Priddy, Richards, B. Richardson, Riner, Schmidt, Seum, B. Smith, Thomas, Thomason, Tobin, Todd, Williams, Yates.

The motion that **HB 301,** by way of Committee Substitute, be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 53-Bendl, Bennett, Bronger, Burch, Caldwell, Clark, Clarke, Cowan, Craddock, Cyrus, Donnermeyer, Dunn, Freibert, Guenthner, Haering, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, Meyer, Nett, O'Brien, Pearman, Perkins, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Williams, Yates. Nays 35-Allen, Barrows, Blandford, Blevins, Boswell, Brinkley,Brown, Bruce, Clapp, Crupper, Curd, Dawahare, Endicott, Farrow, Ford, Fryman, Gray, Head, Layman, McNutt, Moberly, Moore, Morris, Noe, Noland, Overstreet, Rapier, Rattliff, Robinson, Stumbo, Todd, Turner, Van Horn, White, Worthington.

HB 301, by way of Committee Substitute, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 301,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions.

Floor Amendment No. 1 to Committee Substitute to **HB 106,** by Representative Heleringer:

Amend printed copy of Committee Substitute to **HB 106,** page 27, line 22, by deleting Sections 25, 26, 27 and 28 in their entirety, and inserting in lieu thereof the following:

"SECTION 25. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a bureau for long term care within the department for human resources.

(2) The bureau for long term care shall be responsible for all functions within the department with respect to long term care including but not limited to the development, implementation, and administration of long term care plans and programs, licensing and certification of long term care facilities, payment to long term care facilities through the Medicaid program, and the administration of this Act.

(3) The bureau for long term care shall consist of all current employes within the department with responsibilities directly related to long term care, including but not limited to licensing and inspection of long term care facilities, the long term care ombudsman program, payment for long term care, program planning and administration, and other related long term care functions. No additional employes shall be hired for the bureau of long term care with the exception of a commissioner, who may be hired from outside the department, and who shall head the bureau and who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for long term care shall be a person who by education, professional qualification, training, and experience in administration and management is qualified to perform the duties of the office. The commissioner of the bureau of long term care shall exercise authority for the bureau of long term care under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary."

and by renumbering the remaining sections to conform.

Floor Amendment No. 1 to **HB 313,** by Representative Mann:

Amend printed copy of **HB 313,** page 1, lines 12 and 13, by deleting the comma and inserting a period in lieu thereof; and by deleting "*or at least one-half (½) of each one hundred forty (140) days*" and inserting the following in lieu thereof: "*Less than full time teachers shall accumulate service year on the basis that each one (1) hour period of employment shall equal one-sixth (1/6) of a day.*"

Floor Amendment No. 2 to **HB 378,** by Representative Kenton:

Amend printed copy of **HB 378,** on page 2, by inserting after line 9, the following:

"Section 2. 1976 Acts, Chapter 20, Extraordinary Session, Section 10, is amended to read as follows:

Section 10. Sections 2 through *6* [~~7~~] of this Act shall not apply in counties having an urban county form of government. In such counties, the duties of the county judge/executive shall be as prescribed by the comprehensive plan of such government and his salary shall be fixed by the legislative body of such government."

Floor Amendment No. 1 to Committee Substitute to **HB 379,** by Representative Farrow:

Amend printed copy of Committee Substitute to **HB 379,** on page 2, lines 25 and 26, by deleting lines 25 and 26 in their entirety;

On page 3, lines 1 and 2 by deleting lines 1 and 2 in their entirety;

On page 3, line 3, by deleting "*(6)*" and inserting "*(5)*" in lieu thereof; and

On page 3, line 8, by deleting "*(7)*" and inserting "*(6)*" in lieu thereof.

Floor Amendment No. 1 to **HB 413,** by Representative Boswell:

Amend printed copy of **HB 413,** on page 1, lines 3 and 4, delete the word "*fourteen (14)*" and insert the word "*fifteen (15)*"

and on page 1, line 11, delete the word "*and*"

and on page 1, insert after line 11, the following:

"*(e) One (1) member appointed by the governor selected from a list provided by the Kentucky Association of Fairs and Horse Shows of six (6) eligible members of the Association; and*"

and on page 1, line 12, change "*(e)*" to "*(f)*"

Floor Amendment No. 1 to **HB 424,** by Representative Cyrus:

Amend printed copy of **HB 424,** on page 1, beginning after line 14 by adding the following new Section.

Section 2. KRS 229.071 is amended to read as follows:

(1) No person shall conduct, or advertise a professional match without an annual license from the commission to conduct such matches within a specified area and a permit to hold the specific match and the accompanying program of events at a specified location on a specific date.

(2) If in the judgment of the commission the financial responsibility, experience, character and general fitness of an applicant, including in the case of corporations its officers and stockholders, are such that the participation of such applicant will be consistent with the public interest, convenience or necessity and with the best interests of boxing or wrestling generally and in conformity with the purposes of this chapter, the commission may grant an annual license in accordance with the provisions herein contained.

(3) The annual license fee shall be three hundred dollars ($300) where the professional matches are to be conducted within fifteen (15) miles of the city limits of a city or cities containing an aggregate population of two hundred thousand (200,000) or more and one hundred dollars ($100) elsewhere. Each such license shall expire twelve (12) months after the date of issue.

(4) No person may be issued an annual license unless he has been a resident of Kentucky for sixty (60) days prior to the issuance thereof, or in the case of a corporation, unless it has qualified to do business in the commonwealth.

(5) In determining which applicant shall be granted a permit to conduct a professional wrestling match the Commission shall give preference to Kentucky residents and domestic corporations.

Floor Amendment No. 1 to **HB 505,** by Representative Holbrook:

Amend printed copy of **HB 505,** page 10, line 16, by adding after the word "*purchased*" the phrase "*and used*", and on lines 16 and 17, by deleting the words "*in a zone,*"

Floor Amendment No. 2 to **SB 133,** by Representative List:

Amend printed copy of **SB 133,** on page 1, line 1, delete the numeral "67A" and insert in lieu thereof "91A"; and before the word "urban-county" each time it appears on page 1, lines 3, 5, 7, 10, 14, and 19, and on page 2, lines 8, 12, 13, 19, 21, and 25, insert the words "*city of the first or second class or*"

Representative List moved that the vote on **SB 133** be reconsidered. Agreed.

Representative List moved that **SB 133** be placed in Orders of the Day. Agreed.

The following announcements were made.

Committee on Rules: On adjournment. Room 316.

Jefferson County Delegation: On adjournment, Room 107.

Counties and Special Districts: 8:00 a.m., Tuesday.

State Government: Special meeting, Tuesday, 10:00 a.m., Room 327.

Budget Subcommittee-Human Resources: 12 noon, Tuesday.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Donnermeyer, **HB 326;** Representative Haering, **HB 301;** Representative Noe, **HB 583.**

Representative Patrick requested that his name be withdrawn as co-sponsor of **HB 635.**

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 657, by Representative LeMaster: AN ACT relating to state government.

HB 658, by Representative LeMaster: AN ACT relating to insurance company investments.

HB 659, by Representatives LeMaster, B. Richardson, Dunn, Thomason, and Donnermeyer: AN ACT relating to the income tax check-off for political parties.

HB 660, by Representative LeMaster: AN ACT relating to geology.

HB 661, by Representatives Head, Brinkley, and Blandford: AN ACT relating to fish and wildlife resources.

HB 662, by Representatives Head and Blandford: AN ACT relating to reorganization of state government.

HB 663, by Representative White: AN ACT relating to banking.

HB 664, by Representative Gray: AN ACT relating to sales and uses taxes.

HB 665, by Representative Gray: AN ACT relating to motor vehicle registration.

HB 666, by Representatives Nett, Dunn, Donnermeyer, Mann, and Hancock: AN ACT relating to gasoline excise tax.

HB 667, by Representative List: AN ACT relating to urban-county government.

HB 668, by Representatives LeMaster, List, Hancock, and Boswell: AN ACT relating to state personnel.

HB 669, by Representative R. Jones: AN ACT relating to criminal abuse of persons.

HB 670, by Representative R. Jones: AN ACT relating to tourism.

HB 671, by Representative O'Brien: AN ACT relating to small claims court.

HB 672, by Representatives Thomas, Patrick, White, Moore, and Noland: AN ACT relating to judicial circuits.

HB 673, by Representative Dawahare: AN ACT relating to revenue and taxation.

HB 674, by Representative Bendl: AN ACT relating to services for elderly persons.

HB 675, by Representative Lundergan: AN ACT relating to unemployment compensation.

HB 676, by Representative Johnson: AN ACT relating to crimes and punishments.

HB 677, by Representative O'Brien: AN ACT relating to controlled substances.

HB 678, by Representatives Cyrus and Brown: AN ACT relating to Kentucky state police.

HB 679, by Representative O'Brien: AN ACT relating to the insurance code.

HB 680, by Representatives Morris and Bruce: AN ACT relating to parks, playgrounds and recreation.

HB 681, by Representatives Noe and Pearman: AN ACT relating to state personnel.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee Consideration:

Judiciary-Criminal: **HB 581, SB 213.**

Labor and Industry: **HB 229, HB 593.**

Education: **HB 223.**

Business Organizations and Professions: **HB 496, HB 566.**

Appropriations and Revenue: **HB 648, HB 609, HB 594.**

The Clerk announced the following Bills have been withdrawn from Committee consideration:

Judiciary-Criminal: **HB 272, HB 387.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 411,** with Committee Substitute attached thereto, and **HB 479,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 411, AN ACT relating to contributions to pension systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.560 is amended to read as follows:

(1) Each employe shall, commencing on July 1, 1966, contribute for each pay period for which he receives compensation four percent (4%) of his creditable compensation, except that members of the general assembly, who elect the survivorship option provided in subsections (9), (10) and (11) of KRS 61.635, shall

each contribute six and six-tenths percent (6.6%) of creditable compensation commencing with the payroll period immediately following his election of the option. Any other provisions of KRS 61.510 through 61.702 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute four percent (4%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the federal social security act, in compensation as a result of reemployment during the calendar year.

(2) Each employer shall cause to be deducted from the creditable compensation of each employe for each and every payroll period the contribution payable by each such employe as provided in KRS 61.510 to 61.692.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employe shall be reduced thereby. Every employe shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 61.510 to 61.692.

(4) Each employer shall, as provided in Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 61.510 to 61.692 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 2. KRS 16.545 is amended to read as follows:

(1) Except for members over age fifty-five (55) on July 1, 1958, who shall not be required to contribute, each member shall, commencing on July 1, 1968, contribute for each pay period for which he receives compensation, seven per cent (7%) of his creditable compensation.

(2) The employer shall cause to be deducted from the compensation of each member for each and every payroll period subsequent to July 1, 1958, the contributions payable by such member as provided in KRS 16.510 to 16.652.

(3) Every member shall be deemed to consent to deductions made as provided herein; and the payment of salary or compensation less such deduction shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 16.510 to 16.652.

(4) Each employer shall, as provided in Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 16.505 to 16.645 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 3. KRS 78.610 is amended to read as follows:

(1) Each employe shall, commencing on July 1, 1966, contribute for each pay period, for which he receives compensation four percent (4%) of his creditable compensation. Any other provisions of KRS 78.510 through 78.852 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute four percent (4%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the federal social security act, in compensation as a result of reemployment during the calendar year.

(2) The treasurer, attorney, clerk, jailer and sheriff of a participating county shall cause to be deducted from the "creditable compensation" of each employe for each and every payroll period subsequent to the date the county participated in the system, the contribution payable by such member as provided in KRS 78.510 to 78.852. The attorney, clerk, jailer and sheriff shall promptly pay such deducted employe contributions to the treasurer for forwarding to the board in accordance with KRS 78.625.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employe shall be reduced thereby. Every employe shall be deemed to consent

and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 78.510 to 78.852.

(4) Each employer shall, as provided in Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 4. KRS 161.540 is amended to read as follows:

(1) Each member shall contribute to the retirement system seven and seven-tenths percent (7 7/10%) of his annual compensation. The contribution of a member shall not exceed this percentage on his current annual compensation.

(2) Effective July 1, 1979, each member shall contribute to the retirement system seven and eighty-four hundredths percent (7 84/100%) of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation.

(3) Effective July 1, 1982, each member shall contribute to the retirement system nine and thirty-two hundredths percent (9 32/100%) of annual compensation except that university faculty members shall contribute seven and eighty-four hundredths percent (7 84/100%) of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation.

(4) Each public board, institution or agency, as listed in KRS 161.220(4)(a) through (f) shall, as provided in Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 5. KRS 21.360 is amended to read as follows:

(1) Each judge of the district court in office on July 1, 1978, may within thirty (30) days after that date, and any judge or justice of any court entitled to be a member thereafter taking office may within thirty (30) days after taking office, elect to make monthly contributions to the retirement system in an amount equal to five percent (5%) of his monthly official salary. The election shall be effective to establish membership in the system as of July 1, 1978, or as of the date the judge or justice took office, as the case may be. The election shall be addressed to and filed with the secretary of the executive department for finance and administration, and shall constitute an authorization by the member, to the secretary, to thereafter cause to be deducted from the member's official salary, each month, an amount equal to five percent (5%) of the monthly salary, as a voluntary contribution by the member towards the funding of the retirement system. Such election, upon being made, shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 21.350 to 21.510.

(2) Membership and benefit rights for judges and justices (other than judges of the district court), and for the commissioners and administrative director, who took office prior to July 1, 1978, shall be dependent upon valid elections having been made under this section (and KRS 21.355 and 21.365) prior to the 1978 amendment to this section. The terms of such elections, including the contribution rate, shall continue to govern for the duration of the member's service.

(3) When any judge of the district court in office on July 1, 1978 elects membership in the judicial retirement system in accordance with this section, his membership in the Kentucky employes retirement system shall terminate as of July 1, 1978 and any credit in that system he earned for service as a judge of the district court shall be nullified; provided that the effect of such service to validate any other service credit in that system shall not be nullified.

(4) The state shall, as provided in Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982,

and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. The state shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 21.345 to 21.570 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 6. KRS 6.505 is amended to read as follows:

(1) Each legislator in office on July 1, 1980 may within thirty (30) days after that date, and any legislator thereafter taking office may within thirty (30) days after the date thereof, elect to make monthly contributions to the legislators retirement plan, in an amount equal to five (5) percent of his monthly creditable compensation, as defined in KRS 61.510(13). The election shall be effective to establish membership in the plan as of July 1, 1980 or as of the date from which the thirty (30)-day period is measured, as the case may be. Provided, however, that any legislator in office on July 1, 1980 may, after the expiration of the thirty (30) day period and until February 1, 1981, make the election, in which event he shall pay to the legislators retirement plan, for the months between July 1, 1980 and the date of his election such sum as, when added to any member's contribution by him that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. The election shall be addressed to and filed with the secretary of the department of finance and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five (5) percent thereof, as a voluntarily elected contribution by the member towards the funding of the legislators retirement plan. Such election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530.

(2) *The state shall, as provided in Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. The state shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.*

(3) When any legislator elects membership in the legislators retirement plan in accordance with this section, his active membership in the Kentucky employes retirement system, county employes retirement system, or teachers retirement system shall terminate, as of the date his membership in the legislators' retirement plan becomes effective, to the extent that service as a legislator is concerned, and any credit that he then has in such other system or systems, earned for service as a legislator, shall be transferred to and counted as service credit in the legislators retirement plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected.

Section 7. KRS 61.543 is amended to read as follows:

(1) Employe contributions shall be deducted each payroll period from the creditable compensation of each employe of an agency participating in the retirement system while he is classified as regular full-time as defined in KRS 61.510 unless such person did not elect to become a member as provided by subsection (2) of KRS 61.525. *After August 1, 1982, employe contributions shall be picked up by the employer pursuant to KRS 61.560(4).* Service credit will be allowed for each month such contributions are deducted *or picked up* during a fiscal or calendar year, provided the member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employe contributions shall not be deducted from the creditable compensation of an employe *or picked up by the employer* while he is seasonal, emergency, temporary or part-time. No service credit will be earned.

(3) Contributions shall not be made *or picked up by the employer* and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave, approved by the department of personnel, who is receiving 75% or more of full salary, shall receive service credit and shall pay employe contributions, *or such contributions shall be picked up* in accordance with KRS 61.560 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid *or picked up* during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

Section 8. KRS 61.680 is amended to read as follows:

(1) *Prior to August 1, 1982,* every employe shall be deemed to consent and agree to any deduction from his compensation required by KRS 16.510 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852 and to all other provisions thereof. *Thereafter employe contributions shall be picked up by the employer pursuant to KRS 61.560(4).*

(2) (a) Notwithstanding any other provisions of KRS 16.510 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement a member's accounts under the state police retirement system, Kentucky employes retirement system, county employes retirement system and teachers' retirement system shall be consolidated for the purpose of determining eligibility and amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one system. If the member has prior service in more than one system, he must obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate such prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits each system shall pay the applicable percentage of total benefits.

(b) The provisions of subsection (2)(a) of this section shall be waived if the member notifies the board of his desire to maintain separate retirement accounts in the state police retirement system, Kentucky employes retirement system or county employes retirement system, or if he is a member of the state police retirement system or is working in a hazardous position under the Kentucky employes retirement system or county employes retirement system and as a result of an act in line of duty becomes disabled or deceased.

(c) If the member has not contributed at least one year in a system in which he has prior service his current service in such system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky employes retirement system, state police retirement system or the county employes retirement system who enters the service of a department, board, agency or instrumentality of the Commonwealth whereby such person would be eligible for membership in the judicial retirement system may elect to retain membership in the system in which he is a member, either the Kentucky employes retirement system, state police retirement system or the county employes retirement system. When such an election is made, the agency employing the member shall withhold employe contributions, *or picked up employe contributions after August 1, 1982,* make employer contributions and remit these contributions to the system in which the member retained his membership.

(4) (a) Prior to July 1, 1976 a person entering the service of an employer participating in the Kentucky employes retirement system or the county employes retirement system with service credit in the teachers' retirement system and who desires to retain membership in the teachers' retirement system, and who is permitted by that system to continue is hereby exempt from participating in the Kentucky employes retirement system or the county employes retirement system.

(b) Any person who has elected to retain membership in the teachers' retirement system as provided in subsection (a) of this section may cancel his election and participate in the system under which his position would normally participate, provided he elects to cancel his option prior to January 1, 1977.

(c) Any member of the general assembly who upon election is a contributing member of the teachers' retirement system may elect to retain membership in the teachers' retirement system during his term of office rather than participate in the Kentucky employes retirement system. Such election to retain membership in the teachers' retirement system must be filed in writing within ninety (90) days after his term of office begins or he will participate in the Kentucky employes retirement system during his term of office. No contributions may be made to the teachers' retirement system for the same period of service under the Kentucky employes retirement system as a member of the general assembly.

(5) Effective July 1, 1974 any member of the Kentucky employes retirement system or county employes retirement system who is working in a position covered by one (1) of these retirement systems and his employe contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, *or after August 1, 1982, the employer shall pick up such employe contributions,* and no further contributions or service credit shall be transferred to the system in which he elected to retain membership as subsection (2) of this section eliminates the necessity of such transfers.

(6) Any member of the Kentucky employes retirement system or county employes retirement system who is working in more than one position covered by one of these retirement systems, will have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, then an accumulation of all hours worked will be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (3) of this section and KRS 21.375, a person entering membership of the judicial retirement system with service credit in the state police retirement system, Kentucky employes retirement system, county employes retirement system or teachers' retirement system will become vested for early and normal retirement benefits in each system in which he has service credit when his combined service credit in all systems is equal to that required for vesting in each respective system.

Section 9. KRS 16.543 is amended to read as follows:

(1) Employe contributions shall be deducted from the creditable compensation of each member of the retirement system in the active employment of the bureau of state police of the department of justice as an officer as defined in KRS 16.520. *After August 1, 1982, employe contributions shall be picked up by the employer pursuant to KRS 16.545(4).* Service credit shall be allowed for each month such member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Contributions shall not be made and no service will be earned while on authorized leave except:

(a) A member shall be entitled to service credit in accordance with KRS 16.541; and

(b) A member on educational leave, approved by the department of personnel, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions *or such contributions shall be picked up* in accordance with KRS 16.545 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid *or picked up* during the period of educational leave shall be refunded.

(3) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

Section 10. KRS 78.615 is amended to read as follows:

(1) Employe contributions shall be deducted each payroll period from the creditable compensation of each employe of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless such person did not elect to become a member as provided by subsection (2) of KRS 78.540. *After August 1, 1982, employe contributions shall be picked up by the employer pursuant to KRS 78.610(4).* Service credit will be allowed for each month such contributions are deducted *or picked up* during a fiscal or calendar year, provided the employe receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) hours per month, the employe shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employe contributions shall not be deducted from the creditable compensation of any employe *or picked up by the employer* while he is seasonal, emergency, temporary or part-time. No service credit will be earned.

(3) Contributions shall not be made *or picked up by the employer* and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state department of personnel for approved educational leave, who is receiving 75% or more of full salary shall receive service credit and shall pay member contributions in accordance with KRS 78.610 and his employer shall pay employer contributions *or such contribution shall be picked up* in accordance with KRS 61.565. If a tuition agreement is broken by the member the member and employer contributions paid *or picked up* during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

Section 11. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.710:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.710 for payment of allowances to teachers.

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service.

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability.

(4) "Teacher" means any member of a local retirement system who became a member of the state teachers' retirement system according to the provisions of Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 49;

and any regular or special teacher, supervisor or administrator occupying a position requiring certification by the state department of education or a professional level of training, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky school for the blind, and Kentucky school for the deaf;

(d) The state department of education, and such members of the administrative staff of the teachers' retirement system of the state of Kentucky as the board of trustees may designate by regulation;

(e) Regional cooperative organizations formed by local boards of education and/or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations; and

(f) All full-time members of the staffs of the Kentucky association of school administrators, Kentucky education association, Kentucky vocational association, Kentucky high school athletic association and the Kentucky school boards association who were members of the Kentucky teachers' retirement system or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petition to be included. The board of trustees of the Kentucky teachers' retirement system may designate by resolution whether part-time employes of the petitioning association are to be included. The state shall make no contributions on account of such employes, either full-time or part-time. The association shall make the employer's contributions including any overmatch that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to such persons in the employ of the associations on or subsequent to July 1, 1972.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938 (1st Ex. Sess.), ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state teachers' retirement system or who becomes a member under the provisions of KRS 161.470(4).

(6) "New teacher" means any teacher not a present teacher.

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher.

(8) "Subsequent service" means the number of years during which the teacher is a member of the teachers' retirement system after July 1, 1941.

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, *or on which the public board, institution or agency has picked up employe contributions pursuant to KRS 161.540(4),* or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a). *The term shall include picked up employe contributions.*

(10) "Annual compensation" means the contractual salary and additions thereto received by a member as compensation for services as a teacher in the public schools of Kentucky during a fiscal year before any deductions.

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members.

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28.

(13) "Regular interest" means interest at three percent (3%) per annum.

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity plus accrued regular interest.

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance.

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky.

(17) "Fiscal year" means the twelve-month period from July 1 to June 30.

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section.

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (½) of the support from the member for maintenance, including board, lodging, medical care and like costs.

(20) "Active contributing member" means a member currently making contributions to the teachers' retirement system or who made such contributions in the next preceding fiscal year, *or for whom picked up employe contributions are currently being made or for whom such contributions were made in the next preceding fiscal year.*

(21) "Regular teacher, supervisor, or administrator", when used to determine eligibility for membership in the retirement system, means a professional employe holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 12. KRS 161.545 is amended to read as follows:

Members may make contributions and receive service credit for substitute, part-time or any service other than regular full time teaching as provided in the rules and regulations of the board of trustees. Members placed on leave of absence may make contributions and receive service credit for such leave as provided in rules and regulations adopted by the board of trustees. *Contributions permitted after August 1, 1982 shall be picked up pursuant to KRS 161.540(4).*

Section 13. KRS 161.560 is amended to read as follows:

Each agency employing members of the retirement system shall deduct from the compensation of each member for each payroll period subsequent to the date upon which the teacher became a member such percentage of his earnable compensation as is due under the rates prescribed in KRS 161.540. No later than fifteen (15) days following the end of each payroll period the agency shall forward all amounts so deducted to the teachers' retirement system. Such payroll reports, contributions lists, and other data as may be required by regulation of the board of trustees shall be submitted. The deductions shall be made notwithstanding the fact that the salary as a result may be less than the minimum compensation provided by law. Every member shall be deemed to consent and agree to the deductions and the deductions shall be considered as having been paid to the member. *After August 1, 1982, employe contributions shall be picked up by the agency pursuant to KRS 161.540(4).*

Committee Substitute to **HB 411** is as follows:

HB 411, AN ACT relating to contributions to pension systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.560 is amended to read as follows:

(1) Each employe shall, commencing on July 1, 1966, contribute for each pay period for which he receives compensation four percent (4%) of his creditable compensation, except that members of the general assembly, who elect the survivorship option provided in subsections (9), (10) and (11) of KRS 61.635, shall each contribute six and six-tenths percent (6.6%) of creditable compensation commencing with the payroll period immediately following his election of the option. Any other provisions of KRS 61.510 through 61.702 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute four percent (4%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the federal social security act, in compensation as a result of reemployment during the calendar year.

(2) Each employer shall cause to be deducted from the creditable compensation of each employe for each and every payroll period the contribution payable by each such employe as provided in KRS 61.510 to 61.692.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employe shall be reduced thereby. Every employe shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 61.510 to 61.692.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each employer shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not

be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 61.510 to 61.692 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 2. KRS 16.545 is amended to read as follows:

(1) Except for members over age fifty-five (55) on July 1, 1958, who shall not be required to contribute, each member shall, commencing on July 1, 1968, contribute for each pay period for which he receives compensation, seven per cent (7%) of his creditable compensation.

(2) The employer shall cause to be deducted from the compensation of each member for each and every payroll period subsequent to July 1, 1958, the contributions payable by such member as provided in KRS 16.510 to 16.652.

(3) Every member shall be deemed to consent to deductions made as provided herein; and the payment of salary or compensation less such deduction shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 16.510 to 16.652.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each employer shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 16.505 to 16.645 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 3. KRS 78.610 is amended to read as follows:

(1) Each employe shall, commencing on July 1, 1966, contribute for each pay period, for which he receives compensation four percent (4%) of his creditable compensation. Any other provisions of KRS 78.510 through 78.852 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute four percent (4%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the federal social security act, in compensation as a result of reemployment during the calendar year.

(2) The treasurer, attorney, clerk, jailer and sheriff of a participating county shall cause to be deducted from the "creditable compensation" of each employe for each and every payroll period subsequent to the date the county participated in the system, the contribution payable by such member as provided in KRS 78.510 to 78.852. The attorney, clerk, jailer and sheriff shall promptly pay such deducted employe contributions to the treasurer for forwarding to the board in accordance with KRS 78.625.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employe shall be reduced thereby. Every employe shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 78.510 to 78.852.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each employer shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made

available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 4. KRS 161.540 is amended to read as follows:

(1) Each member shall contribute to the retirement system seven and seven-tenths percent (7 7/10%) of his annual compensation. The contribution of a member shall not exceed this percentage on his current annual compensation.

(2) Effective July 1, 1979, each member shall contribute to the retirement system seven and eighty-four hundredths percent (7 84/100%) of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation.

(3) Effective July 1, 1982, each member shall contribute to the retirement system nine and thirty-two hundredths percent (9 32/100%) of annual compensation except that university faculty members shall contribute seven and eighty-four hundredths percent (7 84/100%) of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation.

(4) Each public board, institution or agency, as listed in KRS 161.220(4)(a) through (f) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each public board, institution or agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 5. KRS 21.360 is amended to read as follows:

(1) Each judge of the district court in office on July 1, 1978, may within thirty (30) days after that date, and any judge or justice of any court entitled to be a member thereafter taking office may within thirty (30) days after taking office, elect to make monthly contributions to the retirement system in an amount equal to five percent (5%) of his monthly official salary. The election shall be effective to establish membership in the system as of July 1, 1978, or as of the date the judge or justice took office, as the case may be. The election shall be addressed to and filed with the secretary of the executive department for finance and administration, and shall constitute an authorization by the member, to the secretary, to thereafter cause to be deducted from the member's official salary, each month, an amount equal to five percent (5%) of the monthly salary, as a voluntary contribution by the member towards the funding of the retirement system. Such election, upon being made, shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 21.350 to 21.510.

(2) Membership and benefit rights for judges and justices (other than judges of the district court), and for the commissioners and administrative director, who took office prior to July 1, 1978, shall be dependent upon valid elections having been made under this section (and KRS 21.355 and 21.365) prior to the 1978 amendment to this section. The terms of such elections, including the contribution rate, shall continue to govern for the duration of the member's service.

(3) When any judge of the district court in office on July 1, 1978 elects membership in the judicial retirement system in accordance with this section, his membership in the Kentucky employes retirement system shall terminate as of July 1, 1978 and any credit in that system he earned for service as a judge of the district court shall be nullified; provided that the effect of such service to validate any other service credit in that system shall not be nullified.

(4) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions

in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, the state shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. The state shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 21.345 to 21.570 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 6. KRS 6.505 is amended to read as follows:

(1) Each legislator in office on July 1, 1980 may within thirty (30) days after that date, and any legislator thereafter taking office may within thirty (30) days after the date thereof, elect to make monthly contributions to the legislators retirement plan, in an amount equal to five (5) percent of his monthly creditable compensation, as defined in KRS 61.510(13). The election shall be effective to establish membership in the plan as of July 1, 1980 or as of the date from which the thirty (30)-day period is measured, as the case may be. Provided, however, that any legislator in office on July 1, 1980 may, after the expiration of the thirty (30) day period and until February 1, 1981, make the election, in which event he shall pay to the legislators retirement plan, for the months between July 1, 1980 and the date of his election such sum as, when added to any member's contribution by him that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. The election shall be addressed to and filed with the secretary of the department of finance and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five (5) percent thereof, as a voluntarily elected contribution by the member towards the funding of the legislators retirement plan. Such election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530.

(2) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, the state shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. The state shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

(3) When any legislator elects membership in the legislators retirement plan in accordance with this section, his active membership in the Kentucky employes retirement system, county employes retirement system, or teachers retirement system shall terminate, as of the date his membership in the legislators' retirement plan becomes effective, to the extent that service as a legislator is concerned, and any credit that he then has in such other system or systems, earned for service as a legislator, shall be transferred to and counted as service credit in the legislators retirement plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected.

Section 7. KRS 61.543 is amended to read as follows:

(1) Employe contributions shall be deducted each payroll period from the creditable compensation of each employe of an agency participating in the retirement system while he is classified as regular full-time as defined in KRS 61.510 unless such person did not elect to become a member as provided by subsection (2) of KRS 61.525. *After August 1, 1982, employe contributions shall be picked up by the employer pursuant to KRS 61.560(4).* Service credit will be allowed for each month such contributions are deducted *or picked up* during a fiscal or calendar year, provided the member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less

than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employe contributions shall not be deducted from the creditable compensation of an employe *or picked up by the employer* while he is seasonal, emergency, temporary or part-time. No service credit will be earned.

(3) Contributions shall not be made *or picked up by the employer* and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave, approved by the department of personnel, who is receiving 75% or more of full salary, shall receive service credit and shall pay employe contributions, *or such contributions shall be picked up* in accordance with KRS 61.560 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid *or picked up* during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

Section 8. KRS 61.680 is amended to read as follows:

(1) *Prior to August 1, 1982,* every employe shall be deemed to consent and agree to any deduction from his compensation required by KRS 16.510 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852 and to all other provisions thereof. *Thereafter employe contributions shall be picked up by the employer pursuant to KRS 61.560(4).*

(2) (a) Notwithstanding any other provisions of KRS 16.510 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement a member's accounts under the state police retirement system, Kentucky employes retirement system, county employes retirement system and teachers' retirement system shall be consolidated for the purpose of determining eligibility and amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one system. If the member has prior service in more than one system, he must obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate such prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits each system shall pay the applicable percentage of total benefits.

(b) The provisions of subsection (2)(a) of this section shall be waived if the member notifies the board of his desire to maintain separate retirement accounts in the state police retirement system, Kentucky employes retirement system or county employes retirement system, or if he is a member of the state police retirement system or is working in a hazardous position under the Kentucky employes retirement system or county employes retirement system and as a result of an act in line of duty becomes disabled or deceased.

(c) If the member has not contributed at least one year in a system in which he has prior service his current service in such system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky employes retirement system, state police retirement system or the county employes retirement system who enters the service of a department, board, agency or instrumentality of the Commonwealth whereby such person would be eligible for membership in the judicial retirement system may elect to retain membership in the system in which he is a member, either the Kentucky employes retirement system, state police retirement system or the county employes retirement system. When such an election is made, the agency employing the member shall withhold employe contributions, *or picked up employe contributions after August 1, 1982,* make employer contributions and remit these contributions to the system in which the member retained his membership.

(4) (a) Prior to July 1, 1976 a person entering the service of an employer participating in the Kentucky employes retirement system or the county employes retirement system with service credit in the teachers' retirement system and who desires to retain membership in the teachers' retirement system, and who is permitted by that system to continue is hereby exempt from participating in the Kentucky employes retirement system or the county employes retirement system.

(b) Any person who has elected to retain membership in the teachers' retirement system as provided in subsection (a) of this section may cancel his election and participate in the system under which his position would normally participate, provided he elects to cancel his option prior to January 1, 1977.

(c) Any member of the general assembly who upon election is a contributing member of the teachers' retirement system may elect to retain membership in the teachers' retirement system during his term of office rather than participate in the Kentucky employes retirement system. Such election to retain membership in the teachers' retirement system must be filed in writing within ninety (90) days after his term of office begins or he will participate in the Kentucky employes retirement system during his term of office. No contributions may be made to the teachers' retirement system for the same period of service under the Kentucky employes retirement system as a member of the general assembly.

(5) Effective July 1, 1974 any member of the Kentucky employes retirement system or county employes retirement system who is working in a position covered by one (1) of these retirement systems and his employe contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, *or after August 1, 1982, the employer shall pick up such employe contributions,* and no further contributions or service credit shall be transferred to the system in which he elected to retain membership as subsection (2) of this section eliminates the necessity of such transfers.

(6) Any member of the Kentucky employes retirement system or county employes retirement system who is working in more than one position covered by one of these retirement systems, will have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, then an accumulation of all hours worked will be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (3) of this section and KRS 21.375, a person entering membership of the judicial retirement system with service credit in the state police retirement system, Kentucky employes retirement system, county employes retirement system or teachers' retirement system will become vested for early and normal retirement benefits in each system in which he has service credit when his combined service credit in all systems is equal to that required for vesting in each respective system.

Section 9. KRS 16.543 is amended to read as follows:

(1) Employe contributions shall be deducted from the creditable compensation of each member of the retirement system in the active employment of the bureau of state police of the department of justice as an officer as defined in KRS 16.520. *After August 1, 1982, employe contributions shall be picked up by the employer pursuant to KRS 16.545(4).* Service credit shall be allowed for each month such member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Contributions shall not be made and no service will be earned while on authorized leave except:

(a) A member shall be entitled to service credit in accordance with KRS 16.541; and

(b) A member on educational leave, approved by the department of personnel, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions *or such contributions shall be picked up* in accordance with KRS 16.545 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid *or picked up* during the period of educational leave shall be refunded.

(3) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

Section 10. KRS 78.615 is amended to read as follows:

(1) Employe contributions shall be deducted each payroll period from the creditable compensation of each employe of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless such person did not elect to become a member as provided by subsection (2) of KRS 78.540. *After August 1, 1982, employe contributions shall be picked up by the employer pursuant to KRS 78.610(4).* Service credit will be allowed for each month such contributions are deducted *or picked up* during a fiscal or calendar year, provided the employe receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) hours per month, the employe shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employe contributions shall not be deducted from the creditable compensation of any employe *or picked up by the employer* while he is seasonal, emergency, temporary or part-time. No service credit will be earned.

(3) Contributions shall not be made *or picked up by the employer* and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state department of personnel for approved educational leave, who is receiving 75% or more of full salary shall receive service credit and shall pay member contributions in accordance with KRS 78.610 and his employer shall pay employer contributions *or such contribution shall be picked up* in accordance with KRS 61.565. If a tuition agreement is broken by the member the member and employer contributions paid *or picked up* during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

Section 11. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.710:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.710 for payment of allowances to teachers.

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service.

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability.

(4) "Teacher" means any member of a local retirement system who became a member of the state teachers' retirement system according to the provisions of Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 49; and any regular or special teacher, supervisor or administrator occupying a position requiring certification by the state department of education or a professional level of training, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky school for the blind, and Kentucky school for the deaf;

(d) The state department of education, and such members of the administrative staff of the teachers' retirement system of the state of Kentucky as the board of trustees may designate by regulation;

(e) Regional cooperative organizations formed by local boards of education and/or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations; and

(f) All full-time members of the staffs of the Kentucky association of school administrators, Kentucky education association, Kentucky vocational association, Kentucky high school athletic association and the Kentucky school boards association who were members of the Kentucky teachers' retirement system or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petition to be included. The board of trustees of the Kentucky teachers' retirement system may designate by resolution whether part-time employes of the petitioning association are to be included. The state shall make no contributions on account of such employes, either full-time or part-time. The association shall make the employer's contributions including any overmatch that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to such persons in the employ of the associations on or subsequent to July 1, 1972.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938 (1st Ex. Sess.), ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state teachers' retirement system or who becomes a member under the provisions of KRS 161.470(4).

(6) "New teacher" means any teacher not a present teacher.

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher.

(8) "Subsequent service" means the number of years during which the teacher is a member of the teachers' retirement system after July 1, 1941.

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, *or on which the public board, institution or agency has picked up employe contributions pursuant to KRS 161.540(4),* or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), *which shall include picked up employe contributions.*

(10) "Annual compensation" means the contractual salary and additions thereto received by a member as compensation for services as a teacher in the public schools of Kentucky during a fiscal year before any deductions.

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members.

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28.

(13) "Regular interest" means interest at three percent (3%) per annum.

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity, *including picked up employe contributions as described in KRS 161.540(4),* plus accrued regular interest.

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance.

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky.

(17) "Fiscal year" means the twelve-month period from July 1 to June 30.

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section.

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (½) of the support from the member for maintenance, including board, lodging, medical care and like costs.

(20) "Active contributing member" means a member currently making contributions to the teachers' retirement system or who made such contributions in the next preceding fiscal year, *or for whom picked up employe contributions are currently being made or for whom such contributions were made in the next preceding fiscal year.*

(21) "Regular teacher, supervisor, or administrator", when used to determine eligibility for membership in the retirement system, means a professional employe holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 12. KRS 161.545 is amended to read as follows:

Members may make contributions and receive service credit for substitute, part-time or any service other than regular full time teaching as provided in the rules and regulations of the board of trustees. Members placed on leave of absence may make contributions and receive service credit for such leave as provided in rules and regulations adopted by the board of trustees. *Contributions permitted after August 1, 1982 shall be picked up pursuant to KRS 161.540(4).*

Section 13. KRS 161.560 is amended to read as follows:

Each agency employing members of the retirement system shall deduct from the compensation of each member for each payroll period subsequent to the date upon which the teacher became a member such percentage of his earnable compensation as is due under the rates prescribed in KRS 161.540. No later than fifteen (15) days following the end of each payroll period the agency shall forward all amounts so deducted to the teachers' retirement system. Such payroll reports, contributions lists, and other data as may be required by regulation of the board of trustees shall be submitted. The deductions shall be made notwithstanding the fact that the salary as a result may be less than the minimum compensation provided by law. Every member shall be deemed to consent and agree to the deductions and the deductions shall be considered as having been paid to the member. *After August 1, 1982, employe contributions shall be picked up by the agency pursuant to KRS 161.540(4).*

SECTION 14. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

The pick up of employe pension contributions pursuant to this Act shall not be construed as either an increase or a decrease in the amount budgeted for employe salaries by the state or any other employer affected by this Act.

Section 15. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Commissioner" means the commissioner of revenue;

(2) "Department" means the department of revenue;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1979, exclusive of any amendments made subsequent to that date;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in section 61 of the Internal Revenue Code and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky constitution and the constitution and statutory laws of the United States;

(b) Exclude income from supplemental annuities provided by the railroad retirement act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employe pension contributions picked up as provided for in Sections 1 to 6 of this Act, upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employe;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by section 62 of the Internal Revenue Code and adjusted as follows, except that deductions shall be limited to amount allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year;

(b) Deduct federal income tax;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code and by Section 214 of the Internal Revenue Code as it existed on December 31, 1975 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(h);

(c) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

(12) "Gross income," in the case of corporations, means "gross income" as defined in section 61 of the Internal Revenue Code and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky constitution and the constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors under the provisions of section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of section 281 of the Internal Revenue Code in computing gross income;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus all the deductions from gross income allowed corporations by chapter 1 of the Internal Revenue Code, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120; and

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;

(15) "Person" means "person" as defined in section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than 183 days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in section 3401(d) of the Internal Revenue Code;

(20) "Employe" means "employe" as defined in section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), and (q) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in section 7701(a)(3) of the Internal Revenue Code;

(25) "Electing small business corporations" means "electing small business corporations" as defined in Section 1371(b) of the Internal Revenue Code. Stockholders of a corporation qualifying after December 31, 1979 as "electing small business corporations" under Chapter 141 may elect to treat such qualification as an initial qualification under Internal Revenue Code Sections 1371-1378.

Section 16. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.692, unless the context otherwise requires:

(1) "System" means the Kentucky employes retirement system created by KRS 61.515 to 61.692;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.692, the members, officers and employes of the general assembly and any other body, entity or instrumentality designated by executive order by the governor, shall be deemed to be a department notwithstanding whether said body, entity or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiner or examiners as provided in KRS 61.665;

(5) "Employe" means the members, officers and employes of the general assembly and every regular full-time appointed or elective officer or employe of a participating department, including the department of military affairs. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 61.515 to 61.692;

(6) "Employer" means a department or any authority of such department having the power to appoint or select an employe in such department, including the senate and the house of representatives, *or any other entity, the employes of which are eligible for membership in the system pursuant to KRS 61.525*;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1956, (except that for members, officers and employes of the general assembly this date shall be January 1, 1960) for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7) and KRS 61.555, and each member, officer and employe of the general assembly shall be credited with a month of current service for each month he occupies such position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1956, for which creditable compensation was paid; except that, for members, officers and employes of the general assembly this date shall be January 1, 1960. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer and employe

of the general assembly shall be credited with a month of prior service for each month he occupied such position during a legislative biennium prior to January 1, 1960;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, *including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4)*, together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, *including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4)*, except that for members of the general assembly it shall mean an assumed salary of $18,000 per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers and employes of the general assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, *including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4)*, except for members of the general assembly the "final rate of pay" shall be the creditable compensation. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate; 1,950 hours, 260 days, 52 weeks, 12 months, one year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in cases of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 61.515 to 61.692;

(19) "Fiscal year" of the system means the twelve (12) months from July 1, through the following June 30;

(20) "Officers and employes of the general assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the general assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions" as used in subsection (5) of this section shall mean all positions as set forth in KRS chapter 18 as provisional full-time, probationary full-time and permanent full-time, all positions of local health departments meeting the definitions as set forth in KRS chapter 18 of provisional full-time, probationary full-time and permanent full-time and all other positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed six (6) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employe for current service obtained under KRS 61.552. Such amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(7) except the employe shall pay a single payment of 50% of the total cost of such service with no cost to the employer, *and such payment shall not be picked up by the employer*. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434; and

(23) "Parted employer" means a department, portion of a department, board or agency (such as Outwood Hospital and School) which previously participated in the system, but due to lease, or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore, no longer participating in the system.

Section 17. KRS 61.543 is amended to read as follows:

(1) Employe contributions shall be deducted each payroll period from the creditable compensation of each employe of an agency participating in the retirement system while he is classified as regular full-time as defined in KRS 61.510 unless such person did not elect to become a member as provided by subsection (2) of KRS 61.525. *After August 1, 1982, employe contributions shall be picked up by the employer pursuant to KRS 61.560(4).* Service credit will be allowed for each month such contributions are deducted *or picked up* during a fiscal or calendar year, provided the member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employe contributions shall not be deducted from the creditable compensation of an employe *or picked up by the employer* while he is seasonal, emergency, temporary or part-time. No service credit will be earned.

(3) Contributions shall not be made *or picked up by the employer* and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave, approved by the department of personnel, who is receiving 75% or more of full salary, shall receive service credit and shall pay employe contributions, *or such contributions shall be picked up* in accordance with KRS 61.560 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid *or picked up* during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

Section 18. KRS 61.552 is amended to read as follows:

(1) Any employe of a department participating in the Kentucky employes retirement system, or any employe of an agency participating in the county employes retirement system, or any member of the state police retirement system, or any active contributing member of the teachers' retirement system or a contributing member of the judicial retirement system or an employe of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the teachers' retirement system and provided further that KRS 21.460 shall govern with respect to regaining credit in the judicial retirement system. Such payment including interest as determined by the board shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. *Such payments shall not be picked up, as described in KRS 61.560(4), by the employer.*

(2) Any employe of a county participating in the county employes retirement system or any former county employe who is an employe of a participating department in the Kentucky employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, or judicial retirement system who did not elect membership in the county employes retirement system as provided in subsection (2) of KRS 78.540 may obtain credit in the county employes retirement system for prior service and for current service by paying to the county employes retirement system a delayed contribution payment for the service he would have received had he elected membership. *The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.*

(3) Any employe of a participating department or any former state employe who is an employe of a county participating in the county employes retirement system or a contributing member of the state police retirement system, teachers' retirement system or judicial retirement system who did not elect membership in the Kentucky employes retirement system as provided in subsection (2) of KRS 61.525 may obtain credit in the Kentucky employes retirement system for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. *The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.*

(4) An employe of a participating department which did not participate in the system effective July 1, 1956, or any former state employe who is an employe of a county participating in the county employes retirement system or a contributing member of the state police retirement system, teachers' retirement system or judicial retirement system may obtain credit in the Kentucky employes retirement system for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. *The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.*

(5) An employe of a county participating in the county employes retirement system which did not participate in the system effective July 1, 1958, or any former county employe who is an employe of a department participating in the Kentucky employes retirement system or a contributing member of the state police retirement system, teachers' retirement system or judicial retirement system may obtain credit in the county employes retirement system for current service between July 1, 1958, and the effective date of participation of his county by paying to the county employes retirement system a delayed contribution payment for the services he would have received had his county participated on July 1, 1958. *The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.*

(6) Effective January 1, 1975, service credit obtained under subsections (1) to (5) of this section shall be disallowed and the recontribution of refund including interest as determined by the board and the delayed contribution payment, if any, shall be paid to the member, upon request, or in the event of his death to his properly designated beneficiary if the member does not obtain for service performed six (6) months current service credit in either the Kentucky employes retirement system, county employes retirement system, state police retirement system, teachers' retirement system, judicial retirement system, or as an employe of a parted employer.

(7) Any employe of a county participating in the county employes' retirement system, or any employe of a department participating in the Kentucky employes' retirement system, who has obtained for service performed six (6) months current service credit in either retirement system, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by an advance funded retirement program in which he could vest during his period of employment, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the county employes' retirement system or the Kentucky employes' retirement system for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employes' or Kentucky employes' retirement system. *The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.*

(8) (a) Effective August 1, 1980, any county participating in the county employes retirement system may purchase current service, between July 1, 1958 and participation date of the county, for present employes of the county who have obtained coverage under KRS 78.540.

(b) Effective July 1, 1973, any department participating in the Kentucky employes retirement system may purchase current service between July 1, 1956 and participation date of the department, for present employes of the department who were employes on the participation date of the department and elected coverage under KRS 61.525(2).

(c) Effective August 1, 1980, any county participating in the county employes retirement system or employe or former employe may purchase current service between July 1, 1958 and the participation date of the county for former employes who were employed by the county on or after July 1, 1958 but before the county's participation date, KRS 78.540 notwithstanding.

(d) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period.

(e) If a county or department elects the provisions of this subsection any present employe who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsections (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or KRS 78.640.

(f) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(9) Interest paid by a member of the Kentucky employes retirement system, county employes retirement system, or state police retirement system under this section or other similar statutes under KRS 16.505 to 16.652 or 61.510 to 61.692 or 78.510 to 78.852 prior to June 19, 1976 shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

Section 19. KRS 61.555 is amended to read as follows:

(1) Prior to July 1, 1976, any employe entering the armed forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of service in the armed forces of the

United States, not to exceed six (6) years, if his discharge therefrom is honorable and he is reemployed within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the armed forces of the United States and who was or is reemployed within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of service in the armed forces, not to exceed six (6) years.

(3) Any national guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his service, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employe eligible for retirement as prescribed in KRS 61.559 or any employe upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) to (3) of this section provided he pays thirty-five percent (35%) of the cost of such service based on the formula adopted by the board. The payment by the member *shall not be picked up by the employer, as described in KRS 61.560(4), and* shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for such purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account the board shall not accept employe payments until such time as funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for military service as provided under subsection (4) of this section without payment of the current employe contribution ratio if such member was taken prisoner by a hostile power at any time during active military service.

(6) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future. Provided, that nothing in this section shall prohibit such purchase of credit where the military pension results from service primarily on inactive duty in a reserve component of the armed forces, or where the military pension is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled.

Section 20. KRS 61.557 is amended to read as follows:

(1) Inasmuch as the take-over of the Kentucky state employment service by the federal government, through its United States employment service and war manpower commission, was recognized by both federal and state governments as a temporary measure during the war emergency, and the said employment service was, in fact, returned to the state government at the close of the emergency period, the employes of said service are recognized as employes of the commonwealth for the purposes of KRS 61.510 to 61.692 during the period of control by the federal government, just the same as if they had been employed in another department of the government of the commonwealth during that period.

(2) Should a parted employer rejoin a department as a result of the cancellation of a contract or lease arrangement, thereby causing each employe thereof to again become an employe as defined in KRS 61.510(5) the board is hereby authorized to negotiate with the publicly held corporation or other similar organizations for payment for the years of service credit under the system for all employes working on the date the contract or other lease arrangement is cancelled in order to avoid an impairment in the retirement benefits of said employes, provided any payment accepted by the board for such service is based on a formula consistent with the provisions of KRS 61.552(7). *No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4).*

Section 21. KRS 61.558 is amended to read as follows:

(1) Upon service retirement, a member of the Kentucky employes' retirement system may obtain credit for all or any part of the service otherwise creditable under the county employes retirement system, the teachers' retirement system, or in the service of the United States government for which service credit is not otherwise given, upon the payment by the member of such amount or amounts as are actuarially determined to be equal to the increased liability of the Kentucky employes' retirement system by virtue of such additional service credit. *No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4).*

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one (1) of these three (3) retirement systems.

Section 22. KRS 61.575 is amended to read as follows:

(1) The members' contribution account shall be the account to which all members' contributions, *or contributions picked up by the employer after August 1, 1982,* and interest allowances as provided in KRS

61.510 to 61.692 shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him upon withdrawal, or paid in the event of his death before retirement.

(2) Each member's contribution *or contribution picked up by the employer* shall be credited to the individual account of the contributing member.

(3) Each member on June 30 of each year shall have his individual account credited with interest at a rate determined by the board but not less than two per cent (2%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year and the amounts so credited shall be transferred from the retirement allowance account.

(4) Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.

Section 23. KRS 61.625 is amended to read as follows:

If a member's employment has been terminated for a period of thirty (30) consecutive days or if the member has remained in a layoff, seasonal, emergency, temporary or part-time position for a period of thirty (30) consecutive days, he, if living, if not, his designated beneficiary, shall be paid, on demand, but not later than thirty (30) days thereafter, the amount of his accumulated contributions, *including the amount of any employe contributions picked up by the employer pursuant to KRS 61.560(4),* reduced by the amount of any retirement allowances previously received. Payments made under this section shall be in lieu of any other benefits due for such period of service under any of the provisions of KRS 16.505 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852, unless such period of service is regained as provided under KRS 61.552. *Payments of picked up employe contributions shall be subject to state and federal tax as appropriate.*

Section 24. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the state police retirement system created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky retirement systems;

(3) "Employer" or "state police" means the bureau of state police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employe subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employe contributions deducted except as otherwise provided in KRS 16.541;

(5) "Prior service" means the number of years and completed months of employment as an employe prior to July 1, 1958, for which creditable compensation was paid to the employe by the Commonwealth;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, *including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4),* together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(8) "Creditable compensation" means all salary and wages paid to the employe as a result of services performed for the employer, *including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4),* living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other such items as are determined by the board shall be excluded;

(9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during such five (5) year period multiplied by twelve (12); such five (5) years may be fractional, and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, *including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4).* Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: one thousand nine hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any member entitled to receive benefits under the provisions of KRS 16.510 to 16.652;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of such actuarial tables as are adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employe in accordance with the personnel policy of the bureau of state police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the state police retirement system or a member of the county employes retirement system covered by this section with twenty-five (25) or more years of service credit at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday. Members of the Kentucky employes retirement system covered by this section who have completed thirty (30) years of service, at least fifteen (15) of which are current, may declare their "normal retirement date" to be some date prior to their fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or partial disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student, as defined in the federal social security act, who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Disability ratio" means that percentage determined by the board as being applicable to the degree of disability suffered or incurred by a member;

(20) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of duty;

(21) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has twenty (20) years of service;

(22) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535; and

(23) "Regular full-time officers" means the occupants of positions as set forth in KRS chapter 18 as provisional full-time, probationary full-time and permanent full-time.

Section 25. KRS 16.541 is amended to read as follows:

(1) Any person who prior to July 1, 1976, left the state police or its predecessor in order to enter the armed forces of the United States and who is reemployed by the state police after the effective date of the system is entitled to have credited as current service his period of service in such armed forces, not to exceed six (6) years, provided he applies for reinstatement within two (2) years of discharge, which must be honorable, or within two (2) years of a subsequent termination of any total disability, and, subject to the approval of the state police personnel board, is reemployed.

(2) Any person who prior to the effective date of the system left the state police or its predecessor in order to enter the armed forces of the United States and who was reemployed within two (2) years after his honorable discharge therefrom prior to the effective date of the system shall be entitled to have credited as service his period of service in the armed forces, not to exceed six (6) years.

(3) Any member upon completion of five (5) years of service shall receive current service for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) and (2) of this section provided he pays thirty-five percent (35%) of the cost of such service based on the formula adopted by the board. *This payment shall not be picked up, as described in KRS 16.545(4).*[~~; however,~~] Members who were taken prisoner by a hostile power at any time during their active military service shall receive current service credit without payment of the thirty-five percent (35%). The payment by the member shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for such purpose and these payments shall be deposited to the retirement allowance account. If no funds are available in the special appropriation account the board shall not accept employe payments until such time funds are available in the account.

(4) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future. Nothing in this section shall prohibit such purchase of credit where the military pension results from service primarily on inactive duty in a reserve component of the armed forces, or where the military pension is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled.

Section 26. KRS 16.543 is amended to read as follows:

(1) Employe contributions shall be deducted from the creditable compensation of each member of the retirement system in the active employment of the bureau of state police of the department of justice as an officer as defined in KRS 16.520. *After August 1, 1982, employe contributions shall be picked up by the employer pursuant to KRS 16.545(4).* Service credit shall be allowed for each month such member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average

number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Contributions shall not be made and no service will be earned while on authorized leave except:

(a) A member shall be entitled to service credit in accordance with KRS 16.541; and

(b) A member on educational leave, approved by the department of personnel, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions *or such contributions shall be picked up* in accordance with KRS 16.545 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid *or picked up* during the period of educational leave shall be refunded.

(3) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

Section 27. KRS 16.560 is amended to read as follows:

(1) The member contribution account shall be the account to which all members' contributions, *or contributions picked up by the employer after August 1, 1982,* and interest allowances as provided in KRS 16.510 to 16.652 shall be credited; only funds from this account shall be used to return accumulated contributions of a member when required by reason of any provision of KRS 16.510 to 16.652.

(2) Each member's contribution *or contribution picked up by the employer* shall be credited to the individual account of the contributing member.

(3) Each member on June 30 of each year shall have his individual account credited with interest at a rate determined by the board but not less than two and one-half per cent (2 ½%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year and the amounts so credited shall be transferred from the retirement allowance account. Notwithstanding the provisions of this subsection, a member who has ceased to make contributions to the system shall thereafter be credited with interest only for a period of years equal to his years of current service credit.

(4) Upon the retirement of a member, his accumulated contribution shall be transferred from the member's contribution account to the retirement allowance account.

(5) Included as a part of such member's contribution account shall be his accumulated contributions in the Kentucky employes retirement system, if any, transferred to this system.

Section 28. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the county employes retirement system;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county or political subdivision or instrumentality, including school boards, or urban county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5) "Examiner" means the medical examiner or examiners as provided in KRS 61.665;

(6) "Employe" means every regular full-time appointed or elective officer or employe of a participating county. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employe to office or employment in such county;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1958, for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7), 61.555 and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1958, for which creditable compensation was paid. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, *including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4),* together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, *including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4)*. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five-year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five-year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) months period immediately preceding the member's effective retirement date, *and shall include employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4)*. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: 1,950 hours, 260 days, 52 weeks, 12 months, one year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency to file reports with the county employes retirement system;

(21) "Regular full-time positions" as used in subsection (6) of this section shall mean all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are non-renewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty, except in case of school bus drivers for school boards, in which event the school term average shall be eighty (80) hours of work per month in the performance of duty; and

(22) "Alternate participation plan" means a new method of participation in the system as provided for by KRS 78.530(3) which shall become effective July 1, 1973.

Section 29. KRS 78.605 is amended to read as follows:

(1) Upon service retirement, a member of the county employes' retirement system may obtain credit for all or any part of the service otherwise creditable under the Kentucky employes' retirement system, the teachers' retirement system, or in the service of the United States government for which service credit is not otherwise given, upon the payment by the member of such amount or amounts as are actuarially determined to be equal to the increased liability of the county employes' retirement system by virtue of such additional service credit. *Such payments shall not be picked up as described in KRS 78.610(4).*

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one (1) of these three (3) retirement systems.

Section 30. KRS 78.640 is amended to read as follows:

(1) The members' contribution account shall be the account to which all members' contributions, *or contributions picked up by the employer after August 1, 1982,* and interest allowances as provided in KRS 78.510 to 78.852 shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him upon withdrawal, or paid in the event of his death before retirement.

(2) Each member's contribution *or contribution picked up by the employer* shall be credited to the individual account of the contributing member.

(3) Each member on June 30 of each year shall have his individual account credited with interest at a rate determined by the board but not less than two per cent (2%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year and the amounts so credited shall be transferred from the retirement allowance account.

(4) Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.

Section 31. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the teachers' retirement system may receive credit for active service rendered in the armed forces of the United States subject to regulations established by the board of trustees. Such service may be credited only if discharge was other than dishonorable. Service shall be considered as Kentucky teaching service, except that it may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). A maximum of six (6) years of such service may be credited but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on such service, may not receive credit for any such service in the teachers' retirement system. This subsection shall apply to service presented for credit on July 1, 1975, and thereafter.

(3) A member receiving retirement credit for active duty in the armed services of the United States shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service so credited. *Such contributions shall not be picked up, as described in KRS 161.540(4).* In purchasing retirement credit for active duty in the armed services the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting such service.

Section 32. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2)(a) A member in active contributing status who has been a contributing member of the retirement system for at least one full scholastic year, subsequent to the latest out-of-state service, may present for credit, service rendered out-of-state, not to exceed eight such years actually taught as a certified or licensed teacher, provided such member pays to the retirement system an amount equal to the current member contribution to the retirement system based on the first Kentucky salary of the member subsequent to the out-of-state service and in addition thereto interest at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. *Such payments shall not be picked up as described in KRS 161.540(4).* For each year of which the retirement system shall accept the contribution and interest, one year of service credit shall be given. Such credit may not be used to meet the service requirements of KRS 161.525, 161.600 or 161.661 except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the teachers' retirement system of the state of Kentucky may present such service for credit in the retirement system on the same basis as provided above for out-of-state service credit, however, no such service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by such public institution or governmental agency. Such service when added to service credited under subsection (2)(a) of this section shall not exceed a total of eight years service credit.

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use such service for meeting the requirements of KRS 161.600(1)(b) by making an additional contribution to the state accumulation fund equal to the regular member contributions for each year so used. *Such payments shall not be picked up as described in KRS 161.540(4).* The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the teachers' retirement system for the first time, July 1, 1976, and thereafter, shall not receive credit for service defined in subsections (2)(a) and (2)(c) above in excess of one year of credit for each two years of Kentucky service in a covered position or eight years, whichever is the lesser number.

Section 33. KRS 161.565 is amended to read as follows:

Notwithstanding any other provisions of KRS Chapter 161, the contribution of university faculty members may be reduced by amounts up to two and two hundred fifteen thousandths percent (2 215/1000%) if amounts sufficient to replace the reduction are authorized and contributed to the teachers' retirement system by the board of regents of the employing university. *After August 1, 1982, any contribution by a university faculty member shall be picked up by the employing university pursuant to KRS 161.540(4).*

Section 34. KRS 161.595 is amended to read as follows:

(1) Upon service retirement, a member of the teachers' retirement system may obtain credit for all or any part of the service otherwise creditable under the Kentucky employes' retirement system, the county

employes' retirement system, or in the service of the United States government for which service credit is not otherwise given, upon the payment by the member of such amount or amounts as are actuarially determined to be equal to the increased liability of the teachers' retirement system by virtue of such additional service credit. *Such payments shall not be picked up, as described in KRS 161.540(4).*

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one (1) of these three (3) retirement systems.

(4) An active member of the teachers' retirement system may obtain service credit for all or any part of full-time teaching service that was performed in a Kentucky correctional institution prior to 1956, upon the payment by the member of the required percentage based on the salary received for the initial year of employment after 1956 in a position covered by the teachers' retirement system with interest at the rate of six percent (6%) compounded annually from the date of the pre-1956 service, and by depositing in the state accumulation fund an amount equal to the above sum. *Such payments shall not be picked up, as described in KRS 161.540(4).* Member payments for this service must be made prior to July 1, 1982.

Section 35. KRS 161.705 is amended to read as follows:

Any member of the teachers' retirement system, or the employer of member, or both, may make voluntary contributions of four per cent (4%) or more of the member's annual compensation to the retirement system for the benefit of the member. *Such contributions shall not be picked up, as described in KRS 161.540(4).* Such contributions shall be invested as provided in KRS 161.430. Separate member accounts shall be maintained for voluntary contributions under rules and regulations enacted by the board of trustees.

HB 479, AN ACT relating to the financial administration of state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.190 is amended to read as follows:

(1) No head of a budget unit or assistant designated by him shall approve any advice of employment, purchase order, contract, requisition for reservation of funds or letter of travel authorization for travel outside of Kentucky that will involve an expenditure of any sum in excess of the unencumbered balance of the allotment to which the resulting expenditure will be chargeable.

(2) Except as expressly authorized in this chapter, no person shall incur, or order or vote to incur, any obligation against the state in excess of, or any expenditure not authorized by, appropriation of the general assembly and an allotment of funds by the department of finance. Any such obligation so incurred shall not be binding against the state, and shall be void and incapable of ratification by any administrative authority of the state.

(3) Each department or budget unit shall maintain a current inventory of all supplies, [~~and~~] equipment, *buildings and lands*. Such inventory of supplies, [~~and~~] equipment, *buildings and lands* shall be available for examination by the department of finance at all times. *The department of finance may conduct periodic physical audits of inventories.* A copy of the inventory of each department or budget unit shall be filed with the department of finance as of June 30 of each year.

Section 2. KRS 45.231 is amended to read as follows:

(1) Any claim against any agency, department or budget unit not presented or encumbered for payment within the fiscal year in which the obligation was incurred may, after determination by the secretary of the department of finance, be found to be a valid claim against the Commonwealth, and may be authorized for payment out of the appropriation for the prior year claims, provided that the agency, department, or budget unit had an available balance sufficient to pay the obligation at the close of the fiscal year in which the obligation was incurred. All claims authorized to be paid under this section shall be limited to those incurred during the *two (2)* preceding fiscal *years* [~~year~~], and the total of such claims paid for any one (1) agency, department or budget unit shall not exceed the available balance remaining to the credit of such agency, department or budget unit at the close of the fiscal year in which the obligations were incurred.

(2) Any claim incurred against any revolving, trust or agency fund account of any department or agency and authorized to be paid under subsection (1) of this section shall be charged against the current balance to the credit in such revolving, trust or agency fund account, and not the general expenditure fund.

Section 3. KRS 45.410 is amended to read as follows:

(1) Purchases of less than *fifty* [~~twenty~~] dollars *($50.00)* [~~($20.00)~~], at the discretion of the department of finance, may be made on the open market by cash payment from petty cash accounts set aside for that purpose. The department of finance shall determine the amount of the petty cash account of each state agency, and inspect the petty cash accounts at least once each year to ensure that the total, plus amount

of receipts for the unreplenished disbursements, is equal to the fixed sum of cash set aside. The department of finance shall make all necessary rules and regulations governing use and replenishment of petty cash funds. An agency shall not split or parcel purchases over a period of time to evade the provisions of this section or applicable regulations. In any case in which purchases are so split or parceled the agency head is liable for the amount by which the amount expended exceeds the amount authorized to be expended. In the case of a shortage in a petty cash account, the agency head is liable for the amount of the shortage.

Section 4. KRS 56.020 is amended to read as follows:

(1) The secretary of state shall have custody of all records, judgments, deeds, maps and abstracts of title of land or buildings owned [~~or used~~] for governmental purposes by the state[~~, and all leases of land or buildings leased by the state for a longer total or continuous time than one (1) year,~~] except deeds to rights of way for state or federal roads. In this section, "roads" does not include state owned bridges or their approaches.

(2) The secretary of state shall record all the deeds in a separate book [~~and all the leases in another separate book,~~] and shall file, keep and have accessible the originals of all papers mentioned in subsection (1) of this section, and the books in which they are recorded. He shall index and cross-index the original papers and record books, including an index according to the county where the property is located and according to the use or department of the state government using the property. The records and indexes shall not be moved from the office of the secretary of state.

Section 5. KRS 56.040 is amended to read as follows:

[~~(1)~~] When any land or interest in land is to be paid for out of state funds, the *department of finance (department of transportation for requirements of that department)* [~~grantor~~] shall *take action to provide for the examination and certification* [~~submit with the deed a true abstract~~] of the title to the *affected* land, *with or without exceptions, by an attorney licensed to practice law in this state, or for the insurance of the title to such land by a land title insurance company authorized to do business in this state. A survey and plat of the land showing* [~~The correctness of the abstract shall be attested by the county attorney. The abstract shall contain complete information concerning any action concerning the property or title, and all references to deed, mortgage, power of attorney, will, execution, lis pendens, option, mechanic's lien and other books, and tax bills, giving page numbers, dates, case numbers and all other references and the description of the property. The grantor shall submit with the abstract an accurate map of the boundaries, made by a competent surveyor within three (3) months prior to the date of the deed conveying the land to the state. The map shall show~~] the corners, angles and calls of the *land shall be made by a competent land surveyor prior to the date of the deed conveying the land or any interest therein to the state. The costs incurred under this section shall be charged against the funds of the agency for whose use and benefit the land is acquired.* [~~boundaries. The abstract and map must be submitted to and approved by the attorney general before the executive department for finance and administration shall issue its warrant to pay for the land. When the attorney general has given his written approval to the title and purchase of the land, all records mentioned in this section pertaining thereto, including the opinion of the attorney general, shall be deposited with, recorded and safely kept by the secretary of state as provided in KRS 56.020.~~

~~(2) Before any lease of any land or building, except a lease of not more than six (6) offices in an office building, shall be occupied by any officer or agency of the state government for any governmental purpose, or be paid for out of state funds, the lessor shall submit the lease and a map of the kind mentioned in subsection (1) of this section, and have the lease and map approved by the attorney general and recorded and kept by the secretary of state as provided by KRS 56.020.~~]

Section 6. KRS 56.812 is amended to read as follows:

(1) Whenever the owner of real property *selected to be* leased to the *Commonwealth* [~~state~~] is a corporation, [~~or a~~] partnership, *business trust or organization,* a list of the names of all persons owning five percent (5%) or more of the shares *in such entities* [~~of such corporation~~], and the names of all partners, including silent and limited partners, shall be furnished to the department *of finance prior to execution of the lease agreement.* The *department* [~~bureau of public properties~~] shall maintain such lists in the file pertaining to the particular lease or leases of property owned by such *entities and make them* [~~corporation or partnership and such lists shall be~~] available for public inspection [~~as provided by KRS 61.870 to 61.884~~].

(2) A new disclosure of ownership statement shall be furnished to the department of finance upon any change or transfer of ownership involving persons owning five (5) percent or more of the shares in the partnership, business trust or organization, including silent or limited partners.

Committee Amendment No. 1 to **HB 479** is as follows:

Amend printed copy of **HB 479,** page 7, line 8, by deleting the word "*them*" and inserting in lieu thereof the words *the files of leases of property owned by both individuals and such entities*

The Committee on Appropriations and Revenue reported **HB 106,** with Committee Substitute and Committee Amendments attached thereto, and **HB 133** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, March 2, 1982.

On the roll call the vote was yeas 48-Arnold, Barrows, Bendl, Bennett, Boswell, Clark, Cowan, Craddock, Crupper, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Freibert, Harper, Head, Hines, Johnson, T. Jones, Kidd, Layman, LeMaster, List, Little, McBee, Moberly, Nett, Noe, Noland, Pearman, Petty, Priddy, Rapier, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomason, Todd, Van Horn, Worthington, Yates. Nays 6-Blevins, Holloway, Mann, Perkins, Schmidt, Thomas.

The motion to adjourn was adopted.

TUESDAY, MARCH 2, 1982

THIRTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Billy G. Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of March 1, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HJR 52, by Representatives B. Richardson, LeMaster, Thomason, Dunn, and Donnermeyer: A JOINT RESOLUTION directing the Legislative Research Commission to create a select committee to study the establishment of the William G. Kenton Center for Governmental and Political Studies.

HB 682, by Representative Kenton: AN ACT relating to elections.

HB 683, by Representative Bruce: AN ACT relating to fraternal benefit societies.

HB 684, by Representative Kenton: AN ACT relating to the office of state geographer.

HB 685, by Representative Blevins: AN ACT changing the classification of the city of West Liberty, in Morgan County.

HB 686, by Representative Donnermeyer: AN ACT relating to a model fireworks code.

HB 687, by Representative Donnermeyer: AN ACT relating to school employes.

HB 688, by Representative Stumbo: AN ACT relating to taxidermy.

HB 689, by Representatives Layman, Ford, and Fryman: AN ACT relating to sheriff's fees.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 652, HB 653, HB 659, HB 664, HB 666, HB 673.**

Banking and Insurance: **HB 658, HB 663, HB 679.**

Business Organizations and Professions: **HB 670, SB 283.**

Cities: **HB 667, HB 680.**

Education: **SB 173, SB 211.**

Energy: **SB 285.**

Health and Welfare: **HB 674, HR 51, SB 241.**

Judiciary-Civil: **HB 656, HB 671, HB 672, SB 72.**

Judiciary-Criminal: **HB 669, HB 676, HCR 50, SB 282.**

Labor and Industry: **HB 654, HB 675.**

Natural Resources and Environment: **HB 655, HB 660, HB 661.**

State Government: **HB 657, HB 662, HB 668, HB 681, SB 150, SB 193, SB 233, SB 256, SB 271, SB 278, SB 277, HB 677.**

Transportation: **HB 665, HB 678, SB 153, SB 266, SB 280, SB 281.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee Consideration:

Judiciary-Civil: **HB 370, HB 626.**

Report of Committees

The Committee on Rules reported **HB 492, HB 505, HB 360, HB 398, HB 377, HB 413, SB 11, SB 44,** and **SB 200** have been posted for passage in Orders of the Day, March 3, 1982.

The Commitee on Rules reported the following Bills and Resolution have been recommitted:

Appropriations and Revenue: **HB 441.**

Judiciary-Civil: **HB 427.**

State Government: **HB 394, SR 10.**

The Commitee on Cities reported **HB 172** with Committee Substitute attached thereto, **HB 311** with Committee Amendments attached thereto, **HB 585** with Committee Substitute attached thereto, **HB 589,** and **HB 595** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 172, AN ACT relating to cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

Each city shall establish the office of city clerk who shall be appointed in the manner provided by KRS 83A.080 for nonelected city officers. The duties and responsibilities of the clerk shall include, but not be limited to the following:

(1) Maintenance and safekeeping of the permanent records of the city;

(2) Possession of the seal of the city if used; and

(3) Performance of all duties and responsibilities required of the city clerk by statute or ordinance.

Section 2. KRS 83A.060 is amended to read as follows:

(1) Each ordinance shall embrace but one (1) subject and shall have a title which shall clearly state the subject.

(2) Each ordinance shall be introduced in writing and shall have an enacting clause styled "Be it ordained by the City of ________________________."

(3) No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section indicating any words being added by a single solid line drawn underneath them, and any words being deleted by a single broken line drawn through them.

(4) Except as provided in subsection (7) of this section, no ordinance shall be enacted until it has been read on two (2) separate days. The reading of an ordinance may be satisfied by stating the title and reading a summary rather than the full text.

(5) A city legislative body may adopt the provisions of any local, statewide or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance which identifies the subject matter by title, source and date and incorporates the adopted provisions by reference without setting them out in full, provided a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.

(6) Unless otherwise provided by statute, a majority of a legislative body shall constitute a quorum and a vote of a majority of a quorum shall be sufficient to take action.

(7) In an emergency, upon the affirmative vote of two-thirds (⅔) of the membership, a city legislative body may suspend the requirements of second reading and publication for an ordinance by naming and describing the emergency in the ordinance.

(8) Every action of the city legislative body shall be made a part of the permanent records of the city and on passage of an ordinance the vote of each member of the city legislative body shall be entered on the official record of the meeting. *The city clerk shall be responsible* [~~The legislative body shall provide by ordinance~~] for the maintenance and safekeeping of the permanent records of the city. The *city clerk* [~~person assigned this responsibility~~] and the presiding officer shall sign the official record of each meeting. All ordinances adopted in a city shall, at the end of each month, be indexed and maintained in the following manner:

(a) The city budget, appropriations of money and tax levies shall be maintained and indexed so that each fiscal year is kept separate from other years.

(b) All other city ordinances shall be kept in the minute book or an ordinance book in the order adopted and indexed in a composite index or maintained in a code of ordinances.

(9) Except in cities of the first class, no ordinance shall be effective until published pursuant to KRS Chapter 424. Ordinances except bond ordinances imposing fines, forfeitures, imprisonment, taxes or fees shall be published in full. The publication requirements for all other ordinances shall be satisfied by publication in full or in summary as designated by the legislative body. The requirements for summary publication shall be satisfied by publication of the title and a certified summary of the contents prepared by an attorney licensed to practice law in the Commonwealth of Kentucky. Ordinances that include descriptions of real property may include a sketch, drawing, or map, including common landmarks, such as streets or roads in lieu of metes and bounds descriptions.

(10) A city may by ordinance specify additional requirements for adoption of ordinances in greater detail than contained herein, but a city shall not lessen or reduce the substantial requirements of this section or any other statute relating to adoption of ordinances.

(11) Not less than once every five (5) years each city shall cause all ordinances in the composite index or code of ordinances to be examined for consistency with state law and with one another and to be revised to eliminate redundant, obsolete, inconsistent and invalid provisions.

(12) The legislative body may adopt municipal orders. Any order shall be in writing and may be adopted only at an official meeting. Any order may be amended by a subsequent municipal order or ordinance. All orders adopted shall be maintained in an official order book.

(13) In lieu of an ordinance, a municipal order may be used for matters relating to the internal operation and functions of the municipality and to appoint or remove or approve appointment or removal of members of boards, commissions and other agencies over which the city has control.

(14) All ordinances, and orders of the city may be proved by the signature of the city clerk; and when the ordinances are placed in a printed composite index or code of ordinances by authority of the city, the printed copy shall be received in evidence by any state court without further proof of such ordinances.

(15) For anything said in debate, legislative body members shall be entitled to the same immunities and protections allowed to members of the general assembly.

Committee Substitute to **HB 172** is as follows:

HB 172, AN ACT relating to cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Each city, except a city of the first class, shall establish the office of city clerk who shall be appointed in the manner provided by KRS 83A.080 for nonelected city officers.

(2) The office of city clerk may be combined with any other nonelected city office by inclusion of the title and duties of such office in the ordinance establishing the office of city clerk.

(3) The duties and responsibilities of the clerk shall include, but not be limited to the following:

(a) Maintenance and safekeeping of the permanent records of the city;

(b) Performance of the duties required of the "official custodian" or "custodian" pursuant to KRS 61.870 - 61.882;

(c) Possession of the seal of the city if used; and

(d) Performance of all duties and responsibilities required of the city clerk by statute or ordinance.

HB 311, AN ACT relating to building codes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.010 is amended to read as follows:

As used in this chapter, unless otherwise provided:

(1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social or recreational purposes, including among others:

(a) Armories;
(b) Assembly halls;
(c) Auditoriums;
(d) Bowling alleys;
(e) Broadcasting studios;
(f) Chapels;
(g) Churches;
(h) Clubrooms;
(i) Community buildings;
(j) Courthouses;
(k) Dance halls;
(l) Exhibition rooms;
(m) Gymnasiums;
(n) Hotels;
(o) Lecture rooms;
(p) Lodge rooms;
(q) Motels;
(r) Motion picture theaters;
(s) Museums;
(t) Night clubs;
(u) Opera houses;
(v) Passenger stations;
(w) Pool rooms;
(x) Recreation areas;
(y) Restaurants;
(z) Skating rinks;
(aa) Television studios;
(bb) Theaters.

(2) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.

(3) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling and ventilating facilities, but which is not ordinarily used for purposes of general household habitation.

(4) "Building" means any combination of materials, whether portable or fixed, which comprises a structure affording facilities or shelter for any human occupancy, whether infrequent or regular. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a mobile home, or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if such farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment

for ten (10) or more people or structures used in the storage or processing of timber products. This chapter shall not apply to any single family dwelling except those sold or constructed under a trade or brand name.

(5) Any city, county or urban-county government of the Commonwealth may extend, by ordinance, the application of this chapter to those single family dwellings exempted under subsection (4) of this section, but may not enforce any building code other than the uniform state building code on such dwellings.

(6) Nothing in this chapter shall be construed to exempt single family dwellings from those provisions of the uniform state building code that relate to the national electric code and the state plumbing code.

(7) "Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business, the rendering or receiving of professional services, or the displaying, selling or buying of goods, wares, or merchandise, or the housing of vehicles of transportation, except where occupancy is of high hazard, including among others:

(a) Banks;
(b) Barber shops;
(c) Beauty parlors;
(d) Department stores;
(e) Garages;
(f) Markets;
(g) Service stations;
(h) Offices;
(i) Stores;
(j) Radio stations;
(k) Telephone exchanges;
(l) Television stations.

(8) *"Certified building inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state building inspector within the Commonwealth.*

(9) "Certified plans and specifications inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state plans and specifications inspector within the Commonwealth.

(10) "Certified plumbing inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state plumbing inspector within the Commonwealth.

(11) "Commissioner" means the commissioner of housing, buildings and construction.

(12)[~~(9)~~] "Construction" means the erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein.

(13)[~~(10)~~] "Department" means the department of housing, buildings and construction.

(14)[~~(11)~~] "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving educational instruction, including among others:

(a) Academies;
(b) Care centers;
(c) Colleges;
(d) Kindergartens;
(e) Libraries;
(f) Pre-schools;
(g) Relocatable classroom unit;
(h) Schools;
(i) Seminaries;
(j) Universities.

(15)[~~(12)~~] "Equipment" means facilities or installations, including but not limited to, heating, electrical, ventilating, air conditioning, and refrigerating facilities or installations.

(16)[~~(13)~~] "High hazard occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, high flammable or explosive materials or which has inherent characteristics that constitute a special fire hazard, including among others:

(a) Aluminum powder factories;
(b) Charging or filling stations;
(c) Distilleries;
(d) Dry cleaning plants;
(e) Dry dyeing plants;
(f) Explosive-manufacture, sale or storage;
(g) Flour and feed mills;

(h) Gasoline bulk plants;
(i) Grain elevators;
(j) Lacquer factories;
(k) Liquefied petroleum gas;
(l) Mattress factories;
(m) Paint factories;
(n) Pyroxylin-factories, or warehouses;
(o) Rubber factories.

(17)[~~(14)~~] "Industrial occupancy" means the occupancy or use of a building structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging or processing operations, except for occupancies of high hazard, including among others:

(a) Assembly plants;
(b) Creameries;
(c) Electrical substations;
(d) Factories;
(e) Ice plants;
(f) Laboratories;
(g) Laundries;
(h) Manufacturing plants;
(i) Mills;
(j) Power plants;
(k) Processing plants;
(l) Pumping stations;
(m) Repair garages;
(n) Smokehouses;
(o) Workshops.

(18)[~~(15)~~] "Industrialized building system" means any structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at the building site.

(19)[~~(16)~~] "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable or other care or treatment, or by persons involuntarily detained, including among others:

(a) Asylums;
(b) Homes for the aged;
(c) Hospitals;
(d) Houses of correction;
(e) Infirmaries;
(f) Jails;
(g) Nursing homes;
(h) Orphanages;
(i) Penal institutions;
(j) Reformatories;
(k) Sanitariums;
(l) Nurseries.

(20)[~~(17)~~] "Mobile home" means mobile home as defined in KRS 227.550*(9)*[~~(1)~~].

(21)[~~(18)~~] "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.

(22)[~~(19)~~] "Physically handicapped person" means a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he is insecure or exposed to danger; a person whose hearing is so impaired that he is unable to hear warning signals; and a person whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging.

(23)[~~(20)~~] "Facility for physically handicapped persons" means any convenience or device which facilitates the health, safety or comfort of a handicapped person, including, but not limited to, ramps, handrails, elevators, and doors.

Section 2. KRS 198B.050 is amended to read as follows:

(1) Within one (1) year from its initial meeting, after adequate notice in accordance with KRS Chapter 13, the board shall adopt and promulgate a mandatory uniform state building code which shall establish standards for the construction of all buildings, as defined in KRS 198B.010, in the state. The code shall

provide that the review and approval, as necessary, of building plans for conformance with the uniform state building code prior to construction approval shall be conducted only by the department or a local government or governments delegated such responsibilities by this chapter, and any exceptions to this policy shall be explicitly stated in the code.

(2) The code shall be comprehensive and shall include but not be limited to provisions for general construction; structural quality; mechanical systems to include heating, cooling, and ventilation; electrical systems; and life safety from hazards of fire, explosion, and other disasters, whether caused by acts of nature or man. The code shall encompass the Kentucky state plumbing code promulgated pursuant to KRS 318.130, boiler rules and regulations issued pursuant to KRS 236.030, and the national electrical code.

(3) This code shall be designed after and may be selected from the models offered by such model code agencies as the Building Officials and Code Administrators,International, Inc.; the International Conference of Building Officials; the Southern Building Code Congress; and other nationally recognized organizations which may include governmental agencies. The code shall:

(a) Provide uniform standards and requirements for construction and construction materials;

(b) To the extent practicable, set forth standards, specifications and requirements in terms of performance objectives, so as to facilitate the use of new technologies, techniques, and materials. The code shall not discriminate in favor of particular suppliers' materials, techniques, or technologies;

(c) Protect the public health, safety, and welfare within the state.

(4) Adoption of a code shall include provisions for the continuing review of, and the board shall adopt when deemed justified to fulfill the purposes of this chapter, new materials, technologies, and techniques in the building industry. The board may adopt a model code promulgated by a model code agency only if that agency provides a method for democratic participation by the board and any local governments which may enforce the code, in a continuing review and possible adoption of new materials, technologies, and techniques in the building industry.

(5) The board shall issue regulations, after notice in accordance with KRS Chapter 13, which are necessary to implement the uniform state building code or to carry out any other responsibility assigned to said board by this chapter.

(6) The board shall *monitor* [~~provide for monitoring~~] the effectiveness of agencies designated by local governments to enforce the provisions of the uniform state building code.

(7) *If the board determines that an agency is not enforcing the provisions of the uniform state building code, it shall direct the department to determine where deficiencies exist. The department shall require the local government to correct the deficiencies within sixty (60) days and report to the department its method of correcting the deficiencies.*

(8) If the local government fails to correct the deficiencies, the department shall recommend to the board that the department be permitted to preempt the local program as provided for in KRS 198B.060(4).

(9) The board shall provide for the supply, including amendments and revisions thereto, of sufficient copies of the uniform state building code for all interested parties.

Section 3. KRS 198B.060 is amended to read as follows:

(1) Each local government in the state of Kentucky shall employ a building official or inspector and other code enforcement personnel as necessary, or shall contract for such services in accordance with subsections (7) and (9) of this section to enforce the uniform state building code within the boundaries of its jurisdiction, and shall neither adopt nor enforce any other ordinance regulating buildings which conflicts with the uniform state building code, except that a building code adopted by a local government prior to March 28, 1978 may continue in effect until such time as the uniform state building code becomes mandatory within that local government jurisdiction.

(2) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for buildings of no more than three (3) stories in height, exclusive of attic and basement, which do not contain more than 20,000 square feet of floor area, and are not intended for assembly, educational, institutional or high hazard occupancy, business or industrial occupancy in excess of 100 persons, or for use as a frozen food locker plant as defined in KRS 221.010. Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to the provisions of this chapter and the uniform state building code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of such permit or certificate to the commissioner for his use in maintaining an accurate housing inventory for Kentucky.

(3) Urban-county governments may determine service districts within their boundaries within which farm dwellings and other farm buildings, not used in the business of retail trade or as a place of regular employment for ten (10) or more people, shall be exempt from the requirements of the uniform state building code. Such determination may be reviewed and altered by the board.

(4) The department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may

issue and revoke permits, licenses, certificates and similar documents within its area of responsibility, and shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to the provisions of this chapter and the uniform state building code. If the commissioner determines that the local jurisdiction is not adequately performing any portion of its program, he may recommend to the board that the department preempt that portion of a local program. The commissioner shall explain his reasons for preemption in writing and provide a copy to the board and the local jurisdiction. The local jurisdiction may appeal the recommended preemption directly to the board, and the board shall review such appeal according to the procedures found in subsections (8) through (12) of KRS 198B.070. No preemption by the department shall take place until the final decision of the board. If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.

(5) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. Such petition shall include evidence of the local government's capability to perform additional plan review functions, *and that its designated building inspection has been certified by the department to perform the necessary duties of building inspector. If not certified, its designated building inspector shall apply for certification within ninety (90) days after the department's certification program is in effect but no later than October 1, 1983.* The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he shall explain his reasons for denial in writing, and provide a copy to the board and the local government. A local government may appeal such denial directly to the board, and the board shall review such appeal according to the procedures found in subsections (8) through (12) of KRS 198B.070. Should the local government be granted additional responsibility by the commissioner or the board, the department shall hold concurrent jurisdiction over such additional responsibility, but the local government shall collect any fees for functions it performs pursuant to such additional responsibility.

(6) *Any local government may also petition the commissioner requesting that plans and specifications inspection, building inspection, and approval responsibility relating to the application of local plumbing permits for local installations be allocated to the local government. The petition shall not be granted unless the local government has demonstrated to the commissioner that it can perform these functions in accordance with the provisions of KRS 198B.050 - KRS 198B.090.*

(7) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating review activities among the department's various functional offices so as to prevent unnecessary duplication in the review of plans and specifications.

(8)[~~(7)~~] Upon the effective date of the uniform state building code, no building shall be constructed in this state until a local building official and an official representing the department, if the department has jurisdiction, issue a permit for such construction. The local building official or the representative of the department shall issue a permit if the proposed building satisfies the requirements of the uniform state building code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of said building. The applicant for a building permit, by the act of applying for the permit, is deemed to have consented to inspection, by the local government or the department, of such building during construction and upon the completion of construction for the purpose of determining that such building is constructed in compliance with the uniform state building code. This section shall apply to industrialized building systems but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the board of housing, buildings and construction, shall not be performed in order to conduct such tests or inspections.

(9)[~~(8)~~] No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the uniform state building code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the uniform state building code, or assembled or installed in conformance with applicable instructions.

(10)[~~(9)~~] A local government may associate with other local governments, and may seek the technical assistance of other agencies or area development districts in order to provide for the local enforcement of the uniform state building code.

(11) *Local governments or associations of local governments may contract with a person, firm, or company to perform the plans and specifications inspection or building inspection functions required of the local government by the provisions of this section provided that:*

(a) The person performing the plans and specifications inspection is certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a certified plans and specifications inspector;

(b) The person performing the building inspection is certified by the department as having successfully completed the test requirements provided in KRS 198B.090 to practice as a certified building inspector.

(12) If the department determines that an inspector is not enforcing the provisions of the Kentucky building codes, it shall require a hearing to review the inspector's procedures and return in written form the required corrections resulting from the hearing to the inspector.

(13) If, after written notification from the department to the inspector of the corrections required, the inspector fails to comply within sixty (60) days, the department shall suspend the inspector's certification until the inspector complies.

(14) Each local government and the department may establish a schedule of fees for the functions performed under the provisions of this chapter. Such fees shall be designed to fully cover the cost of the service performed but shall in no case exceed the cost of the service performed. Fees payable to the department shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

Section 4. KRS 198B.070 is amended to read as follows:

(1) The mayor, chairman of the board of trustees, or county judge/executive of a local government which is enforcing the uniform state building code may, upon the approval of the local legislative body, appoint a local appeals board, consisting of at least *five (5)* [~~three (3)~~] technically qualified persons with professional experience related to the building industry, to hear appeals from the decisions of the local building official. *At least two (2) members of the appeals board must not be employed by the local government hearing the appeal.*

(2) Local governments which are enforcing the uniform state building code may cooperate with each other to provide a local appeals board and shall adhere to the provisions of KRS Chapter 65 when entering such cooperative agreements. No local building official or employe of a local inspection department may sit on a local appeals board if such board is hearing an appeal to a decision rendered by his department. No member of a local appeals board shall hear an appeal in a case in which he has a private interest.

(3) Any party to a decision by the local building official may appeal that decision to the local appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within fifteen (15) days of receipt. All parties to the appeal shall be notified of the time and place of the hearing by letter mailed by certified mail no later than ten (10) days prior to the date of the hearing. The local appeals board shall render a decision within five (5) working days after the hearing.

(4) A local appeals board may uphold, amend, or reverse the decision of a local building official, and there shall be no appeal from the decision of a local appeals board other than by appeal to the board of housing, buildings and construction. Appeals to the board of housing, buildings and construction shall include citation of those provisions of the uniform state building code which are at issue, and an explanation of why the decision of the local appeals board or the local building official relative to those provisions is being contested.

(5) The board of housing, buildings and construction shall serve to hear appeals from the decisions of local appeals boards, when such boards exist, or to hear appeals directly from the decisions of local building officials in cases where no local appeals board has jurisdiction. In no case shall the board hear an appeal directly from a party aggrieved by the decision of a local building official when there is a local appeals board with jurisdiction in the case.

(6) The board shall hear appeals directly from a party aggrieved by the decision of an agent of the department. Such appeals shall include citations of those provisions of the uniform state building code which are at issue, and an explanation of why the decision of the agent of the department relative to those provisions is being contested.

(7) Appeals to the board of housing, buildings and construction shall be addressed to the commissioner who shall immediately notify the board when an appeal is received. The commissioner or a designated employe of his department shall then investigate the evidence pertaining to such appeal and, based upon the results of such investigation, make recommendations to the board on the disposition of the case in question. No employe of the department shall investigate or make recommendations on an appeal to his own decision, but shall defer in such cases to employes who were not party to the decision which led to the appeal. In conducting such investigation, the commissioner or his designated representatives, acting for the department, shall have the authority to administer oaths and affirmations, issue subpoenas authorized by law, rule upon offers of proof and receive relevant evidence, take or cause depositions to be taken, regulate the course of any hearings they may schedule, and hold conferences for the settlement or simplification of the issues by consent of the parties. The commissioner shall complete such investigations and forward written recommendations to the board within thirty (30) days after receiving an appeal.

(8) Upon receiving the written recommendations of the commissioner, the board may decide to accept such recommendations, or it may decide to convene a hearing to consider the question further. Upon receipt of the recommendations of the commissioner, the board shall render a decision on each appeal at its next regularly scheduled meeting, but no later than thirty (30) days after receipt of such recommendations.

(9) Should the board's decision be to schedule a hearing on the appeal, such hearing shall occur within thirty (30) days of such decision, and all parties to such hearing shall be immediately notified in writing of the time and place of such hearing by the commissioner.

(10) The board may appoint five (5) or more of its members, excluding the chairman of the board, to consider the recommendations of the commissioner or to conduct the hearing, and those so appointed shall act in all matters concerning the appeal for the entire board.

(11) In considering an appeal, the board, if they deem it necessary to reach an equitable decision, may exercise any of the powers granted to the commissioner in subsection (7) of this section. The board shall render a decision within ten (10) days of any appeals hearing it may conduct.

(12) The board may uphold, amend, or reverse the decision of a local appeals board, a local building official or an agent of the department; and the decision of the board shall be final, and there shall be no appeal from the board's decision, except to the circuit court within whose jurisdiction the property in question is located.

Section 5. KRS 198B.090 is amended to read as follows:

(1) *On or before July 1, 1983, the department shall create and administer a certification program with sufficient testing procedures to certify the following professional classifications:*

(a) Building inspector;

(b) Plans and specifications inspector; and

(c) Plumbing inspector.

(2) The testing procedures shall be sufficient to reflect the ability of the person applying for certification to inspect in accordance with those local, state, and federal building codes, fire codes, plumbing codes, or health and safety codes, that are applicable to the inspection duties for which he requests certification.

(3) The department *shall* [~~may~~] conduct or sponsor pre-entry and in-service education and training programs on the technical, legal, and administrative aspects of building code administration and enforcement. For this purpose it may cooperate and contract with educational institutions, area development districts, local, regional, state or national building officials' organizations, and any other appropriate organization.

(4) On or before July 1, 1983, the department shall create and administer an educational program designed to prepare building officials, code enforcement officers and other persons interested in obtaining from the department a certification as a building inspector, plans and specifications inspector, or plumbing inspector. The program shall be so designed as to insure uniform statewide enforcement of the applicable state building and plumbing codes. Training material coverage shall be adequate to prepare the participants with a working knowledge of construction design, specification terms, and the state building codes applicable to the particular field in which the applicant requests certification.

(5) Attendance at the training sessions shall not be mandatory prior to testing for certification if the applicant's previous education or experience qualifies the applicant to obtain a passing score on the required certification test.

(6) Training sessions shall be held as frequently as is felt necessary by the commissioner to adequately provide for local and state building inspection needs.

(7) The department's plans and specifications review staff and the field inspection staff shall attend the training and become certified in accordance with the provisions of this section.

(8) The board shall establish a schedule of fees to cover the cost of the education, testing, and certification programs to be paid by the applicants for certification. The fees shall not exceed the actual cost of the services performed by the department to administer the programs listed in this section.

(9) The department may reimburse building officials, code enforcement officers and other employes of the state and its subdivisions for related expenses incurred by them for attendance at in-service training programs approved by the department.

Section 6. KRS 198B.110 is amended to read as follows:

(1) In all local governments in a county containing a city of the first or second class, and in urban-county governments, the uniform state building code shall become effective six (6) months after promulgation by the board. Any of said local governments may adopt the code prior to that time.

(2) In all local governments in a county containing a city of the third or fourth class, but not a city of the first or second class, the uniform state building code, as it pertains to buildings for which the department has the responsibility for plan reviews, shall become effective six (6) months after promulgation by the board and as it pertains to buildings for which local governments have responsibility for plan review shall become effective two (2) years after promulgation by the board. Any of said local governments may adopt the code prior to such times.

(3) In all local governments in a county containing no city or a city of the fifth or sixth class, but not a city of the first through fourth classes, the uniform state building code as it pertains to buildings for which the department has the responsibility for plan reviews shall become effective six (6) months after promulgation by the board and as it pertains to buildings for which local governments have responsibility for plan review shall become effective three (3) years after promulgation by the board. Any of said governments may adopt the code prior to such times.

(4) Notwithstanding the provisions of KRS 198B.060[~~(7) and~~] (8) *and (9)*, a building for which a permit was legally granted prior to the effective date of the uniform state building code may be constructed and occupied under the provisions of relevant regulations in force at the time the permit was issued provided that substantial construction has commenced within one (1) year from the date the permit was issued.

(5) A building for which plans were prepared at least three (3) months prior to the effective date of the uniform state building code and upon which construction was begun prior to the effective date of the uniform state building code in a locality not then requiring a building permit may be completed and occupied without a building permit.

Section 7. KRS 198B.990 is amended to read as follows:

(1) Any local government official who is charged with responsibility for compliance with the provisions of KRS 198B.060(1) and (2) and who fails to comply by the designated dates shall be fined not more than ten dollars ($10.00) a day for each day of non-compliance.

(2) Any person who violates any provision of KRS 198B.140, or of the uniform state building code, or any directive or order issued pursuant thereto shall be fined not less than ten dollars ($10.00) nor more than one thousand dollars ($1,000). Each day the violation continues shall constitute a separate offense.

(3)[~~(2)~~] Any person who violates the provisions of KRS 198B.310 to 198B.330 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500), or be imprisoned for not more than one (1) year, or both.

Section 8. KRS 67.380 is amended to read as follows:

The fiscal court of any county shall have authority, by order or resolution, to adopt, and to enforce, regulations governing construction as defined by KRS 198B.010*(13)*[~~(9)~~] pursuant to the provisions of KRS 198B.060.

Committee Amendment No. 1 to **HB 311** is as follows:

Amend printed copy of **HB 311,** on page 5, line 17 after the word "therein" insert a comma in lieu of the period and insert the following: "*but shall not include the ordinary repair of a building or structure.*"; and

On page 8, line 26, renumber the definition of "story" as *(23)* and the subsequent definitions accordingly and insert the following after the numeral *(22)*: "*Ordinary repair" means any non-structural reconstruction or renewal of any part of an existing building for the purpose of its maintenance, energy efficienty, or decoration, and shall include, but not be limited to, the replacement or installation of non-structural components of the building such as roofing, siding, windows, storm windows, plumbing fixtures, electrical outlets,insulation, drywall or lath and plaster, or any other replacement, in kind, that does not alter the structural integrity, alter the occupancy or use of the building, or affect, by re-arrangement, exitways and means of egress, but shall not include additions to, or alteration of, or relocation of any standpipe, water supply, sewer, drainage, gas, soil, waste, vent or similar piping, electric wiring or mechanical equipment or other work affecting public health or safety.*"

Committee Amendment No. 2 to **HB 311** is as follows:

Amend printed copy of **HB 311,** page 5, line 10, before the word "to" insert in lieu thereof the words "*and 318.140, or 318.090*"

Page 5, line 12, shall strike through the subsection number "*12*" and insert the number "*(11)*" an then renumber the remaining subsections of Section (1) "*13-24*" to numbers "*12-23*" accordingly.

Page 15, line 9, after the word "functions", strike through the words "*, and that its's designated building inspection has been certified by the department to perform the necessary duties of building inspector. If not certified, its designated building inspector shall apply for certification within ninety (90) days after the department's certification program is in effect but no later than October 1, 1983.*", and insert the word "."

Page 18, between lines 22 and 23, insert a subsection reading as follows "*(c) The person, firm or company does not have a conflict of interest between their plan review or inspection functions and any other employment or business activities.*"

Page 19, line 24, after the words "consisting of" and before the word "*five*", strike through the words "at least".

Page 20, line 2, after the words "*at least*" and before the words "*members of*", strike through the words "*two (2)*" and insert thereof the words "*three (3)*".

Page 25, between the lines of 10 and 11 insert a new subsection reading as follows "*(5) plumbing inspectors who are in compliance with KRS 318.090 as state inspectors and KRS 318.140 as city county inspectors, shall be considered in accordance with Section 5, subsections (1) (c) and (2) of this Act and shall not be required to be retested by the Department of Housing prior to consideration for certification as a plumbing inspector. The Department of Housing shall review the plumbing inspectors qualifications and credentials for compliance with KRS 318.090 or KRS 318.040 prior to issuing a certification to the inspector's certificate applicant.*"

On page 25, beginning on line 11, renumber subsections "*(5), (6),* and*(7)*" to "*6, 7, and 8*".

Page 25, between lines 22 and 23, insert a new subsection reading as follows: "*(9) All building inspectors, plans and specification inspectors, and plumbing inspectors shall be certified or enrolled and actively pursuing department certification by October 1, 1983 or within ninety (90) days after employment as an inspector, whichever comes later.*"

Page 25, beginning on line 23, renumber subsections "*8,* and *9*" to subsections "*10* and *11*".

Page 28, lines 3 to 7, strike through all of subsection 1 as follows: "*(1) any local government official who is charged with responsibility for compliance with the provisions of KRS 198B.060(1) and (2) and who fails to comply by the designated dates shall be fined not more than ten dollars ($10.00) a day for each day of non-compliance.*

Page 28, beginning on line 8, renumber subsections "*(2)* and *(3)*" to subsections "*(1)* and *(2)*".

HB 585, AN ACT changing the classification of the city of Middletown, in Jefferson County.

Whereas satisfactory information has been presented to the General Assembly that the population of the city of Middletown, in Jefferson County, is such as to justify its being classified as a city of the fourth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The city of Middletown, in Jefferson County, is transferred from the fifth to the fourth class of cities.

Committee Substitute to **HB 585** is as follows:

HB 585, AN ACT changing the classification of the city of Middletown, in Jefferson County.

Whereas satisfactory information has been presented to the General Assembly that the population of the city of Middletown, in Jefferson County, is such as to justify its being classified as a city of the fourth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The city of Middletown, in Jefferson County, is transferred from the sixth to the fourth class of cities.

HB 589, AN ACT changing the classification of the City of Richmond, in Madison County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Richmond, in Madison County, is such as to justify its being classified as a city of the second class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The City of Richmond, in Madison County, is transferred from the third to the second class of cities.

HB 595, AN ACT relating to retirement systems in cities of the fourth and fifth class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.761 is amended to read as follows:

(1) Any city of the fourth or fifth class which has now, or in which there may be hereafter established a regular police or fire department in the future, may by ordinance create a civil service commission, whose duties shall be to hold examinations as to the qualifications of applicants for employment within the police or fire departments.

(2) A city of the fourth or fifth class is authorized to adopt the provisions of KRS 95.520 to 95.620 governing policemen's and fire fighter's pension fund, the same as a city of the third class.

(3) A city of the fourth or fifth class is authorized to adopt the provisions of KRS 90.300 to 90.420 governing civil service, the same as a city of the third class, *and may provide a retirement system for any of its employes, including police and firefighters, pursuant to KRS 90.400 or 90.410. If a city creates a retirement system for its police and firefighters pursuant to KRS 90.400 or 90.410, it shall establish a board of trustees for that system. The provisions of KRS 90.400 and 90.410 notwithstanding, a majority of the board shall be members of the retirement system elected by the members of the retirement system. The board of trustees shall control and manage the retirement fund, for the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan. The board may contract with investment advisors or managers to perform investment services as deemed necessary and prudent by the board.*

(4) *A city of the fourth or fifth class may adopt the provisions of KRS 79.080 or 78.510 to 78.852 for any of its employes, or KRS 95.767 to 95.784 for its police and firefighters.*

(5) The legislative body of the city of the fourth or fifth class *may not establish or continue a retirement system for any of its employes unless such action is taken pursuant to statutes listed in subsection (2), (3) or (4) of this section. If a city has adopted a retirement system but has not done so pursuant to statutes listed in subsection (2), (3), or (4) of this section, it shall amend its action to comply with the provisions of this subsection. This subsection shall not be construed to limit the application of KRS 82.082(2) with respect to the comprehensive nature of Kentucky law governing city retirement systems.* After adoption of the provisions of *any of the statutes listed in this section, the city* [~~KRS 95.520 to 95.620 relating to a policemen's and fire fighter's pension plan, or KRS 90.300 to 90.420 relating to a civil service,~~] may not revoke, rescind or repeal these adoptions *for any employe covered thereby.*

(6)[~~(5)~~] (a) Any of the following offices, positions, and places of employment, in the police and fire departments, may be excluded from the classified service: The chief of police, assistant chief of police, chief of fire fighters and assistant chief of fire fighters.

(b) Any classified employe in either department who shall accept an appointment and qualify as chief of police, assistant chief of police, chief of fire fighters, or assistant chief of fire fighters , shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of said respective positions. Should any such chief or assistant chief, cease to serve as such, the same classification and rank which he had prior to said appointment shall be restored to him.

The Committee on Counties and Special Districts reported **HB 325** with Committee Substitute attached thereto, **HB 498** with Committee Substitute attached thereo, and **HB 500** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 325, AN ACT relating to boards of health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 212.810 TO 212.930 IS CREATED TO READ AS FOLLOWS:

(1) A district board of health shall consist of the following members:

(a) The county judge/executive or his designee from each county in the district as an ex officio voting member; and

(b) One (1) additional member per county per 15,000 population or fraction thereof, which shall include the mayor of each city of the second class as an ex officio voting member.

(2) All members except for the county judge/executives and the mayors of second class cities shall be appointed by the secretary for human resources from lists submitted to him upon his request by the fiscal courts of each county in the district. Said list shall be submitted to the secretary within thirty (30) days of receipt of his request. In the event the fiscal courts fail to respond within thirty (30) days from receipt of the request, the secretary may select the membership of the board from a list representative of the district compiled by the department for human resources.

(a) To be included in the list submitted to the secretary pursuant to subsection (2) are two (2) nominations from each of the following:

1. The fiscal court of each county;
2. The county board of health of each county;
3. The county medical society;
4. The county dental society;
5. The district nursing association;

(b) At least twenty-five percent (25%) or the nearest whole number to twenty-five percent (25%) of the appointed members of the board shall be doctors of medicine or osteopathy licensed in the Commonwealth, and there shall be at least one (1) licensed registered nurse and one (1) dentist among the membership of the board. The remaining members of the district board shall be concerned community leaders residing within the county from which they are to be representatives.

(3) In the event a vacancy exists upon the district board, said vacancy shall be filled in a manner consistent with subsection (2) of this section with the nominee to fill the vacant seat coming from the county in which the vacancy occurs and the nominee resides.

(4) The appointed members of the district board of health shall hold office for a term of two (2) years ending on June 30 or until their successors are appointed; Provided, however, that the terms of the first appointments shall be staggered in such a manner that not less than one-half (½) the members shall be appointed for a term of one (1) year or until their successors are appointed and qualify.

Section 2. KRS 212.170 is amended to read as follows:

(1) [~~Each city board of health shall appoint a health officer for the city. He may be removed at any time by the board.~~

~~(2)~~] The county board of health of each county having a county department of health shall, subject to the approval of the state department for human resources, appoint a health officer who shall, subject to merit system provisions, hold office at the pleasure of both the county board and the state department for human resources.

(2)[~~(3)~~] A health officer may*:*[~~,~~]

(a) With the approval of the state department for human resources and the local boards of health concerned, serve in such capacity for more than one county*; and*

(b) At the discretion of the local board, act as chief administrative officer of the board.

(3)[~~(4)~~] A health officer may appoint an administrative assistant for each county served by him subject to the approval of the state department for human resources. An administrative assistant shall exercise such duties as may be delegated to him by the health officer.

(4)[~~(5)~~] A health officer may employ and fix the compensation of, by contract or otherwise, subject to the approval of the state department for human resources, all medical, technical, clerical, professional and other employes necessary for the maintenance and operation of the local health department in accordance with standards and merit system provisions prescribed by the state department for human resources.

(5)[~~(6)~~] In the absence of a local health officer, the secretary for human resources or his duly appointed representative shall serve as health officer for the county concerned.

Section 3. KRS 212.860 is amended to read as follows:

(1) A majority of all the members of the district board of health shall constitute a quorum. The board shall elect a chairman and vice-chairman *and such other officers as it deems necessary for the board to conduct business*. The district board of health may elect an executive committee *representative of the district,* for the conduct of such business and the discharge of such duties as the board may delegate. The committee shall meet as determined by the board or at the call of the district health officer.

(2) Members of district boards of health shall serve without pay but may be reimbursed for expenses incurred in connection with such service in accordance with state travel regulations and the policies of the department.

(3) The district board of health shall appoint a health officer and fix his salary subject to the approval of the department and applicable merit system regulations.

Section 4. The following KRS sections are repealed:

212.010 City health boards — Establishment — Membership.
212.220 Powers of city health boards.

Committee Substitute to **HB 325** is as follows:

HB 325, AN ACT relating to boards of health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 212.810 TO 212.930 IS CREATED TO READ AS FOLLOWS:

(1) Except for district health departments which serve a county containing a city of the first class or an urban county government, a district board of health shall consist of the following members:

(a) The county judge/executive or his designee from each county in the district as an ex officio voting member; and

(b) One (1) additional resident member per county per 15,000 population or fraction thereof, which shall include the mayor of each city of the second class as an ex officio voting member.

(2) All members except for the county judge/executives and the mayors of second class cities shall be appointed by the secretary for human resources from lists submitted to him upon his request by the fiscal courts of each county in the district. Said list shall be submitted to the secretary within seventy-five (75) days of receipt of his request. In the event a fiscal court fails to respond within the prescribed seventy-five (75) day period, the county judge/executive of said county shall be authorized to compile and submit, within ten (10) days, his county's nominations to the secretary. In the event the county judge/executive does not respond within the prescribed time, then the secretary shall be authorized to compile, or have compiled, the nominations for such county.

(a) The list of nominations submitted to the secretary pursuant to this subsection shall include two (2) nominations from each of the following:

1. The fiscal court of each county;
2. The county board of health of each county;
3. The county medical society;
4. The county dental society;
5. The district nursing association;

(b) At least twenty-five percent (25%) or the nearest whole number to twenty-five percent (25%) of the appointed members of the board shall be doctors of medicine or osteopathy licensed in the Commonwealth, and there shall be at least one (1) licensed registered nurse and one (1) dentist among the membership of the board. The remaining members of the district board shall be concerned community leaders residing within the county from which they are to be representatives.

(3) In the event a vacancy exists upon the district board, said vacancy shall be filled in a manner consistent with subsection (2) of this section with the nominee to fill the vacant seat coming from the county in which the vacancy occurs and the nominee resides.

(4) The appointed members of the district board of health shall hold office for a term of two (2) years ending on June 30 or until their successors are appointed; Provided, however, that the terms of the first appointments shall be staggered in such a manner that not less than one-half (½) the members shall be appointed for a term of one (1) year or until their successors are appointed and qualify. No appointed member of a district board of health shall serve more than two (2) consecutive terms of office.

Section 2. KRS 212.170 is amended to read as follows:

(1) [~~Each city board of health shall appoint a health officer for the city. He may be removed at any time by the board.~~

~~(2)~~] The county board of health of each county having a county department of health shall, subject to the approval of the state department for human resources, appoint a health officer who shall, subject to merit system provisions, hold office at the pleasure of both the county board and the state department for human resources.

(2)[~~(3)~~] A health officer may*:*[~~,~~]

(a) With the approval of the state department for human resources and the local boards of health concerned, serve in such capacity for more than one county*; and*

(b) At the discretion of the local board, act as chief administrative officer of the board.

(3)[~~(4)~~] A health officer may appoint an administrative assistant for each county served by him subject to the approval of the state department for human resources. An administrative assistant shall exercise such duties as may be delegated to him by the health officer.

(4)[~~(5)~~] A health officer may employ and fix the compensation of, by contract or otherwise, subject to the approval of the state department for human resources, all medical, technical, clerical, professional and other employes necessary for the maintenance and operation of the local health department in accordance with standards and merit system provisions prescribed by the state department for human resources.

(5)[~~(6)~~] In the absence of a local health officer, the secretary for human resources or his duly appointed representative shall serve as health officer for the county concerned.

Section 3. KRS 212.860 is amended to read as follows:

(1) A majority of all the members of the district board of health shall constitute a quorum. The board shall elect a chairman and vice-chairman *and such other officers as it deems necessary for the board to conduct business.* The district board of health may elect an executive committee *representative of the district,* for the conduct of such business and the discharge of such duties as the board may delegate. The committee shall meet as determined by the board or at the call of the district health officer.

(2) Members of district boards of health shall serve without pay but may be reimbursed for expenses incurred in connection with such service in accordance with state travel regulations and the policies of the department.

(3) The district board of health shall appoint a health officer and fix his salary subject to the approval of the department and applicable merit system regulations.

Section 4. KRS 212.900 is amended to read as follows:

The health officer of a district health department shall devote his time to the duties of his office and shall not engage in the private practice of medicine. He *may* [~~shall~~] also be secretary of the district board of health and keep full minutes of the proceedings of the board in a book provided for that purpose. He *may* [~~shall~~] also be the chief administrative officer of the district health department.

Section 5. The following KRS sections are repealed:

212.010 City health boards — Establishment — Membership.
212.220 Powers of city health boards.

HB 498, AN ACT relating to recorded instruments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.240 is amended to read as follows:

Each instrument that is recorded shall be delivered to the party entitled thereto. *The county clerk shall require prepayment of postage for delivery of said instruments at the time they are left for record in his office. If the county clerk is unable to locate the parties entitled thereto, he shall retain the instruments for at least two (2) years. The clerk may then destroy the instruments provided that he shall first make the following announcement by public notice in the newspaper of the largest circulation in the county: "Legal instruments which have been filed for record in the (name of county) county clerk's office and which have been in the custody of the clerk for over two (2) years must be claimed by the persons entitled thereto within thirty (30) days, or they shall be destroyed." The date of the notice and the name of the clerk shall be appended to the notice. Thirty (30) days after the appearance of the public notice, the county clerk may destroy the instruments.*

Section 2. KRS 382.290 is amended to read as follows:

(1) In recording mortgages and deeds in which liens are retained (except railroad mortgages securing bonds payable to bearer), there shall be left a blank space immediately after the record of the deed or mortgage of at least two full lines for each note or obligation named in the deed or mortgage, *or in the alternative, at the option of the county clerk, a marginal entry record may be kept for the same purposes as the blank space. All entries in the marginal entry record shall be noted in the indexing system for the referenced instruments.*

(2) When any note named in any deed or mortgage is assigned to any other person, the assignor may, over his own hand, attested by the clerk, note such assignment in the blank space, *or in a marginal entry record, beside a listing of the book and page of the document being assigned,* and when any one or more of the notes named in any deed or mortgage is paid, or otherwise released or satisfied, the holder of the note, and who appears from the record to be such holder, may release the lien, so far as such note is concerned, by release, over his own hand, attested by the clerk. *All entries in the marginal entry record shall be noted in the indexing system for the referenced instruments.*

(3) No person who does not, from such record or assignment of record, appear at the time to be the legal holder of any note secured by lien in any deed or mortgage, shall be permitted to release the lien securing any such note, and any release made in contravention of this section shall be void; but this section does not change the existing law if no such entry is made.

(4) For each assignment and release so made and attested by the clerk, he may charge a fee pursuant to KRS 64.012 to be paid by the person executing the release or noting the assignment.

(5) If such assignment of a note is made by separate instrument or by deed assigning the note, *or in a marginal entry record,* the instrument of writing or deed *or marginal entry record* shall set forth the date of notes assigned, a brief description of notes, the name and post office address of assignee, and the deed book and page of the instrument wherein the lien or mortgage is recorded and the clerk or deputy clerk

receiving such instrument of writing or deed of assignment for record shall *at the option of the county clerk* immediately *either note in the indexing system for the referenced document the assignment and its filing location, or* endorse at the foot of the record in the space provided in subsection (1), "The notes mentioned herein (giving a brief description of notes assigned) have been transferred and assigned to (insert name and address of assignee) by deed of assignment (or describe instrument) dated and recorded in deed book .... page ....," and attest such certificate. For making such notation on the record the clerk shall be allowed a fee pursuant to KRS 64.012 for each notation so made, to be paid by the party filing the instrument of writing or deed of assignment.

(6) No holder of a note secured by lien retained in either deed or mortgage shall lodge for record, and no clerk or deputy clerk shall receive and permit to be lodged for record, any deed or instrument of writing that does not comply with the provisions of this subsection.

Section 3. KRS 382.360 is amended to read as follows:

(1) Liens by deed or mortgage may be discharged by an entry acknowledging their satisfaction on the margin of the record thereof, *or in the alternative, at the option of the county clerk, in a marginal entry record,* signed by the person entitled thereto, or his personal representative, and attested by the clerk, or may be discharged by a separate deed of release, which shall recite the date of the instrument and deed book and the page wherein it is recorded. Such release in the case of a mortgage or deed of trust shall have the effect to reinstate the title in the mortgagor or grantor or person entitled thereto. *All entries in the marginal entry record shall be noted in the indexing system for the referenced instruments.*

(2) If a lien or mortgage is released by a deed of release, the clerk shall immediately, *at the option of the clerk, either note in the indexing system for the referenced instrument the release and its filing location, or* endorse on the margin of the record wherein the lien is retained "Released by deed of release (stating whether in whole or in part) lodged for record (giving date, deed book and page wherein such deed of release may be found)" and the clerk shall also attest such certificate.

Section 4. KRS 382.470 is amended to read as follows:

Any notice mentioned in KRS 382.440 and 382.450 may be discharged and annulled by an entry to that effect on the margin of the record thereof, *or at the option of the county clerk, in a marginal entry record kept for the same purpose,* signed by the person filing the notice or by his or their attorney of record in the action, or by a writing executed, acknowledged, and recorded in the manner provided for conveyance of land. The clerk shall, *at the option of the clerk, either note in the indexing system for the referenced instrument the discharge and its filing location,* enter a memorandum of such discharge on the margin of such record for which he shall charge a fee of twenty-five cents, to be paid in advance. *All entries in the marginal entry record shall be noted in the indexing system for the referenced instrument.*

Section 5. KRS 426.715 is amended to read as follows:

A lien shall exist on real property sold under an order of court, as security for the purchase money; and, upon payment thereof the clerk shall release the lien on the margin of the record of the deed in the office of the county clerk, *or at the option of the county clerk, in a marginal entry record kept for the same purpose. All entries in the marginal entry record shall be noted in the indexing system for the referenced instruments.*

Committee Substitute to **HB 498** is as follows:

HB 498, AN ACT relating to recorded instruments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.240 is amended to read as follows:

Each instrument that is recorded shall be delivered to the party entitled thereto. *The county clerk shall require prepayment of postage for delivery of said instruments at the time they are left for record in his office. If the county clerk is unable to locate the parties entitled thereto, he shall retain the instruments for at least two (2) years. The clerk may then destroy the instruments provided that he shall first make the following announcement by public notice in the newspaper of the largest circulation in the county: "Legal instruments which have been filed for record in the (name of county) county clerk's office and which have been in the custody of the clerk for over two (2) years must be claimed by the persons entitled thereto within thirty (30) days, or they shall be destroyed." The date of the notice and the name of the clerk shall be appended to the notice. Thirty (30) days after the appearance of the public notice, the county clerk may destroy the instruments.*

Section 2. KRS 382.290 is amended to read as follows:

(1) In recording mortgages and deeds in which liens are retained (except railroad mortgages securing bonds payable to bearer), there shall be left a blank space immediately after the record of the deed or mortgage of at least two full lines for each note or obligation named in the deed or mortgage, *or in the alternative, at the option of the county clerk, a marginal entry record may be kept for the same purposes as the blank space. Each entry in the marginal entry record shall be linked to its respective referenced instrument in the indexing system for the referenced instruments.*

(2) When any note named in any deed or mortgage is assigned to any other person, the assignor may, over his own hand, attested by the clerk, note such assignment in the blank space, *or in a marginal entry record, beside a listing of the book and page of the document being assigned,* and when any one or more of the notes named in any deed or mortgage is paid, or otherwise released or satisfied, the holder of the note, and who appears from the record to be such holder, may release the lien, so far as such note is concerned, by release, over his own hand, attested by the clerk. *Each entry in the marginal entry record shall be linked to its respective referenced instrument in the indexing system for the referenced instrument.*

(3) No person who does not, from such record or assignment of record, appear at the time to be the legal holder of any note secured by lien in any deed or mortgage, shall be permitted to release the lien securing any such note, and any release made in contravention of this section shall be void; but this section does not change the existing law if no such entry is made.

(4) For each assignment and release so made and attested by the clerk, he may charge a fee pursuant to KRS 64.012 to be paid by the person executing the release or noting the assignment.

(5) If such assignment of a note is made by separate instrument or by deed assigning the note, *or in a marginal entry record,* the instrument of writing or deed *or marginal entry record* shall set forth the date of notes assigned, a brief description of notes, the name and post office address of assignee, and the deed book and page of the instrument wherein the lien or mortgage is recorded and the clerk or deputy clerk receiving such instrument of writing or deed of assignment for record shall *at the option of the county clerk* immediately *either link the assignment and its filing location to its respective referenced instrument in the indexing system for the referenced instrument, or* endorse at the foot of the record in the space provided in subsection (1), "The notes mentioned herein (giving a brief description of notes assigned) have been transferred and assigned to (insert name and address of assignee) by deed of assignment (or describe instrument) dated and recorded in deed book .... page ....," and attest such certificate. For making such notation on the record the clerk shall be allowed a fee pursuant to KRS 64.012 for each notation so made, to be paid by the party filing the instrument of writing or deed of assignment.

(6) No holder of a note secured by lien retained in either deed or mortgage shall lodge for record, and no clerk or deputy clerk shall receive and permit to be lodged for record, any deed or instrument of writing that does not comply with the provisions of this subsection.

Section 3. KRS 382.360 is amended to read as follows:

(1) Liens by deed or mortgage may be discharged by an entry acknowledging their satisfaction on the margin of the record thereof, *or in the alternative, at the option of the county clerk, in a marginal entry record,* signed by the person entitled thereto, or his personal representative, and attested by the clerk, or may be discharged by a separate deed of release, which shall recite the date of the instrument and deed book and the page wherein it is recorded. Such release in the case of a mortgage or deed of trust shall have the effect to reinstate the title in the mortgagor or grantor or person entitled thereto. *Each entry in the marginal entry record shall be linked to its respective referenced instrument in the indexing system for the referenced instruments.*

(2) If a lien or mortgage is released by a deed of release, the clerk shall immediately, *at the option of the clerk, either link the release and its filing location to its respective referenced instrument in the indexing system for the referenced instrument, or* endorse on the margin of the record wherein the lien is retained "Released by deed of release (stating whether in whole or in part) lodged for record (giving date, deed book and page wherein such deed of release may be found)" and the clerk shall also attest such certificate.

Section 4. KRS 382.470 is amended to read as follows:

Any notice mentioned in KRS 382.440 and 382.450 may be discharged and annulled by an entry to that effect on the margin of the record thereof, *or at the option of the county clerk, in a marginal entry record kept for the same purpose,* signed by the person filing the notice or by his or their attorney of record in the action, or by a writing executed, acknowledged, and recorded in the manner provided for conveyance of land. The clerk shall, *at the option of the clerk, either link the discharge and its filing location to its respective referenced instrument in the indexing system for the referenced instrument, or* enter a memorandum of such discharge on the margin of such record for which he shall charge a fee of twenty-five cents, to be paid in advance. *Each entry in the marginal entry record shall be linked to its respective referenced instrument in the indexing system for the referenced instrument.*

Section 5. KRS 426.715 is amended to read as follows:

A lien shall exist on real property sold under an order of court, as security for the purchase money; and, upon payment thereof the clerk shall release the lien on the margin of the record of the deed in the office of the county clerk, *or at the option of the county clerk, in a marginal entry record kept for the same purpose. Each entry in the marginal entry record shall be linked to its respective referenced instrument in the indexing system for the referenced instrument.*

HB 500, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.230 is amended to read as follows:

(1) The sheriff shall, before he qualifies and before he assumes the duties of the office for the first time, enter into bond with surety for the faithful performance of his duties as revenue collector. This bond shall cover liability to account, as provided by law, for all charges of taxes made against him, and for all money received by him as revenue collector from the date he assumes the duties of the office to and including May 31 of the same year. He shall enter into bond with surety thereafter before or as of June 1 of each succeeding year of the term of his office, except that the expiration date of the bond for the last year in the term shall be to and including March 15. The county judge,/executive shall hold a hearing at any time the sheriff may request for the purpose of executing bond.

(2) The county judge/executive, except in case of a corporate surety, shall judge of the sufficiency of the surety, and in no case shall sureties be taken who are not jointly worth, subject to execution after the payment of all their debts and liabilities, a sum equal to the aggregate amount of state tax receipts that will probably be received by the sheriff during the year or period succeeding the execution of the bond. Where a corporate surety bond is offered, it shall be for a sum not less than the largest amount of state tax receipts that the sheriff will probably have in his possession at any one time[~~, except that such corporate surety bond shall in no event exceed $200,000~~]. The county judge/executive , with the approval of the department of revenue, shall determine the amount of the corporate surety bond and judge of the sufficiency of the surety.

(3) The county judge/executive may require the sheriff to give additional bond, with good surety to be approved by the county judge/executive , whenever the county judge/executive deems it necessary in the interest of the state or county.

[~~(4) The state, county and taxing districts shall have a lien, from the date the sheriff begins to act, upon the real property of the sheriff then owned or that may afterwards be acquired by him during his term as sheriff or special tax collector. The same lien shall exist upon the real property of a usurper of the office of sheriff, a de facto sheriff or any person who acts as sheriff.~~

~~(5) The lien referred to in subsection (4) above shall not be discharged until four (4) years have elapsed from the expiration of his term of office without any action having been commenced to assert the lien, or until a quietus from the state, county and taxing districts has been filed and recorded in the office of the county clerk for each of the tax periods during the sheriff's term, whichever of these two (2) events shall first occur. Each quietus shall approve the settlement of the sheriff, acknowledge payment of moneys due, and shall discharge and release the sheriff from further liability for the taxing period involved. The county clerk shall be entitled to receive one dollar ($1.00) for filing and recording each quietus and shall note upon the quietus the date, book and page of the last preceding quietus recorded.~~]

The Committee on Health and Welfare reported **SB 161** with Committee Amendment attached thereto, **SB 163** with Committee Amendment attached thereto, **HB 231,** and **HB 532** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 161, AN ACT relating to local health boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 212.020 is amended to read as follows:

(1) The secretary for human resources shall appoint three (3) intelligent and discreet licensed and practicing physicians and one (1) intelligent and discreet licensed and practicing dentist and one (1) discreet and practicing registered nurse *and one (1) discreet licensed and practicing veterinarian and one (1) lay person knowledgeable in consumer affairs* residing in each county who, together with the county judge/executive and one (1) person appointed by the fiscal court in each county, shall constitute a local board of health for the respective counties in which they reside. In the event a county does not have three (3) qualified licensed

and practicing physicians or one (1) qualified licensed and practicing dentist or one (1) qualified and licensed practicing registered nurse *or one (1) qualified licensed and practicing veterinarian or one (1) lay person knowledgeable in consumer affairs* residing therein, the secretary for human resources may appoint a resident lay person in lieu thereof for each such vacancy. The members of the local board shall hold office for a term of two (2) years from the date of their appointment, and until their successors are appointed. The members of the board shall receive no compensation for their services.

(2) The secretary may remove any board member he appoints as provided by KRS 65.007. The fiscal court may remove its appointee in like fashion.

Committee Amendment No. 1 to **SB 161** is as follows:

Amend printed copy of **SB 161** page 1, line 4, by inserting the word "*qualified*" after the number "(3)" and by placing a bracket in front of the word "intelligent" and by placing a bracket after the word "discreet";

And on page 1, line 5, by inserting the word "*qualified*" after the number "(1)" and by placing a bracket in front of the word "intelligent" and by placing a bracket after the word "discreet";

And on page 1, line 6, by inserting the word "*qualified*" after the number "(1)" and by placing a bracket before the word "discreet" and by placing a bracket after the word "and";

And on line 7, by deleting the word "*discreet*" and inserting in lieu thereof the word "*qualified*";

And on line 20, by inserting after the word "person" the following: "*knowledgeable in consumer affairs*"

SB 163, AN ACT relating to public welfare.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided by law, the secretary may, in accordance with the regulations he may prescribe and to the extent permitted by federal law, take all necessary steps to correct any underpayment or overpayment of public assistance benefits under this chapter.

(2) Recovery of overpayments by the secretary may be accomplished through repayment, reduction of future public assistance benefits, or by civil action in the circuit or district court depending upon the jurisdictional amount involved.

(3) No reduction in future benefits or civil action shall be instituted except after notice and an opportunity for a fair hearing have been given and the administrative and judicial remedies provided by this chapter have been either exhausted or abandoned.

(4) For purposes of this section, overpayment shall include payments made to or in behalf of an eligible person in excess of the amount of public assistance benefits to which they are entitled as defined by regulation, payments made to ineligible persons and payments made to persons pending a fair hearing decision or court decision.

(5) Nothing in this section shall be construed to prohibit criminal prosecution for fraud under any other statute.

Section 2. Whereas, the "Omnibus Budget Reconciliation Act of 1981," Public Law 97-35, 95 Statute 856, 860, requires the state plan under Part A, Title IV of the Social Security Act to provide that the Commonwealth take all necessary action to correct any underpayment or overpayment of benefits under this chapter beginning with the first month beginning after the close of the first session of the general assembly ending on or after October 1, 1981, an emergency is declared to exist. This Act shall become effective upon its passage and approval by the Governor.

Committee Amendment No. 1 to **SB 163** is as follows:

Amend printed copy of **SB 163,** page 1, line 3, by deleting the words "*Except as otherwise provided by law*" and insert in lieu thereof the following: "*Notwithstanding any statute to the contrary*"; and on page 1, line 15, after the word "*instituted*" by inserting the words "*to recover overpayments*"; and on page 1, line 15, by adding after the word "*given*" a "." and by deleting the words "*and the admin-*"; and on page 1, by deleting lines 16 and 17 in their entirety.

HB 231, AN ACT relating to dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.200 is amended to read as follows:

(1) When the appointments have been made as provided in this section, the Kentucky board of dentistry shall consist of *nine (9)* [~~seven~~] members, each appointed by the governor. *Seven (7)* [~~Six (6)~~] members *of the board* shall be *licensed dentists* appointed from a list of three (3) names recommended *for each board position* by the resident licensed dentists of Kentucky at an annual election at a time and place selected by the Kentucky board of dentistry. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. *One (1) member of the board shall be a dental hygienist licensed to practice dental hygiene in the Commonwealth. Each appointment to the board of a licensed dental hygienist shall be made from a list of three (3) names recommended for this position by the resident licensed dental hygienists of Kentucky at an annual election at a time and place selected by the board.*

(2) *(a)* Each dentist member shall have been an actual resident and licensed practicing dentist of this state for not less than five years immediately preceding his appointment to the board. He shall not be in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business.

(b) Each dental hygienist member shall have been an actual resident dental hygienist and licensed practicing dental hygienist in this state for not less than five (5) years preceding his appointment to the board. He shall not be in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business.

(3) Each member of the board shall hold office for four years, and until his successor is appointed and qualifies, except that no member shall serve more than two consecutive terms.

(4) Any vacancy shall be filled for the unexpired term by the governor in accordance with the provisions of subsection (1) of this section.

(5) Each member of the board shall receive any necessary expenses incurred in attending its meetings. Each member except the secretary-treasurer shall receive as compensation fifty dollars for each day actually engaged in the duties of his office. The secretary-treasurer shall receive an annual compensation to be established by the board at its annual session.

HB 532, AN ACT relating to medical assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.520 is amended to read as follows:

(1) KRS 205.510 to *205.630* [~~205.600~~] shall be known as the "medical assistance act."

(2) The general assembly of the Commonwealth of Kentucky recognizes and declares that it is an essential function, duty and responsibility of the state government to provide medical care to its indigent citizenry; and it is the purpose of KRS 205.510 to *205.630* [~~205.600~~] to provide such care.

(3) Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for human resources may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to *205.630* [~~205.600~~] is intended to limit the secretary's power in this respect.

(4) It is the intention of the general assembly to comply with the provisions of title XIX of the social security act which require that the Kentucky medical assistance program recover from third parties which have a legal liability to pay for care and services paid by the Kentucky medical assistance program.

(5) The Kentucky medical assistance program shall be the payor of last resort and its right to recover under KRS 205.622 to 205.630 shall be superior to any right of reimbursement, subrogation, or indemnity of any liable third party.

Section 2. KRS 205.540 is amended to read as follows:

(1) An advisory council for medical assistance shall be established in the state government. The council shall consist of *seventeen (17)* [~~fifteen (15)~~] members. The secretary for human resources shall be an ex officio

member. The other *sixteen (16)* [~~fourteen (14)~~] members of the council shall be appointed by the Governor and shall hold office for a term of four (4) years and until their successors are appointed and qualify, except that the members appointed to fill the first vacancy occurring for a term beginning on July 1, 1960, shall be as follows: Two (2) members shall be appointed for one (1) year, two (2) for two (2) years, two (2) for three (3) years, and three (3) for four (4) years, and the respective terms of the first members shall be designated by the Governor at the time of their appointments. The term of the first optometrist member shall begin July 1, 1970. The term of the first podiatrist member shall begin July 1, 1974. The term of the first home health care provider member shall begin July 1, 1978. Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be for four years and until his successor is appointed and qualified. Appointments shall be made one from each list of three nominees submitted by the following organizations: the Kentucky State Medical Association; the Kentucky Dental Association; the Kentucky Hospital Association; the Kentucky Pharmaceutical Association; the Kentucky Association of Nursing Homes and Personal Care Homes; the Kentucky State Association of Registered Nurses; the State Board of Podiatry; the Kentucky Home Health Association; and the Kentucky Optometric Association. The other *seven (7)* [~~five~~] appointive members, *one (1) of whom shall be a representative of the elderly, and three (3) of whom shall be recipients of medical assistance at the time of appointment,* shall be intelligent and discreet citizens residing within the Commonwealth, who are not members of professional groups which are recipients of vendor payments. No nominee or member of the council shall be a stockholder or have any financial interest in any hospital, nursing home, or related institution.

(2) Each appointive member of the council shall serve without compensation but shall be entitled to reimbursement for his actual and necessary expenses in carrying out his duties *with reimbursement for expenses being made in accordance with state regulations relating to travel reimbursement.*

(3) Vacancies shall be filled for the unexpired term in the same manner as original appointments, maintaining representations as set out in subsection (1) of this section.

(4) The council shall elect a chairman, vice-chairman, and secretary from among its members at its first regular meeting in each fiscal year and shall adopt rules governing its proceedings. The council shall hold a meeting at least once every three (3) months and such other special or regular meetings as may be desired.

Section 3. KRS 205.550 is amended to read as follows:

(1) The council shall advise the department for human resources about health and medical care services.

(2) The council shall have the opportunity for participation in policy development and program administration and shall advise the department for human resources on such matters.

(3) The council shall give advice regarding how to further the participation of recipient members in the policy development and program administration of the medical assistance program [~~The council shall develop and formulate recommendations to the department for human resources as to policies, plans, budgets, programs, and rules and regulations relating to:~~

~~(1) The administration of KRS 205.510 to 205.600;~~

~~(2) The utilization of facilities and personnel of the department for human resources;~~

~~(3) The designation, by regulation, of the scope of medical care for which the department for human resources should take to pay;~~

~~(4) The designation, by regulation, of quantity and quality standards and of methods for determining costs for vendor payments for medical care services, taking into consideration insurance and other financial resources available to the recipients;~~

~~(5) The designation, by regulation, of the limitations, duration and frequency of medical care for which vendor payments for medical care services should be made;~~

~~(6) The administration of grants, gifts, and contributions from the federal government, or from other sources, for the purpose of carrying out the intent and purposes of KRS 205.510 to 205.600;~~

~~(7) The establishment of and contribution to a federal-state medical care fund from funds appropriated from time to time by the general assembly;~~

~~(8) The conducting of studies, research, demonstrations, and surveys to carry out the purposes of KRS 205.510 to 205.600;~~

~~(9) Agreements and contracts for the administration of KRS 205.510 to 205.600;~~

~~(10) The utilization of facilities and personnel of local health departments and local public assistance offices;~~

~~(11) The periodic evaluation of the program and publication of reports thereof;~~

~~(12) The formulation of such modifications, expansions, or contractions of the program as may be desirable or necessary~~].

Section 4. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the department for human resources undertakes to pay shall be designated and limited by regulations promulgated by said department, pursuant to the provisions hereof.

Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of medical assistance program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any such medical assistance program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the medical assistance program and the dentist prior to the removal of such teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for human resources after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available including but not limited to the following categories except where such aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric, dental and optometric services;

(e) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where such students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified herein.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric and dental supplies shall be on bases which relate the amount of the payment to the cost of providing such services or supplies. It shall be one (1) of the functions of the council to make recommendations to the department for human resources with respect to such bases for payment.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the department for human resources shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for *induced* premature births *and induced terminations of pregnancy*. This statement shall indicate the procedures used in providing such medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. The amount of payments for units of services need not be uniform for the entire state but may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in such locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, so long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall require that any payment be made for optometric services or ophthalmic supplies.

(7) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

Section 5. KRS 205.590 is amended to read as follows:

(1) The following technical advisory committees shall be established for the purpose of acting in an advisory capacity to the council with respect to the administration of the medical assistance program and in performing the function of peer review:

(a) A Technical advisory committee on physician services consisting of five physicians appointed by the council of the Kentucky State Medical Association;

(b) A Technical advisory committee on hospital care consisting of five hospital administrators appointed by the board of trustees of the Kentucky Hospital Association;

(c) A Technical advisory committee on dental care consisting of five dentists appointed by the Kentucky Dental Association;

(d) A Technical advisory committee on nursing service consisting of five nurses appointed by the board of directors of the Kentucky State Association of Registered Nurses;

(e) A Technical advisory committee on drugs consisting of five pharmacists appointed by the Kentucky Pharmaceutical Association;

(f) A Technical advisory committee on nursing home care consisting of five members appointed by the Kentucky Association of Nursing Homes;

(g) A Technical advisory committee on optometric care consisting of five members appointed by the Kentucky Optometric Association;

(h) A technical advisory committee on podiatric care consisting of five podiatrists appointed by the Kentucky Podiatry Association.

(i) A technical advisory committee on primary care consisting of five (5) primary care providers, two (2) of whom shall represent licensed health maintenance organizations, appointed by the governor, until such time as an association of primary care providers is established, whereafter the association shall appoint the members.

(j) A technical advisory committee on home health care consisting of five (5) members appointed by the board of directors of the Kentucky Home Health Association.

(2) The members of the technical advisory committees shall serve until their successors are appointed and qualified.

(3) Each appointive member of a committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses in carrying out his duties *with reimbursement for expenses being made in accordance with state regulations relating to travel reimbursement.*

(4) Each technical advisory committee shall be empowered to act on behalf of the advisory council for medical assistance in those instances where the council has delegated such responsibility.

Section 6. KRS 205.850 is amended to read as follows:

(1) Except as otherwise provided in KRS 205.510 to *205.630* [~~205.600~~], no person shall knowingly solicit or receive any remuneration (including any kickback, bribe or rebate) for furnishing medical assistance benefits;

(2) No person shall unlawfully make, offer or receive payment, rebate of a fee, or charge for referring an individual to another person for furnishing of benefits;

(3) No person shall enter into an agreement, combination or conspiracy with the intent to defraud the department by obtaining or aiding another to obtain the payment or allowance of a fictitious, false or fraudulent claim;

(4) No person shall, with intent to defraud, make, present or cause to be made or presented to an employe or officer of the department a claim for benefits upon or against the state knowing the claim to be false, fictitious or fraudulent;

(5) No person shall, with intent to defraud, knowingly make, or induce, or seek to induce the making of a false statement or false representation of a material fact with respect to the conditions or operations of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled nursing facility, intermediate care facility, home health agency or other provider of services to the medical assistance program.

(6) Subsections (1) and (2) of this section shall not apply to:

(a) A discount or other reduction in price obtained by a provider of services or other entity under this chapter if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this chapter; and

(b) Any amount paid by an employer to an employe (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

Section 7. KRS 205.600, County medical review committees, is repealed.

Committee Amendment No. 1 to **HB 532** is as follows:

Amend printed copy of **HB 532** page 8, line 23, by deleting the following words: "*and induced terminations of pregnancy*"

The Committee on Transportation reported **HB 501** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 501, AN ACT relating to driver's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.412 is amended to read as follows:

(1) Every person seeking a license, or a renewal of a license for the operation of a motor vehicle, motorcycle, moped or a non-driver identification card shall apply in person to the circuit court clerk of the

county in which the applicant resides and shall make application upon a form furnished by the department of transportation. The application form shall contain and shall require the full and legal name and signature, date of birth, social security number, sex, present resident address of the applicant and briefly describe the applicant. It shall also state whether the applicant has previously been licensed as an operator and if so, when and by what state or county, whether any license has ever been canceled, suspended, revoked or refused, and if so, the date of and reason for the cancellation, suspension, revocation or refusal, and such other information as may be required.

(2) The department of transportation shall issue a plastic laminated operator's license bearing thereon a color photograph of the licensee, which photograph shall be taken by the circuit clerk in such a manner that one exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413.

(3) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(4) The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. Such temporary license shall be valid in lieu of the permanent license during the certification period and must be destroyed upon receipt of the permanent operator's license.

(5) Every person seeking a color photo non-driver identification card may apply in person to the circuit clerk in the county in which he resides. Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained on the form.

(6) Military personnel and other licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo *and signature*."

(7) The department shall provide on each license to operate motor vehicles or motorcycles issued a statement whereby the owner of such license may certify in the presence of two witnesses his willingness to make an anatomical gift under KRS 311.195.

Calendar

HB 411 and **HB 479** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 322** and **HB 375** had been examined and found correctly enrolled. **HB 322** and **HB 375** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:20 p.m.)

HB 322 and **HB 375** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day

HB 313, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Committee Amendment No. 1 to **HB 313.** Agreed.

Representative Mann moved the adoption of the Floor Amendment No. 1 to **HB 313.**

On the roll call the vote was yeas 58-Allen, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, Clark, Cline, Crupper, Curd, Cyrus, Dawahare, Dunn, Endicott, Ford, Foster, Freibert, Gray, Haering, Handy, Harper, Head, Heleringer, Hines, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Maggard, Mann, Moberly, Moore, Nett, Noe, Perkins, Petty, Priddy, Rattliff, Richards, Schmidt, B. Smith, Stone, Stumbo, Tobin, White, Williams. Nays 12-Burch, Clarke, Craddock, Donnermeyer, Holbrook, Overstreet, Patrick, Pearman, F. Smith, Todd, Turner, Van Horn.

Floor Amendment No. 1 to **HB 313** was adopted.

Representative Mann moved that **HB 313,** as amended, be passed.

On the roll call the vote was yeas 48-Barrows, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Bruce, Caldwell, Clapp, Clark, Cline, Crupper, Cyrus, Deskins, Dunn, Gray, Guenthner, Handy, Hines, Johnson, T. Jones, Kenton, Kidd, Lile, Little, Lundergan, Mann, McBee, Meyer, Moberly, Morris, Noe, Perkins, Petty, Priddy, Rattliff, Richards, B. Richardson, Robinson, Seum, Stone, Stumbo, Thomas, Van Horn, White, Williams, Yates. Nays 46-Allen, Arnold, Blevins, Burch, Burnett, Clarke, Craddock, Curd, Dawahare, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Haering, Hancock, Harper, Head, Heleringer, Holbrook, Holloway, R. Jones, Layman, Lefevers, List, Long, Maggard, McNutt, Nett, Noland, Overstreet, Patrick, Pearman, Rapier, P. Richardson, Riner, Schmidt, B. Smith, F. Smith, Thomason, Todd, Turner, Worthington.

HB 313, as amended, was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 313,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 312 taken from Orders of the Day and orded read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that **HB 312** be passed.

Representative Farrow moved that **HB 312** be laid on the Clerk's desk. Agreed.

HB 463, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Boswell moved the adoption of the Floor Amendment No. 1 to **HB 463.** Agreed.

Represenative Boswell moved that **HB 463,** as amended, be passed.

On the roll call the vote was yeas 94-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Allen.

HB 463, as amended, was passed and the title agreed to.

Representative Boswell moved that the vote by which **HB 463,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 486 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomason moved that **HB 486** be passed.

On the roll call the vote was yeas 61-Bendl, Blandford, Boswell, Brinkley, Bronger, Brown, Bruce, Caldwell, Clapp, Clark, Clarke, Cowan, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Foster, Freibert, Guenthner, Hancock, Handy, Harper, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, Lile, List, Long, Mann, McBee, Meyer, Moore, Nett, Noe, O'Brien, Overstreet, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, B. Richardson, Riner, Schmidt, B. Smith, Stone, Stumbo, Thomason, Todd, Turner, White, Worthington, Yates. Nays 18-Barrows, Burnette, Crupper, Dawahare, Endicott, Farrow, Ford, Fryman, Gray, Heleringer, Little, Maggard, McNutt, Moberly, Seum, F. Smith, Tobin, Van Horn.

HB 486 was passed and the title agreed to.

Representative Thomason moved that the vote by which **HB 486** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 105, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Floor Amendment No. 1 to **HB 105**. Agreed.

Representative Richards moved that **HB 105**, as amended, be passed.

On the roll call the vote was yeas 85-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Kidd, Layman, Lefevers, Lile, Little, Long, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 4-Crupper, Johnson, T. Jones, Overstreet.

HB 105, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 105**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 228 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lundergan moved that **HB 228** be passed.

On the roll call the vote was yeas 70-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Caldwell, Clark, Clarke, Cline, Cowan, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kidd, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Richards, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, Williams, Worthington, Yates. Nays 18-Crupper, Ellington, Endicott, Farrow, Ford, Fryman, Johnson, Layman, Lefevers, McNutt, Moore, Noland, Pearman, Riner, Robinson, Tobin, Todd, White.

HB 228 was passed and the title agreed to.

Representative Lundergan moved that the vote by which **HB 228** was passed be reconsidered and said motion be placed on the table. Agreed.

Speaker Pro Tempore Thomason presiding.

HB 424, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of the Floor Amendment No. 1 to **HB 424**. Agreed.

Representative Lundergan moved that **HB 424**, as amended, be passed.

On the roll call the vote was yeas 77-Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burnett, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Richards, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Tobin, Van Horn, White, Williams, Worthington, Yates. Nays 13-Allen, Endicott, Ford, Fryman, Harper, Layman, Lefevers, Lile, Moore, Overstreet, Robinson, Todd, Turner.

HB 424, as amended, was passed and the title agreed to.

Representative Lundergan moved that the vote by which **HB 424,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 148, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representatice LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Seum moved the adoption of the Floor Amendment No. 1 to **HB 148.** Agreed.

Representative Seum moved the adoption of the Committee Amendment No. 1 to **HB 148.** Agreed.

Representative Seum moved that **HB 148,** as amended, be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 4-Barrows, T. Jones, Moberly, Williams.

HB 148, as amended, was passed and the title agreed to.

Representative Seum moved that the vote by which **HB 148,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 141, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative List moved that **SB 141** be passed.

On the roll call the vote was yeas 81-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, Clarke, Cline, Cowan, Craddock, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. JOnes, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Schmidt, F. Smith, Stone, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 5-Allen, Crupper, Fryman, Guenthner, Thomas.

SB 141 was passed and the title agreed to.

Representative List moved that the vote by which **SB 141** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 48, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkley moved the adoption of the Committee Substitute to **SB 48.** Agreed.

Representative Brinkley moved that **SB 48,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 66-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Foster, Freibert, Gray, Guenthner, Hancock, Harper, Head, Holbrook, Holloway, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Mann, McBee, McNutt, Moberly, Moore, Noland, O'Brien, Petty, Priddy, Richards, Riner, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 20-Barrows, Burnette, Crupper, Endicott, Farrow, Ford, Haering, Handy, Long, Maggard, Morris, Noe, Overstreet, Pearman, Perkins, Rapier, Rattliff, Seum, Tobin, Turner.

SB 48, by way of Committee Substitute, was passed and the title agreed to.

Representative Brinkley moved that the vote by which **SB 48,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 224 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved that **SB 224** be passed.

On the roll call the vote was yeas 88-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 3-Haering, McNutt, Tobin.

SB 224 was passed and the title agreed to.

Representative Ford moved that the vote by which **SB 224** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 133, as amended by Committee Amendment No. 1 and Floor Title Amendment with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative List moved the adoption of the Floor Amendment No. 2 to **SB 133.** Agreed.

Representative List moved that **SB 133,** as amended, be passed.

On the roll call the vote was yeas 78-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Schmidt, B. Smith, F. Smith, Stone, Thomas, Tobin, Williams, Worthington, Yates. Nays 9-Allen, Brown, Crupper, Fryman, Gray, Guenthner, Haering, Turner, Van Horn.

SB 133, as amended, was passed and the title agreed to.

Representative List moved that the vote by which **SB 133,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 393, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved the adoption of the Committee Substitute to **HB 393.** Agreed.

Representative Dunn moved that **HB 393,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Tobin.

HB 393, by way of Committee Substitute, was passed and the title agreed to.

Representative Dunn moved that the vote by which **HB 393,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 466 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that **HB 466** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Little.

HB 466 was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 466** was passed be reconsidered and said motion be placed on the table. Agreed.

HR 35, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of the Committee Amendment No. 1 to **HR 35.** Agreed.

Representative Heleringer moved that **HR 35,** as amended, be adopted.

On the roll call the vote was yeas 88-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HR 35, as amended, was adopted and the title agreed to.

Representative Heleringer moved that the vote by which **HR 35,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker resumed the Chair.

HB 53, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage.

Representative LeMaster moved that the House concur in the following Senate Amendment to **HB 53:**

Amend printed copy of **HB 53** on page 1, line 3, delete "Alimony or divorce" and replace with the words "maintenance or dissolution"

On the roll call the vote was yeas 74-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Farrow, Ford, Freibert, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Johnson, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Maggard, Mann, Meyer, Moore, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomason, Van Horn, Williams, Worthington, Yates. Nays 0.

The motion that the House concur in the Senate Amendment to **HB 53** was adopted.

Representative LeMaster moved that **HB 53,** as amended by the Senate, be passed.

On the roll call the vote was yeas 86-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gray, Haering, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Hones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 0.

HB 53, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 53,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 24, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative LeMaster moved that the House concur in the following Senate Amendment to **HB 24:**

Amend printed copy of **HB 24,** on page 7, line 19, by deleting: "*salaries and*".

On the roll call the vote was yeas 92-Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

The motion that the House concur in the Senate Amendment to **HB 24** was adopted.

Representative LeMaster moved that **HB 24,** as amended by the Senate, be passed.

On the roll call the vote was yeas 84-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Mooris, Nett, Noe, Noland, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 2-List, Williams.

HB 24, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 24,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 19, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative LeMaster moved that the House concur in the following Senate Amendment to **HB 19:**

Amend printed copy of **HB 19,** page 1, after line 8, insert the following:
"*Section 2. Because the production of coal benefits all citizens of the Commonwealth and present bonding requirements may delay or prevent operators from seeking coal operation permits, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.*"

The motion that the House concur in the Senate Amendment to **HB 19** was adopted by voice vote.

Representative LeMaster oved that **HB 19,** as amended by the Senate, be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Boswell, Brinkley, Brown, Bruce, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 19, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 19,** as amended by the Senate, was passed be reconsidered amd said motion be placed on the table. Agreed.

HB 258, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative LeMaster moved that the House concur in the following Senate Amendment to **HB 258:**

Amend printed copy of **HB 258,** on page 1, lines 5-7 delete the words "*of the Senate fifty-five dollars ($55); enrolling clerk of the House of Representatives*" and insert in lieu thereof the word "*fifty-five*"; and on line 7 place brackets around and strike through the word "fifty"; and on line 7 delete the word "($50)", and insert in lieu thereof the words "*($55)* "[~~($50)~~]".

The motion that the House concur in the Senate Amendment to **HB 258** was adopted by voice vote.

Representative LeMaster moved that **HB 258,** as amended by the Senate, be passed.

On the roll call the vote was yeas 90-Arnold, Barrows, Bendl, Bennett, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F.

Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 258, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 258,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 71, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative LeMaster moved that the HOuse concur in the following Senate Amendment to **HB 71:**

Amend printed copy fo **HB 71** on page 1, line 13, add the following:

"Section 2. KRS 160.608 is amended to read as follows: KRS 160.595 to the contrary notwithstanding, after January 1, 1975, any *school district located in a* county containing a city of the first class may levy either or both of the taxes authorized by KRS 160.613 to 160.617 and 160.621 to 160.633 in addition to the occupational license tax authorized by KRS 160.482 to 160.488, 160.593 to 160.597, and 160.607(2).

Section 3. *Whereas, local school districts need time to prepare for the provisions of this Act, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.*"

The motion that the House concur in the Senate Amendment to **HB 71** was adopted by voice vote.

Representative LeMaster moved that **HB 71,** as amended by the Senate, be passed.

On the roll call the vote was yeas 69-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Brown, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Foster, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Lefevers, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Nett, Noe, Pearman, Perkins, Petty, Rapier, Richards, B. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, White, Williams, Worthington, Yates. Nays 18-Allen, Bruce, Burch, Burnette, Caldwell, Clapp, Ford, Freibert, Fryman, Guenthner, Haering, Heleringer, Layman, Moore, O'Brien, Riner, Todd, Van Horn.

HB 71, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 71,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 77, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative LeMaster moved that the House concur in the following Senate Amendment to **HB 77:**

Amend printed copy of **HB 77** as follows:

On page 2, line 18, change the word "*may*" to "*shall*".

The motion that the House concur in the Senate Amendment to **HB 77** was rejected.

HB 64, with Senate Amendments attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative LeMaster moved that the House concur in the following Senate Amendment No. 1 to **HB 64:**

Amend printed copy of **HB 64**, on page 2, line 3, delete the following: "*or beyond the term of any member of the present board*"

On the roll call the vote was yeas 64-Arnold, Bendl, Bennett, Blandford, Boswell, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Farrow, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Maggard, Mann, McBee, McNutt, Morris, Nett, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, White, Williams, Yates. Nays 17-Allen, Burnette, Clarke, Endicott, Ford, Fryman, Haering, Heleringer, List, Meyer, Moberly, Noe, O'Brien, Thomas, Todd, Turner, Van Horn.

The motion that the House concur in the Senate Amendment No. 1 to **HB 64** was adopted.

Representative LeMaster moved that the House concur in the following Senate Amendment No. 2 to **HB 64:**

Amend printed copy of **HB 64,** on page 4, line 3, following the word "divisions", delete "as nearly equal in population and"

Page 4, line 4 following the word precincts and before the word "insofar" add the language: "*and as equal in population*"

The motion that the House concur in the Senate Amendment No. 2 to **HB 64** was adopted by voice vote.

Representative LeMaster moved that **HB 64,** as amended by the Senate, be passed.

On the roll call the vote was yeas 75-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Holbrook, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Nett, Noe, Noland, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, White, Williams, Yates. Nays 10-Allen, Burnette, Dawahare, Endicott, Haering, Holloway, Morris, O'Brien, Turner, Van Horn.

HB 64, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 64,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 20, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative LeMaster moved that the House concur in the following Senate Amendment to **HB 20:**

Amend printed copy of **HB 20** on page 1 by deleting "(1)" on line 5; by deleting all lines 11 through 15; and by deleting "*rise*" on line 16

The motion that the House concur in the Senate Amendment to **HB 20** was adopted by voice vote.

Represenative LeMaster moved that **HB 20,** as amended by the Senate, be passed.

On the roll call the vote was yeas 79-Allen, Arnold, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, Kidd, Layman, Lefevers, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 3-Barrows, Bruce, T. Jones.

HB 20, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 20,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

The following Floor Amendments were filed:

Floor Amendment No. 1 to Committee Substitute to **HB 103,** by Representative Stone:

Amend printed copy of Committee Substitute to **HB 103,** page 2, add new section as follows:

(3) No owner or occupant of the land shall be liable for any injury or damage sustained by any person entering upon said land under the provisions of this Act.

Floor Amendment No. 2 to Committee Substitute to **HB 106,** by Representative Yates:

Amend printed copy of Committee Substitute to **HB 106,** page 35, between lines 24 and 25, by adding the following new subsection:

"*(27) Each resident shall have the right to purchase any medication prescribed by a licensed physician and to fill or refill any prescription duly authorized by a licensed physician at the pharmacy of his choice. The provisions of Subsection 25 of this section shall not apply to this subsection.*"

Floor Amendment No. 1 to **HB 312,** by Representative Schmidt:

Amend printed copy of **HB 312,** page 2, after line 4, by adding the following: "*(4) The provisions of this section shall not apply in counties containing cities of the second, third, fourth, fifth or sixth class.*"

Floor Amendment No. 2 to **HB 312** by Representative Van Horn:

Amend printed copy of **HB 312,** on page 2, line 4, after the word "spaced." by inserting the following language:

"A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

No state police motor vehicle shall be operated upon the highways of the state of Kentucky, or upon the right-of-way of said highways, unless clearly marked as a Kentucky state police vehicle."

Floor Amendment No. 3 to **HB 378,** by Representative Guenthner:

Amend printed copy of **HB 378,** page 1, line 16, by inserting after "(3)" and before "The" the following: "Except counties containing a city of the first class."

Floor Amendment No. 1 to **HB 383,** by Representative Moberly:

Amend printed copy of **HB 383,** page 1, line 4, by deleting the "colon"; and on page 1, line 5, by deleting "*(a)*" and by deleting "*causes physical*"; and on page 1, by deleting lines 6 and 7 in their entirety; and on page 1, line 8, by deleting "*(b) with recklessness he*"

Floor Amendment No. 1 to **HB 492,** by Representative Harper:

Amend printed copy of **HB 492,** page 9, after line 6, by adding the following language:

Section 7. KRS 160.613 is amended to read as follows:
(1) There is hereby authorized a utility gross receipts license tax for schools not to exceed three per cent (3%) of the gross receipts derived from the furnishing, within the county, of telephonic and telegraphic

communications services, electric power, water, and natural, artificial, and mixed gas. "Gross receipts" includes all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of the above utilities, except that "gross receipts" shall not include amounts received for furnishing energy or energy-producing fuels, used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three per cent (3%) of the cost of production, [~~and shall not include~~] amounts received for furnishing any of the above utilities which are to be resold, *and amounts received for furnishing utilities to any organization which has qualified for tax exempt status under section 501 (c)(3) of the Internal Revenue Code in effect on December 31, 1981.*

(2) In the event that any user of electrical energy purchases the electrical energy directly from any supplier who is exempt either by state or federal law from the utility gross receipts license tax under the provisions of subsection (1) of this section, then the consumer, if such tax has been levied in his district, shall be liable for the tax and shall pay directly to the county finance officer, in accordance with the provisions of KRS 160.615, a utility gross receipts license tax for schools computed by multiplying the gross cost of all electrical energy received by the tax rate levied under the provisions of this section.

(3) Gross cost shall be construed in such a way that the consumer shall pay taxes on the same base as that on which a seller who comes within the provisions of subsection (1) of this section is paying.

Floor Amendment No. 2 to **HB 505,** by Representative Holbrook:

Amend printed copy of **HB 505,** page 10, line 16, by adding after the word "*purchased*" the phrase "*and used*", and on lines 16 and 17, by deleting the words "*in a zone*", and on page 4, line 24, after "*period*" delete "*or*" and substitute therefore the word "*and*"

Floor Amendment No. 3 to **SB 53,** by Representative Clapp:

Amend printed copy of **SB 53,** page 1, after line 18, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 250 IS CREATED TO READ AS FOLLOWS:

Dark fired and dark air cured tobacco seed shall be exempt from the requirements of KRS 250.040(3), 1980 Acts, Chapter 342, Section 1, effective July 1, 1982, until July 1, 1984."

and on page 1, line 19, by renumbering "Section 2" to "Section 3"

The following meetings were announced:

Committee on Rules: On adjournment, Room 316.

Committee Chairmen: Fifteen minutes after adjournment, Room 105.

Judiciary-Civl: Wednesday, 8:00 a.m., Room 104.

Representative Little moved that he be recorded as voting "yea" on **HB 466.**

Representative O'Brien moved that **HR 48** be read for the first time and ordered placed in the Calendar. Agreed.

HR 48, A CONCURRENT RESOLUTION inviting Governor John Y. Brown, Jr. to address a joint session of the General Assembly.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Honorable John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, be and he is invited hereby to address a joint session of the General Assembly on Thursday, March 4, 1982, at 2:30 p.m., to present his State of the Commonwealth message.

Section 2. That the Speaker of the House of Representatives and the President of the Senate be directed to appoint a committee of each house to wait upon the Governor and escort him to the joint session.

Representative Williams moved that **SB 18** be reassigned to the Committee on Judiciary-Civil. Agreed.

The following additional announcements were made:

Transportation: Special meeting, Thursday, on adjournment.

Budget Review, Department for Human Resources: After meeting of Committee Chairmen, Room 20.

Labor and Industry: On adjournment, Wednesday, Room 104.

Capital Construction: Today after meeting of Committee Chairmen, Room 104.

Counties and Special Districts: Friday, 8:00 a.m.

Business Organizations and Professions: Wednesday, 8:30 a.m.

Representative Burnette moved that **HB 280,** as amended, be taken from the Clerk's desk and placed in Orders fo the Day. Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Cline, **HB 700;** Representative Freibert, **HB 622;** Representative Kenton, **HB 674;** Representative Rapier, **HB 622;** Representative Riner, **HB 177;** Representative Thomas, **HB 84, HB 86, HB 106, HB 197, HB 583;** Representative Todd, **HB 622;** Representative Van Horn, **HB 155, HB 583.**

The following members filed requests to have their names withdrawn as co-sponsor of Bills: Representative Harper, **HB 651;** Representative Rapier, **HB 651.**

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HCR 53, by Representative Williams: A CONCURRENT RESOLUTION creating a task force to study handgun control legislation.

HJR 54, by Representatives Worthington and Cyrus: A JOINT RESOLUTION establishing a Hazardous Waste Facility Siting Commission and declaring an emergency.

HR 55, by Representatives Cyrus and Brown: A RESOLUTION promoting the purchasing of American made steel.

HJR 56, by Representatives Perkins, Maggard, Brinkley, Bruce, Fryman, Stumbo, Dawahare, Little, Moore, Brown, B. Richardson, and Deskins: A JOINT RESOLUTION directing the secretary of transportation to honor previous commitments to the city of Hazard.

HB 690. by Representative McNutt: AN ACT relating to peace officers.

HB 691, by Representative Little: AN ACT relating to personal leave for teachers.

HB 692, by Representative Barrows: AN ACT relating to public utilities.

HB 693, by Representative Kenton: AN ACT relating to sanitary sewers.

HB 694, by Representative F. Smith: AN ACT relating to teachers.

HB 695, by Representative Bendl: AN ACT relating to pensions.

HB 696, by Representatives Stumbo and Perkins: AN ACT relating to the local government economic assistance fund.

HB 697, by Representatives Meyer and Donnermeyer: AN ACT relating to city retirement boards.

HB 698, by Representatives Williams and Van Horn: AN ACT relating to the sale of gasoline.

HB 699, by Representatives Williams and Van Horn: AN ACT relating to property.

HB 700, by Representatives Richards, Moberly, Brown, Rapier, Curd, Boswell, P. Clark, B. Smith, Cyrus and Blevins: AN ACT relating to higher education.

HB 701, by Representative P. Richardson: AN ACT relating to insurance.

HB 702, by Representative P. Richardson: AN ACT relating to rural electric cooperatives.

HB 703, by Representative O'Brien: AN ACT relating to manufactured home financing.

HB 704, by Representative Bennett: AN ACT relating to mechanics' liens.

HB 705, by Representative Burnette: AN ACT relating to traffic laws.

HB 706, by Representative Worthington: AN ACT relating to license fees for waste management facilities.

HB 707, by Representative Burnette: AN ACT relating to payment of a bonus to certain veterans who served during the Viet Nam conflict and certain persons deriving from them, providing for funding thereof, and appropriating funds for administration.

HB 708, by Representatives Holloway and Cyrus: AN ACT relating to workers' compensation insurance.

HB 709, by Representative Mann: AN ACT relating to the public school foundation program.

HB 710, by Representative Bendl: AN ACT relating to tax credits for contributions to community service projects.

HB 711, by Representative Thomas: AN ACT relating to trailers, mobile homes, and recreational vehicles.

HB 712, by Representative Pearman: AN ACT relating to taxation of military retirement income.

HB 713, by Representative List: AN ACT relating to property taxation.

HB 714, by Representatives F. Smith, Thomas and Mann: AN ACT relating to complaints against licensed occupations and professions.

HB 715, by Representatives Endicott and Head: AN ACT relating to surface mining and declaring an emergency.

HB 716, by Representative Noe: AN ACT relating to settlement of estates.

HB 717, by Representative LeMaster: AN ACT relating to motor vehicle operator's licenses.

HB 718, by Representative White: AN ACT relating to insurance.

HB 719, by Representatives White and Head: AN ACT relating to surface mining and declaring an emergency.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 484, HB 549, HB 659, HB 649.**

Transportation: **HR 43, HB 397.**

Judiciary-Civil: **HB 503.**

Banking and Insurance: **HB 627, HB 658, HB 628.**

Business Organizations and Professions: **SB 261.**

Labor and Industry: **HB 542, HB 634.**

Natural Resources and Environment: **HB 660.**

State Government: **HB 551, SB 169, SB 166, HB 553, HB 144, SB 135, SB 177, HB 394, HB 681.**

Education: **HB 610, HB 622.**

Report of Committees

The Committee on Energy reported **HB 196,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 196, AN ACT relating to housing, building and construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.010 is amended to read as follows:
As used in this chapter, unless otherwise provided:
(1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social or recreational purposes, including among others:
(a) Armories;
(b) Assembly halls;
(c) Auditoriums;
(d) Bowling alleys;
(e) Broadcasting studios;
(f) Chapels;
(g) Churches;
(h) Clubrooms;
(i) Community buildings;
(j) Courthouses;
(k) Dance halls;
(l) Exhibition rooms;
(m) Gymnasiums;
(n) Hotels;
(o) Lecture rooms;
(p) Lodge rooms;
(q) Motels;
(r) Motion picture theaters;
(s) Museums;
(t) Night clubs;

(u) Opera houses;
(v) Passenger stations;
(w) Pool rooms;
(x) Recreation areas;
(y) Restaurants;
(z) Skating rinks;
(aa) Television studios;
(bb) Theaters.

(2) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.

(3) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling and ventilating facilities, but which is not ordinarily used for purposes of general household habitation.

(4) "Building" means any combination of materials, whether portable or fixed, which comprises a structure affording facilities or shelter for any human occupancy, whether infrequent or regular. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a mobile home, or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if such farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people or structures used in the storage or processing of timber products. This chapter shall not apply to any single family dwelling except those sold or constructed under a trade or brand name.

(5) Any city, county or urban-county government of the Commonwealth may extend, by ordinance, the application of this chapter to those single family dwellings exempted under subsection (4) of this section, but may not enforce any building code other than the uniform state building code on such dwellings.

(6) Nothing in this chapter shall be construed to *include* [~~exempt~~] single family dwellings *in* [~~from~~] those provisions of the uniform state building code that relate to the national electric code [~~and the state plumbing code~~].

(7) "Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business, the rendering or receiving of professional services, or the displaying, selling or buying of goods, wares, or merchandise, or the housing of vehicles of transportation, except where occupancy is of high hazard, including among others:

(a) Banks;
(b) Barber shops;
(c) Beauty parlors;
(d) Department stores;
(e) Garages;
(f) Markets;
(g) Service stations;
(h) Offices;
(i) Stores;
(j) Radio stations;
(k) Telephone exchanges;
(l) Television stations.

(8) "Commissioner" means the commissioner of housing, buildings and construction.

(9) "Construction" means the erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein.

(10) "Department" means the department of housing, buildings and construction.

(11) "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving educational instruction, including among others:

(a) Academies;
(b) Care centers;
(c) Colleges;
(d) Kindergartens;
(e) Libraries;
(f) Pre-schools;
(g) Relocatable classroom unit;
(h) Schools;
(i) Seminaries;

(j) Universities.

(12) "Equipment" means facilities or installations, including but not limited to, heating, electrical, ventilating, air conditioning, and refrigerating facilities or installations.

(13) "High hazard occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, high flammable or explosive materials or which has inherent characteristics that constitute a special fire hazard, including among others:

(a) Aluminum powder factories;
(b) Charging or filling stations;
(c) Distilleries;
(d) Dry cleaning plants;
(e) Dry dyeing plants;
(f) Explosive-manufacture, sale or storage;
(g) Flour and feed mills;
(h) Gasoline bulk plants;
(i) Grain elevators;
(j) Lacquer factories;
(k) Liquefied petroleum gas;
(l) Mattress factories;
(m) Paint factories;
(n) Pyroxylin-factories, or warehouses;
(o) Rubber factories.

(14) "Industrial occupancy" means the occupancy or use of a building structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging or processing operations, except for occupancies of high hazard, including among others:

(a) Assembly plants;
(b) Creameries;
(c) Electrical substations;
(d) Factories;
(e) Ice plants;
(f) Laboratories;
(g) Laundries;
(h) Manufacturing plants;
(i) Mills;
(j) Power plants;
(k) Processing plants;
(l) Pumping stations;
(m) Repair garages;
(n) Smokehouses;
(o) Workshops.

(15) "Industrialized building system" means any structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at the building site.

(16) "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable or other care or treatment, or by persons involuntarily detained, including among others:

(a) Asylums;
(b) Homes for the aged;
(c) Hospitals;
(d) Houses of correction;
(e) Infirmaries;
(f) Jails;
(g) Nursing homes;
(h) Orphanages;
(i) Penal institutions;
(j) Reformatories;
(k) Sanitariums;
(l) Nurseries.

(17) "Mobile home" means mobile home as defined in KRS 227.550*(9)*[~~(1)~~].

(18) "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.

(19) "Physically handicapped person" means a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he is insecure or exposed to danger; a person whose hearing is so impaired that he is unable to hear warning signals; and a person whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging.

(20) "Facility for physically handicapped persons" means any convenience or device which facilitates the health, safety or comfort of a handicapped person, including, but not limited to, ramps, handrails, elevators, and doors.

Committee Substitute to **HB 196** is as follows:

HB 196, AN ACT relating to housing, buildings and construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.480 is amended to read as follows:

(1) A city or county shall, when the uniform state building code as it pertains to the plan review responsibilities of local governments takes effect, require any person to obtain permits before commencing construction, alteration or repairs of any electrical wiring, and require such inspection as it deems necessary for the safety of life and property. A city or county may require such permits and inspections prior to the time when the uniform state building code local government plan review responsibilities take effect.

(2) *A city or county may appoint and fix the compensation of city or county electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements for the conduct of electrical inspections within its boundaries. All electrical inspectors must be certified under KRS 227.489.*

(3) Reasonable standards for the construction, alteration and repair of any electrical wiring shall be those adopted in the uniform state building code after said code is promulgated by the board of housing, buildings and construction, and shall have as a minimum standard the requirements of the national electric code. These standards shall be used by the electrical inspector in making his inspections.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

Except where other rules are adopted by a city or county, the following reporting and fee requirements shall apply to electrical inspections of residential buildings and single-family dwellings:

(1) The inspector shall complete a report for each inspection. One (1) copy of the report shall be given to the owner of the electrical installation or his representative at the time the inspection fees are paid. A second copy of the report shall be sent to the department of housing, buildings and construction no later than one (1) week after the inspection is completed. The report shall include, but is not limited to, the following:

(a) The address of the dwelling inspected;

(b) The number of rooms, number of receptacles and number of switch boxes inspected;

(c) Number of code violations, if any;

(d) A description of each code violation, and recommended change to correct the violation;

(e) The date and time of day the inspection commenced;

(f) The time, in hours and minutes, required for the inspection;

(g) The number of miles and hours and minutes of travel time incurred by the inspector for that inspection, if mileage and travel charges are added to the inspection fee;

(h) The amount charged for the inspection, separated into an amount for mileage, if any, and the amount for travel time, if any, and the amount charged for the actual inspection.

(2) The maximum inspection fee shall be an amount equal to the prevailing wage for a master electrician in the region in which the inspection is made, multiplied by the time required to conduct the inspection. This rate shall not be applied to travel time to and from the inspection.

(3) An inspector may charge, in addition to the inspection fee, an amount for necessary travel to and from the inspection site. The mileage rate charged shall not exceed the amount per mile allowed to state employes, and the inspector shall charge no more than ten dollars ($10) per hour for travel time. If two (2) or more inspections are made during one (1) trip, then the cost of travel shall be divided between the inspections made. In no case shall an inspector charge more than once for the same trip, or charge for mileage or time not actually expended.

(4) Each inspector shall furnish bond of five thousand dollars ($5,000) with surety satisfactory to the department of housing, buildings and construction.

(5) The department of housing, buildings and construction shall design reporting forms which meet the requirements of subsection (1) of this section, and provide these forms to electrical inspectors. The department shall adopt regulations to administer the requirements of this section.

(6) Nothing in this section is intended to limit the right of cities or counties to set fees or adopt rules for electrical inspections which are different from those specified in subsections (1), (2), (3) or (4) of this section.

The Committee on Health and Welfare reported **HB 369,** with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 369, AN ACT relating to occupations and professions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 319A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter unless the context requires otherwise:

(1) "Allied mental health fields and degrees" means:

(a) Master's or doctoral degree in clinical social work, psychiatric nursing, or any mental health field where the course of studies as deemed by the board is equivalent to a master's degree in marital and family therapy;

(b) Doctoral degree in clinical or counseling psychology; or

(c) Doctor of medicine or doctor of osteopathy degree;

(2) "Appraisal activities" means, within the practice of counseling, the selection, administration, scoring, and interpretation of instruments designed to assess an individual's aptitudes, attitudes, educational achievement and vocational development, interests, and personal characteristics, but shall not include the use of projective techniques in personality assessment;

(3) "Board" means the Kentucky board of examiners in mental health counselor licensure and marital and family therapy certification;

(4) "Certified marital and family therapist" means a person certified under this chapter to use the title;

(5) "Consulting" means, within the practice of counseling, interpreting or reporting, or both, scientific fact or theory in counseling, guidance, and personnel services to provide assistance in solving current or potential problems of individuals, groups or organizations;

(6) "Counseling" means, within the practice of counseling, assisting individuals or groups, through the counseling relationship, to develop understandings of personal problems, to define goals, and to plan action reflecting their interests, abilities, aptitudes, and needs as these are related to personal-social concerns, educational progress, and occupations and careers;

(7) "Licensed associate mental health counselor" means any person who holds himself out to the public by offering to render counseling services for remuneration, monetary or otherwise, who is licensed under this chapter to practice counseling under the supervision of a licensed mental health counselor;

(8) "Licensed mental health counselor" means any person who holds himself out to the public by offering to render counseling services for remuneration, monetary or otherwise, who is licensed under this chapter to practice counseling;

(9) "Practice of counseling" means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, methods, or procedures of the counseling profession, which include but are not limited to: counseling, appraisal activities, consulting and research activities; provided that the practice of counseling shall not be construed as excluding the practice by persons using the title counselor, personal counselor, personnel counselor, vocational counselor, employment counselor, guidance counselor, rehabilitation counselor, or any other title, which implies he is trained, experienced or an expert in the practice of counseling;

(10) "Practice of marital and family therapy" means the rendering of therapy or counseling services to individuals, family groups and marital pairs, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise, and which center largely upon the family system and the relationship between husband and wife and includes premarital therapy, predivorce and postdivorce therapy and family therapy and which consist of the application of principles, methods and therapeutic techniques for the purpose of resolving emotional conflicts, altering problematic attitudes and establishing productive ones in the areas of marriage and family life;

(11) "Research activities" means, within the practice of counseling, reporting, designing, and conducting research on human subjects in counseling.

SECTION 2. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) There is created a Kentucky board of examiners in mental health counselor licensure and marital and family therapist certification, composed of nine (9) members who shall be appointed by the governor. The Kentucky personnel and guidance association and the Kentucky division of the American association of marriage and family therapists jointly shall provide the governor with a list of sixteen (16) candidates from whom he shall appoint four (4) members who are eligible for licensure as mental health counselors and four (4) members who are eligible for certification as marital and family therapists. The initial appointees who are eligible for licensure or certification shall be deemed respectively licensed or certified immediately upon appointment and qualification as board members. Future board candidates shall be licensed or certified prior to nomination except for the ninth member who shall be a citizen at large not associated with or financially interested in the practice or business being regulated.

(2) Each member of the board shall serve for four (4) years, except initially the governor shall appoint three (3) members with terms expiring at a rate of one (1) per year for the first three (3) years after July 15, 1982. Licensed mental health counselors who vacate their seats shall be replaced by licensed mental health counselors. Certified marital and family therapists who vacate their seats shall be replaced by certified marital and family therapists. At least three (3) months before expiration of any board member's term, the Kentucky personnel and guidance association and the Kentucky division of the American association of marriage and family therapists shall submit to the governor a list of persons eligible for appointment, in number not less than twice the number of appointments to be made. Vacancies shall be filled in the same manner.

(3) The governor shall remove from office, upon recommendation by a majority of the board and after notice and hearing by the board any member for incompetence, neglect of duty, or malfeasance in office.

SECTION 3. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Adopt by-laws;

(2) Review the credentials of licensure applicants to determine if they are eligible for licensure, upon payment of a twenty-five dollar ($25.00) fee;

(3) Prepare or select and administer examinations to applicants for licensure, and, after July 15, 1983, to applicants for both licensure and certification;

(4) Certify as marital and family therapists applicants who satisfy the experience and educational requirements of Section 7 of this Act;

(5) License as mental health counselors and as associate mental health counselors persons who satisfy the respective requirements of Sections 5 and 6 of this Act;

(6) Submit an annual report to the governor listing all hearings conducted by the board and any decisions rendered; and

(7) Adopt a code of ethics governing the practice of counseling and the use of the title "family and marital therapist."

SECTION 4. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

The board may:

(1) Employ needed personnel;

(2) Investigate suspected violations of this chapter; and

(3) Institute and maintain actions to restrain or enjoin violations of this chapter.

SECTION 5. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

An applicant for licensure as a mental health counselor shall pay the board a fee of one hundred dollars ($100) and shall satisfy the board that he:

(1) Is at least eighteen (18) years of age;

(2) Resides or is employed in the Commonwealth of Kentucky;

(3) Has completed at least sixty (60) graduate semester hours from a regionally accredited institution of higher education based upon a program of studies in the behavioral sciences and possesses a master's degree of a type satisfactory to the board or an equivalent degree as determined by the board; and

(4) Has had at least three (3) years of professional experience of a type satisfactory to the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) An applicant for licensure as an associate mental health counselor shall pay the board a fee of one hundred dollars ($100) and shall satisfy the board that he meets all the requirements for licensure

as a mental health counselor with the exception of the three (3) year experience requirement, as provided under Section 5(4) of this Act.

(2) A licensed associate mental health counselor may practice only under direct supervision of a licensed mental health counselor, who has received board approval for his supervision plan.

(3) Upon completion of the experience requirement provided in Section 5(4) of this Act, a licensed associate mental health counselor may petition the board for licensure as a mental health counselor.

SECTION 7. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

An applicant for certification as a marital and family therapist shall pay the board a fee of one hundred dollars ($100) and shall satisfy the board that he:

(1) Is at least eighteen (18) years of age;

(2) Resides in or is employed in the Commonwealth of Kentucky;

(3) Possesses at least a master's degree or its equivalent from a recognized educational institution accepted by the board in the field of marriage and family therapy or a master's degree or its equivalent in an allied mental health field as recognized by the board;

(4) (a) Has had at least three (3) years experience in the practice of marriage and family therapy or counseling satisfactory to the board, subsequent to being granted a master's degree and has acquired a minimum of two hundred (200) hours of clinical supervision acceptable to the board;

(b) Was certified or licensed prior to July 15, 1983, in the Commonwealth of Kentucky in an allied mental health profession.

SECTION 8. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

An applicant for certification on or after July 15, 1983, as a certified marriage and family therapist shall meet the requirements of Section 7 of this Act and, in addition, shall pass an examination administered by the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) Licenses and certificates issued under this chapter shall be renewed every three (3) years for a period of three (3) years upon payment of seventy-five dollars ($75.00) and fulfillment of continuing education or other requirements or both as determined by the board. The board shall cancel any license or certificate not renewed within three (3) months of the renewal date but may reinstate the license or certificate upon payment of the renewal fee and satisfaction of other requirements within one (1) year of the anniversary date of issue or renewal.

(2) Applicants who meet all requirements for admission to the licensure or certification examination and who pay a fee of twenty-five dollars ($25.00) shall be issued, at the discretion of the board, a temporary permit to practice until the next examination date.

(3) Any certification or licensure applicant who has been employed as a marital and family therapist or counselor for three (3) years prior to the effective date of this Act shall be considered for automatic certification or licensure upon application to the board between July 15, 1982, and July 15, 1983, and upon taking an examination, regardless of his examination score.

SECTION 10. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter shall be construed as prohibiting or authorizing the practice of counseling or marriage and family therapy by:

(1) Individuals in the employ of the state and federal governments or accredited institutions of higher education insofar as counseling or marriage and family therapy are a part of the official duties in the salaried position;

(2) Persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes if the practice of counseling or marriage and family therapy is within the lawful scope of their professions;

(3) Students pursuing a course of graduate study approved by the board;

(4) A minister, priest, rabbi or clergyman from functioning within a recognized religious organization;

(5) The board may establish additional exclusions when deemed necessary for the benefit of the public.

SECTION 11. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) No one shall engage in the practice of counseling unless he is licensed as a mental health counselor or an associate mental health counselor under the provisions of this chapter or unless he is exempt under Section 9 of this Act.

(2) No one shall use the titles "licensed mental health counselor," "licensed associate mental health counselor," or "certified marital and family therapist" unless authorized to do so by the board nor shall

anyone hold himself out to the public as having such a status by means of using such a title on signs, mailboxes, address plates, stationery, announcement, telephone listings, calling cards or other instruments of professional identification.

(3) Nothing in this chapter shall be construed as prohibiting or authorizing the advertisement or practice of marital and family therapy.

SECTION 12. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

A majority of the board may upon investigation suspend for a definite period not to exceed one (1) year, or may revoke a license or certificate if the license or certificate holder has:

(1) Been convicted of a felony;

(2) Used fraud or deception in applying for a license or in taking an examination required by this chapter;

(3) Violated the code of ethics adopted by the board;

(4) Engaged in professional misconduct, unethical or unprofessional conduct, including but not limited to, wilful acts, negligence, conduct likely to deceive, defraud or harm the public or engaged in such conduct as a result of the use of intoxicating substances; or

(5) Wilfully or negligently violated any provisions of this chapter or regulations issued thereunder.

SECTION 13. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) A person whose application for licensure or certification is denied shall be provided written notice of the reasons for his denial. Upon written request within thirty (30) days of the denial, the board may grant a hearing to review the denial.

(2) In every proceeding for suspension or revocation of a license or certificate, the holder shall:

(a) Be granted the opportunity for a board hearing;

(b) Be provided by certified mail at his last known address at least thirty (30) days prior to the hearing written notice setting out each offense charged with sufficient detail to apprise him of the nature, time and place of each offense. Failure to appear at the hearing shall not prevent the hearing or invalidate any action taken by the board; and

(c) Have the right to be present in person or by counsel, to present evidence and to be heard in opposition to the charges.

(3) In every proceeding for suspension or revocation of a license or certificate holder, the board:

(a) May subpoena persons and papers on its behalf and on the behalf of the person under consideration, administer oaths, and take testimony;

(b) Shall provide written notice of its decision to the license or certificate holder by certified mail within ten (10) days following the conclusion of the hearing.

(4) A decision of the board shall become final thirty (30) days after the conclusion of the hearing unless the licensee or certificate holder appeals the decision to the Franklin circuit court. The suspension or revocation shall remain in effect pending any appeals unless the board provides otherwise in its suspension or revocation order.

SECTION 14. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

A person whose license or certificate has been revoked may apply for reinstatement no earlier than three (3) years from the date of revocation, in accordance with procedures established by the board.

SECTION 15. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

A person holding a license or certificate granted under this chapter shall not testify in any civil proceeding concerning any communication made to him, in his professional character, by his client, unless the client making the confidential communication waives the privilege.

SECTION 16. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Members of the board, its agents and employes shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed by them in good faith.

SECTION 17. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Any violation of this chapter or regulations issued thereunder shall be a Class A misdemeanor.

Committee Substitute to **HB 369** is as follows:

HB 369, AN ACT relating to occupations and professions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 319A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter unless the context requires otherwise:

(1) "Allied mental health fields and degrees" means:

(a) Master's or doctoral degree in clinical social work, psychiatric nursing, or any mental health field where the course of studies as deemed by the board is equivalent to a master's degree in marital and family therapy;

(b) Doctoral degree in clinical or counseling psychology; or

(c) Doctor of medicine or doctor of osteopathy degree;

(2) "Appraisal activities" means, within the practice of counseling, the selection, administration, scoring, and interpretation of instruments designed to assess an individual's aptitudes, attitudes, educational achievement and vocational development, interests, and personal characteristics, but shall not include the use of projective techniques in personality assessment;

(3) "Board" means the Kentucky board of examiners in mental health counselor licensure and marital and family therapy certification;

(4) "Certified marital and family therapist" means a person certified under this chapter to use the title;

(5) "Consulting" means, within the practice of counseling, interpreting or reporting, or both, scientific fact or theory in counseling, guidance, and personnel services to provide assistance in solving current or potential problems of individuals, groups or organizations;

(6) "Counseling" means, within the practice of counseling, assisting individuals or groups, through the counseling relationship, to develop understandings of personal problems, to define goals, and to plan action reflecting their interests, abilities, aptitudes, and needs as these are related to personal-social concerns, educational progress, and occupations and careers;

(7) "Licensed associate mental health counselor" means any person who holds himself out to the public by offering to render counseling services for remuneration, monetary or otherwise, who is licensed under this chapter to practice counseling under the supervision of a licensed mental health counselor;

(8) "Licensed mental health counselor" means any person who holds himself out to the public by offering to render counseling services for remuneration, monetary or otherwise, who is licensed under this chapter to practice counseling;

(9) "Practice of counseling" means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, methods, or procedures of the counseling profession, which include but are not limited to: counseling, appraisal activities, consulting and research activities; provided that the practice of counseling shall not be construed as excluding the practice by persons using the title counselor, personal counselor, personnel counselor, vocational counselor, employment counselor, guidance counselor, rehabilitation counselor, or any other title, which implies he is trained, experienced or an expert in the practice of counseling;

(10) "Practice of marital and family therapy" means the rendering of therapy or counseling services to individuals, family groups and marital pairs, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise, and which center largely upon the family system and the relationship between husband and wife and includes premarital therapy, predivorce and postdivorce therapy and family therapy and which consist of the application of principles, methods and therapeutic techniques for the purpose of resolving emotional conflicts, altering problematic attitudes and establishing productive ones in the areas of marriage and family life;

(11) "Research activities" means, within the practice of counseling, reporting, designing, and conducting research on human subjects in counseling.

SECTION 2. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) There is created a Kentucky board of examiners in mental health counselor licensure and marital and family therapist certification, composed of nine (9) members who shall be appointed by the governor. The Kentucky personnel and guidance association and the Kentucky division of the American association for marriage and family therapy jointly shall provide the governor with a list of sixteen (16) candidates from whom he shall appoint four (4) members who are eligible for licensure as mental health counselors and four (4) members who are eligible for certification as marital and family therapists. The initial appointees who are eligible for licensure or certification shall be deemed respectively licensed or certified immediately upon appointment and qualification as board members. Future board candidates shall be licensed or certified prior to nomination except for the ninth member who shall be a citizen at large not associated with or financially interested in the practice or business being regulated.

(2) Each member of the board shall serve for four (4) years, except initially the governor shall appoint three (3) members with terms expiring at a rate of one (1) per year for the first three (3) years after July 15, 1982. Licensed mental health counselors who vacate their seats shall be replaced by licensed

mental health counselors. Certified marital and family therapists who vacate their seats shall be replaced by certified marital and family therapists. At least three (3) months before expiration of any board member's term, the Kentucky personnel and guidance association and the Kentucky division of the American association for marriage and family therapy shall submit to the governor a list of persons eligible for appointment, in number not less than twice the number of appointments to be made. Vacancies shall be filled in the same manner.

(3) The governor shall remove from office, upon recommendation by a majority of the board and after notice and hearing by the board any member for incompetence, neglect of duty, or malfeasance in office.

SECTION 3. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Adopt by-laws;

(2) Review the credentials of licensure applicants to determine if they are eligible for licensure, upon payment of a twenty-five dollar ($25.00) fee;

(3) Prepare or select and administer examinations to applicants for licensure, and for both licensure and certification;

(4) Certify as marital and family therapists applicants who satisfy the experience and educational requirements of Sections 7 and 8 of this Act;

(5) License as mental health counselors and as associate mental health counselors persons who satisfy the respective requirements of Sections 5, 6 and 8 of this Act;

(6) Submit an annual report to the governor listing all hearings conducted by the board and any decisions rendered; and

(7) Adopt a code of ethics governing the practice of counseling and the use of the title "family and marital therapist."

SECTION 4. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

The board may:

(1) Employ needed personnel;

(2) Investigate suspected violations of this chapter; and

(3) Institute and maintain actions to restrain or enjoin violations of this chapter.

SECTION 5. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

An applicant for licensure as a mental health counselor shall pay the board a fee of one hundred dollars ($100) and shall satisfy the board that he:

(1) Is at least eighteen (18) years of age;

(2) Resides or is employed in the Commonwealth of Kentucky;

(3) Has completed at least sixty (60) graduate semester hours from a regionally accredited institution of higher education based upon a program of studies in the behavioral sciences and possesses a master's degree of a type satisfactory to the board or an equivalent degree as determined by the board; and

(4) Has had at least three (3) years of professional experience of a type satisfactory to the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) An applicant for licensure as an associate mental health counselor shall pay the board a fee of one hundred dollars ($100) and shall satisfy the board that he meets all the requirements for licensure as a mental health counselor with the exception of the three (3) year experience requirement, as provided under Section 5(4) of this Act.

(2) A licensed associate mental health counselor may practice only under direct supervision of a licensed mental health counselor, who has received board approval for his supervision plan.

(3) Upon completion of the experience requirement provided in Section 5(4) of this Act, a licensed associate mental health counselor may petition the board for licensure as a mental health counselor.

SECTION 7. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

An applicant for certification as a marital and family therapist shall pay the board a fee of one hundred dollars ($100) and shall satisfy the board that he:

(1) Is at least eighteen (18) years of age;

(2) Resides in or is employed in the Commonwealth of Kentucky;

(3) Possesses at least a master's degree or its equivalent from a recognized educational institution accepted by the board in the field of marriage and family therapy or a master's degree or its equivalent in an allied mental health field as recognized by the board;

(4) (a) Has had at least three (3) years experience in the practice of marriage and family therapy or counseling satisfactory to the board, subsequent to being granted a master's degree and has acquired a minimum of two hundred (200) hours of clinical supervision acceptable to the board; or

(b) Was certified or licensed prior to July 15, 1983 in the Commonwealth of Kentucky in an allied mental health profession.

SECTION 8. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) An applicant for licensure on or after July 15, 1983, as a mental health counselor shall meet the requirements of Section 5 of this Act and, in addition, shall pass an examination administered by the board.

(2) An applicant for licensure on or after July 15, 1983, as an associate mental health counselor shall meet the requirements of Section 6 of this Act, and in addition, shall pass an examination administered by the board.

(3) An applicant for certification on or after July 15, 1983, as a certified marriage and family therapist shall meet the requirements of Section 7 of this Act and, in addition, shall pass an examination administered by the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) Licenses and certificates issued under this chapter shall be renewed every three (3) years for a period of three (3) years upon payment of seventy-five dollars ($75.00) and fulfillment of continuing education or other requirements or both as determined by the board. The board shall cancel any license or certificate not renewed within three (3) months of the renewal date but may reinstate the license or certificate upon payment of the renewal fee and satisfaction of other requirements within one (1) year of the anniversary date of issue or renewal.

(2) Applicants who meet all requirements for admission to the licensure or certification examination and who pay a fee of twenty-five dollars ($25.00) shall be issued, at the discretion of the board, a temporary permit to practice until the next examination date.

(3) Any certification or licensure applicant who is currently engaged in or has previously engaged in the practice of counseling or the practice of marital and family therapy prior to the effective date of this Act shall be considered for automatic certification or licensure upon application to the board between July 15, 1982, and July 15, 1983, without taking an examination.

SECTION 10. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter shall be construed as prohibiting or authorizing the practice of counseling or marriage and family therapy by:

(1) Individuals in the employ of the state and federal governments or accredited institutions of higher education insofar as counseling or marriage and family therapy are a part of the official duties in the salaried position;

(2) Persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes if the practice of counseling or marriage and family therapy is within the lawful scope of their professions;

(3) Students pursuing a course of graduate study approved by the board;

(4) Persons who are completing the supervised clinical training as provided under Section 7 of this Act in preparation for certification as a marriage and family therapist;

(5) A minister, priest, rabbi or clergyman from functioning within a recognized religious organization.

SECTION 11. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) No one shall engage in the practice of counseling unless he is licensed as a mental health counselor or an associate mental health counselor under the provisions of this chapter, unless he is exempt under Section 10 of this Act or unless he is certified as a marital and family therapist under this Act.

(2) No one shall use the titles "licensed mental health counselor," "licensed associate mental health counselor," or "certified marital and family therapist" unless authorized to do so by the board nor shall anyone hold himself out to the public as having such a status by means of using such a title or a substantially similar title on signs, mailboxes, address plates, stationery, announcement, telephone listings, calling cards or other instruments of professional identification.

(3) Nothing in this chapter shall be construed as prohibiting or authorizing the advertisement or practice of marital and family therapy.

SECTION 12. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

A majority of the board may upon investigation suspend for a definite period not to exceed one (1) year, or may revoke a license or certificate if the license or certificate holder has:

(1) Been convicted of a felony;

(2) Used fraud or deception in applying for a license or in taking an examination required by this chapter;

(3) Violated the code of ethics adopted by the board;

(4) Engaged in professional misconduct, unethical or unprofessional conduct, including but not limited to, wilful acts, negligence, conduct likely to deceive, defraud or harm the public or engaged in such conduct as a result of the habitual use of intoxicating substances; or

(5) Wilfully or negligently violated any provisions of this chapter or regulations issued thereunder.

SECTION 13. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) A person whose application for licensure or certification is denied shall be provided written notice of the reasons for his denial. Upon written request within thirty (30) days of the denial, the board may grant a hearing to review the denial.

(2) In every proceeding for suspension or revocation of a license or certificate, the holder shall:

(a) Be granted the opportunity for a board hearing;

(b) Be provided by certified mail at his last known address at least thirty (30) days prior to the hearing written notice setting out each offense charged with sufficient detail to apprise him of the nature, time and place of each offense. Failure to appear at the hearing shall not prevent the hearing or invalidate any action taken by the board; and

(c) Have the right to be present in person or by counsel, to present evidence and to be heard in opposition to the charges.

(3) In every proceeding for suspension or revocation of a license or certificate holder, the board:

(a) May subpoena persons and papers on its behalf and on the behalf of the person under consideration, administer oaths, and take testimony;

(b) Shall provide written notice of its decision to the license or certificate holder by certified mail within ten (10) days following the conclusion of the hearing.

(4) A decision of the board shall become final thirty (30) days after the conclusion of the hearing unless the licensee or certificate holder appeals the decision to the Franklin circuit court. The suspension or revocation shall remain in effect pending any appeals unless the board provides otherwise in its suspension or revocation order.

SECTION 14. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

A person whose license or certificate has been revoked may apply for reinstatement no earlier than one (1) year from the date of revocation, in accordance with procedures established by the board.

SECTION 15. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

A person holding a license or certificate granted under this chapter shall not testify in any civil proceeding concerning any communication made to him, in his professional character, by his client, unless the client making the confidential communication waives the privilege.

SECTION 16. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Members of the board, its agents and employes shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed by them in good faith.

SECTION 17. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Any violation of this chapter or regulations issued thereunder shall be a Class A misdemeanor.

Committee Amendment No. 1 to Committee Substitute to **HB 369** is as follows:

Amend printed copy of HCS to **HB 369,** page 10, line 13, by deleting after the words "*currently engaged in*" the words "*or has previously engaged in*"

And on page 10, line 15, by inserting after the word "*therapy*" the following: "*in this Commonwealth*"

And on page 12, line 5, by inserting after the word "*identification*" the following: "*unless licensed or certified pursuant to this Act*"

Committee Amendment No. 2 to Committee Substitute to **HB 369** is as follows:

Amend printed copy of HCS to **HB 369,** page 12, line 22, by inserting after the words "*limited to,*" the following: "*sensitivity training and nude encounter groups*"

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, March 3, 1982.

On the roll call the vote was yeas 52-Allen, Arnold, Blevins, Boswell, Caldwell, Clark, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Foster, Freibert, Fryman, Gray, Hancock, Harper, Head, Hines, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, List, Long, McBee, Moberly, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, Worthington, Yates. Nays 11-Ford, Handy, Heleringer, Holloway, Lile, Maggard, Mann, Meyer, Perkins, Schmidt, Williams.

The motion to adjourn was adopted.

WEDNESDAY, MARCH 3, 1982

THIRTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Billy G. Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Yates.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of March 2, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 109, SB 165, SB 167, SB 250, SB 312,** and **HB 113** with Senate Amendments.

Introduction of Bills and Resolutions

HCR 57, by Representative Holbrook: A CONCURRENT RESOLUTION directing the study of an Athletic Trainer Program in the public schools.

HB 720, by Representatives LeMaster and Schmidt: AN ACT to revise and correct the Kentucky Revised Statutes.

HB 721, by Representative Pearman: AN ACT relating to sales tax.

HB 722, by Representative B. Richardson: AN ACT relating to education.

HB 723, by Representative Ellington: AN ACT relating to volunteer fire protection districts, fire departments and volunteer firemen.

HB 724, by Representatives LeMaster, B. Richardson, Donnermeyer, Dunn, Thomason, Schmidt, and Clarke: AN ACT relating to general appropriations to the Legislative Research Commission for the operation, maintenance, support, and functioning of the Legislative Branch of government and its agencies of the Commonwealth of Kentucky and to the Board of Ethics.

HB 725, by Representatives Noland, Endicott, Patrick, Ford, Todd, Lefevers, Bronger, and Moore: AN ACT relating to taxation of retirement benefits.

HB 726, by Representative Noland, Fryman, Turner, Todd, Ford, Lefevers, Bronger, and Moore: AN ACT relating to the licensing of motor vehicles.

HB 727, by Representative Burch: AN ACT relating to private security services.

HB 728, by Representative LeMaster: AN ACT relating to revenue and taxation.

HB 729, by Representative Dunn: AN ACT relating to annexation.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 710, HB 712, HB 713, HJR 52.**

Banking and Insurance: **HB 683, HB 701, HB 703, HB 718.**

Business Organizations and Professions: **HB 688, HB 704, HB 714, HB 711.**

Cities: **HB 685, HB 693, HB 697.**

Counties and Special Districts: **HB 689, HB 695, HB 696, HB 706.**

Education: **HB 687, HB 691, HB 694, HB 700, HB 709.**

Energy: **HB 692, HB 702, HJR 54.**

Health and Welfare: **HB 686.**

Judiciary-Civil: **HB 690, HB 699, HB 716.**

Judiciary-Criminal: **HCR 53.**

Labor and Industry: **HB 698, HB 708, HR 55.**

Natural Resources and Environment: **HB 715, HB 719.**

State Government: **HB 682, HB 684, HB 707.**

Transportation: **HB 705, HB 717, HJR 56.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 559, HB 598.**

Report of Committees

The Committee on Rules reported **HB 103, HB 396, HB 149, HB 133, HB 411, HB 479,** and **SB 4** have been posted for passage in Orders of the Day, March 4, 1982.

The Committee on Rules reported the following Bills have been recommitted:

Judiciary-Civil: **HB 207.**

Appropriations and Revenue: **HB 490.**

The Committee on Business Organizations and Professions reported **HB 421** with Committee Substitute attached thereto, **HB 438, HB 477, HB 516,** and **HB 578** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 421, AN ACT relating to motor vehicle sales.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 190.010 is amended to read as follows:
As used in KRS 190.010 to 190.080 unless the context requires otherwise:
(1) *"Manufacturer" means any person, partnership, firm, association, corporation or trust, resident or nonresident, who manufacturers or assembles new motor vehicles, or imports for distribution through*

distributors of new motor vehicles, or any partnership, firm, association, joint venture, corporation or trust, resident or nonresident, which is controlled by the manufacturer. Additionally, the term "manufacturer" shall include the following terms:

(a) "Distributor" which means any person, firm, association, corporation or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers, or who maintains factory representatives, or who controls any person, firm, association, corporation or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers.

(b) "Factory branch" which means a branch office maintained by a manufacturer for the purpose of selling, or offering for sale, new motor vehicles to a distributor, wholesaler, or new motor vehicle dealer, or for directing or supervising, in whole or in part, factory or distributor representatives, and shall further include any sales promotion organization, whether the same be a person, firm, or corporation, which is engaged in promoting the sale of new motor vehicles in this state of a particular brand or make to new motor vehicle dealers.

(c) "Factory representative" which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of his, its, or their new motor vehicles, or for supervising or contracting with his, its, or their dealers, or prospective dealers.

(d) "Distributor branch" which means a branch office similarly maintained by a distributor or wholesaler for the same purposes.

(e) "Distributor representative" which means a representative similarly employed by a distributor, distributor branch, or wholesaler.

(2) "Motor vehicle dealer" means any person not excluded by subsection *(3)*[~~(2)~~] of this section, *engaged in the business of selling, offering to sell, soliciting, or advertising the same, of new or used motor vehicles, or possessing motor vehicles for the purpose of resale, either on his own account, or on behalf of another, either as his primary business or incidental thereto* [~~who:~~

~~(a) For commission, money or other thing of value, is engaged in the business of selling, exchanging, buying, offering or attempting to negotiate a sale or exchange of an interest in motor vehicles; or~~

~~(b) Who is engaged wholly or in part in the business of selling motor vehicles, including motor driven cycles, whether or not such motor vehicles are owned by such person, firm or corporation~~].

(3)[~~(2)~~] The term "motor vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company or lending institution which is subject to state or federal regulation as such, with regard to its disposition of repossessed motor vehicles;

(b) Public officers while performing their official duties; or

(c) Employes of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as such employes.

(4) "New motor vehicle dealer" means a vehicle dealer who holds a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of said manufacturer's new motor vehicles.

(5) "Used motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in used motor vehicles, incidental to engaging in the business of selling, displaying, offering for sale, or dealing in new motor vehicles; or any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts.

(6) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease or other contractual arrangement under which a charge is made for its use at a periodic rate for at least a monthly term, and title to the motor vehicle is in a person other than the user, but does not mean a manufacturer or its affiliate leasing to its employes or to dealers.

(7)[~~(3)~~] "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer to sell motor vehicles.

[~~(4) The term "board" means the motor vehicle dealers board.~~

~~(5) The term "commissioner" means the commissioner of vehicle regulation.~~]

(8) "Auctioneer" means any person who offers, negotiates, or attempts to negotiate a sale, purchase, or exchange of a motor vehicle which may be lawfully kept or offered for sale by or at public auction or who sells same at auction.

(9)[~~(6)~~] "Motor vehicle" means *every vehicle intended primarily for use and operation on the public highways, which is self propelled, not including farm tractors and other machines and tools used in the production, harvesting and care of farm products* [~~any motor driven vehicle required to be registered or licensed before being operated upon the highways. Motor vehicle shall not include moped as defined in this section~~].

(10) "New motor vehicle" means a vehicle which is in the possession of the manufacturer, distributor, or wholesaler, or has been sold only to the holders of a valid sales and service agreement, franchise,

or contract, granted by the manufacturer, distributor, or wholesaler for the sale of said make of new vehicle, and which is, in fact, new and on which the original title has not been issued from the franchised dealer.

(11)[~~(7)~~] "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(12) "Commission" means the motor vehicle dealer's licensing board.

(13) "Commissioner" means the commissioner of vehicle regulation.

(14)[~~(8) The term~~] "Bureau" means the bureau of vehicle regulation.

(15)[~~(9)~~] "Licensor" means either the *commission* [~~commissioner~~] or the bureau or both.

[~~(10) "Manufacturer" means any person, resident or nonresident who manufactures or assembles motor vehicles.~~

~~(11) "Distributor" or "wholesaler" means a person, resident or nonresident who sells or distributes motor vehicles to licensed motor vehicle dealers, or who maintains distributor representatives.~~

~~(12) "Factory branch" means a branch office maintained by a person who manufactures or assembles motor vehicles, for the sale of motor vehicles to distributors, or for the sale of motor vehicles to motor vehicle dealers or for directing or supervising in whole or part, its representatives.~~

~~(13) "Distributor branch" means a branch office similarly maintained by a distributor or wholesaler for the same purposes.~~

~~(14) "Factory representative" means a representative employed by a person who manufactures or assembles motor vehicles or by a factory branch, for the purpose of making or promoting the sale of its motor vehicles, or for supervising or contacting its dealers or prospective dealers.~~

~~(15) "Distributor representative" means a representative similarly employed by a distributor, distributor branch or wholesaler.~~]

(16) *"Established place of business" means a permanent, enclosed commercial building located within this state easily accessible and open to the public at all reasonable times, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land use regulatory ordinances.*

(17) "Person" means a person, partnership, firm, corporation or association, *trust, estate or other legal entity.*

[~~(17) The term "new motor vehicle" means a motor vehicle which, after its final assembly, is either in the possession of the manufacturer, factory branch or distributor, or an authorized dealer operating under a franchise with the manufacturer, factory branch or distributor, and the legal or equitable title to which has never been the subject of a sale or transfer other than to another dealer operating under a similar franchise with the same manufacturer, factory branch or distributor.~~]

(18) [~~The term~~] "Franchise" means *the agreement or contract between any automobile manufacturer, written or otherwise, and any new motor vehicle dealer which purports to fix the legal rights and liabilities of the parties to such an agreement* [~~any written contract, agreement, or license between a motor vehicle dealer and a manufacturer, factory branch or distributor of new motor vehicles by which the dealer is authorized to engage in the business of selling any specified make or makes of new motor vehicles~~].

(19) "Good faith" means honesty in fact, and the observance of reasonable commercial standards of fair dealing in the trade, as is defined and interpreted in Section 2-103(1)(b) of the Uniform Commercial Code.

(20) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a dealer who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who, under the laws of intestate succession of this state is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer.

(21) "Control" exists where one (1) manufacturer, dealer, corporation, association, partnership, individual or trust:

(a) Directly or indirectly, or acting through one (1) or more other persons owns, controls, or has power to vote twenty-five percent (25%) or more of the outstanding voting stock of the controlled manufacturer, distributor, corporation, association, partnership, individual or trust; or

(b) Constitutes or constituted a primary or significant source of new motor vehicles, parts or accessories for the controlled manufacturer, distributor, corporation, association, partnership, individual or trust; or

(c) Is determined by the commissioner, after notice and opportunity for a hearing, to exert or have authority to exert a significant degree of control over the controlled manufacturer, distributor, corporation, association, partnership, individual or trust's operations, or gives significant assistance in any form, including, but not limited to loans, business management assistance, or marketing assistance.

(22) "Fraud" means a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made in good faith; or an intentional failure to disclose material fact.

(23) "Sale" means the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest therein, or of any franchise related thereto, as well as any option, subscription or other contract, or solicitation looking to a sale, offer to attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto, with or as a bonus on account of the sale of anything, shall be deemed a sale of such motor vehicle or franchise.

Section 2. KRS 190.015 is amended to read as follows:

The legislature finds and declares that the distribution and sale of vehicles within this state vitally affects the general economy of the state and the public interest and the public welfare, and that in order to promote the public interest and public welfare, and in the exercise of its police power, it is necessary to regulate and license vehicle manufacturers, distributors or wholesalers, and factory or distributor representatives, and to regulate and license dealers of vehicles doing business in this state, in order to prevent frauds, impositions, and other abuses upon its citizens, and to protect and preserve the investments and properties of the citizens of this state [~~It is hereby declared to be the public policy of this commonwealth to provide for fair and impartial regulation of those persons engaged in the business of the manufacture, distribution or sale of motor vehicles. Any of the provisions of this chapter which are applicable to such activities shall be administered in such a manner as will promote honesty, integrity, safety, veracity and sound economic conditions in the motor vehicle sales industry and among those engaged therein, without unjust discrimination or undue preference or advantage. It is declared to be the further policy of the commonwealth to protect the public interest in the purchase and trade of motor vehicles, so as to insure protection against irresponsible vendors or dishonest or fraudulent sales practices~~].

Section 3. KRS 190.030 is amended to read as follows:

(1) No motor vehicle dealer, *used motor vehicle dealer, motor vehicle leasing dealer, broker, auctioneer or wholesaler, or a salesman of motor vehicles in any of the described categories herein,* [~~or motor vehicle salesman~~] shall engage in business as such in this state without a license therefor as provided in KRS 190.010 to 190.080. If any *such person* [~~motor vehicle dealer~~] acts as a motor vehicle salesman he shall secure a motor vehicle salesman's license in addition to a license for a motor vehicle dealer.

(2) No manufacturer of motor vehicles, or factory branch, or distributor or distributor branch, or wholesaler shall engage in business as such in this state without a license therefor as provided in KRS 190.010 to 190.080.

(3) No factory representative or distributor representative shall engage in business as such in this state without a license therefor as provided in KRS 190.010 to 190.080.

(4) Application for license shall be made to the licensor, at such time, in such form and containing such information as the licensor shall require and shall be accompanied by the required fee. The licensor may require in such application, or otherwise, information relating to the applicant's solvency, his financial standing or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which said applicant proposes to engage in business, all of which may be considered by said licensor in determining the fitness of said applicant to engage in business as set forth in this section.

(5) All licenses shall be granted or refused within 30 days after application therefor, and shall expire, unless sooner revoked or suspended, on December 31 of the calendar year for which they are granted, except that where a complaint of unfair cancellation of dealer franchise is in the process of being heard, no replacement application for such franchise shall be considered until a decision is rendered by the board.

(6) The license fee for such calendar year, or part thereof, shall be as follows, effective January 1, *1982* [~~1967~~]:

(a) For *new* motor vehicle dealers, one hundred dollars ($100.00) for each office or branch or agent thereof, plus one *hundred dollars ($100)* [~~dollar ($1.00)~~] for a supplemental license for each used car lot not immediately adjacent to the office or to a branch.

(b) *For used motor vehicle dealers, one hundred dollars ($100) for each office or branch or agent thereof.*

(c) For motor vehicle leasing dealers, one hundred dollars ($100) for each office or branch or agent thereof.

(d) For motor vehicle manufacturers, *one hundred dollars ($100)* [~~fifty dollars ($50.00)~~]; and for each factory branch in this state, *one hundred dollars ($100)* [~~five dollars ($5.00)~~].

(e)[~~(c)~~] For distributors, *auctioneers* or wholesalers, the same as for dealers.

(f)[~~(d)~~] For motor vehicle salesmen, five dollars ($5.00).

(g)[~~(e)~~] For factory representative, or distributor branch representative, *one hundred dollars ($100)* [~~five dollars ($5.00)~~].

(7) The licenses of dealers, manufacturers, factory branches, distributors, and distributor branches shall specify the location of the office or branch and must be conspicuously displayed there. In case such

location be changed, the licensor shall indorse the change of location on the license without charge if it be within the same municipality. A change of location to another municipality shall require a new license.

(8) Every salesman, factory representative or distributor representative shall carry his license when engaged in his business, and display the same upon request. The license shall name his employer, and in case of a change of employer, the salesman shall immediately mail his license to the licensor who shall indorse such change on the license without charge.

(9) Provided the licensor has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this statute the licensor may require such applicant or licensee to furnish and maintain a bond in such form, amount and with such sureties as it shall approve, but not less than [~~five thousand dollars ($5,000), nor more than~~] fifteen thousand dollars ($15,000), conditioned upon such applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by any person by reason of any acts of the licensee constituting grounds for suspension or revocation of his license hereunder. The bonds shall be executed in the name of the state of Kentucky for the benefit of any aggrieved parties, but the penalty of said bond shall not be invoked except after a court adjudication thereof. The above bonding requirements shall not apply to manufacturers, factory branches, and their agents.

(10) Application for dealer's license shall be submitted to the bureau in duplicate and contain such information as the bureau may require. No motor vehicle dealer, unless licensed under KRS 190.010 to 190.080, shall be permitted to register, receive, or use any motor vehicle registration plates.

(11) Every motor vehicle dealer licensed in accordance with the provisions of this section shall make reports to the licensor at such intervals and showing such information as the licensor may require.

Section 4. KRS 190.033 is amended to read as follows:

No motor vehicle dealer's license, *or auctioneer's license* or wholesaler's license shall be issued or renewed unless the applicant or holder of said license shall have on file with the bureau an approved indemnifying bond or insurance policy issued by some surety company or insurance carrier authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until cancelled under proper notice. All bonds or policies must be issued in the name of the holder or applicant for the dealer's license or wholesaler's license. The bond or policy shall provide public liability and property damage coverage for the operation of any vehicle owned or being offered for sale by the said dealer or wholesaler when being operated by the owner or seller, his agents, servants, employes, prospective customers or other persons. The amount of said insurance shall be *one hundred thousand dollars ($100,000)* [~~ten thousand dollars ($10,000)~~] for bodily injury or death of any one person; and *three hundred thousand dollars ($300,000)* [~~twenty thousand dollars ($20,000)~~] for bodily injury or death in any one accident; and *fifty thousand dollars ($50,000)* [~~five thousand dollars ($5,000)~~] property damage. Said bond or insurance policy may not be cancelled unless fifteen (15) days' notice by the bondsman or insurance carrier has been given in writing to the bureau. Upon the cancellation of any bond or insurance policy required hereunder, the right to engage in the business of a motor vehicle dealer or wholesaler shall immediately abate; provided, however, that if the bond or insurance policy is reinstated within thirty (30) days from the date of cancellation the rights granted by the license shall again be in force and effect, otherwise, the said license shall become void.

Section 5. KRS 190.035 is amended to read as follows:

No license shall be issued by the bureau *for the purposes and to the persons described in this Act, either as dealer or salesman* [~~to any person to act as a motor vehicle dealer, or as a motor vehicle salesman for a motor vehicle dealer~~], unless the applicant for the motor vehicle dealer license has *an established* [~~a fixed and permanent~~] place of business *as defined in KRS 190.010* [~~in this state, including a lot and a building of suitable character and adequate facilities for the purpose of performing the functional business and duties of a motor vehicle dealer, which shall include the books, records, files and equipment necessary to properly conduct such business. The place of business shall not consist of a residence, tent, temporary stand or open lot~~]. A *licensee* [~~dealer~~] may conduct more than one (1) business in a building otherwise meeting the requirements of this chapter providing he has suitable space and adequate facilities therein to properly conduct the business of a motor vehicle dealer. *Provided, however, a used motor vehicle dealer having annual unit sales of not more than twelve (12) units shall have an established place of business as required in this chapter.* The lot requirement of this section may be waived if the dealer has sufficient space within a building to properly show and display the motor vehicles being sold by him. The dealer shall display a sign easily visible from the street identifying his business.

Section 6. KRS 190.045 is amended to read as follows:

(1) *Not withstanding the terms, provisions or conditions of any franchise or notwithstanding the terms or provisions of any waiver, no manufacturer shall cancel, terminate or fail to renew any franchise with a licensed new motor vehicle dealer unless the manufacturer has:*

(a) Satisfied the notice requirement of subsection (4); and

(b) Has good cause for cancellation, termination, or nonrenewal; and

(c) Has acted in good faith as defined in this Act.

(2) Notwithstanding the terms, provisions or conditions of any franchise or the terms or provisions of any waiver, good cause shall exist for the purposes of a termination, cancellation or nonrenewal when:

(a) There is a failure by the new motor vehicle dealer to comply with a provision of the franchise which provision is both reasonable and of material significance to the franchise relationship, provided that the dealer has been notified in writing of the failure within one hundred eighty (180) days after the manufacturer first acquired knowledge of such failure.

(b) If the failure by the new motor vehicle dealer, defined in (a) above, relates to the performance of the new motor vehicle dealer in sales or service, then good cause shall be defined as the failure of the new motor vehicle dealer to comply with reasonable performance criteria established by the manufacturer, if the new motor vehicle dealer was apprised by the manufacturer in writing of such failure, and

1. Said notification stated that notice was provided of failure of performance pursuant to this section;

2. The new motor vehicle dealer was afforded a reasonable opportunity, for a period of not less than six (6) months, to comply with such criteria; and

3. The new motor vehicle dealer did not demonstrate substantial progress toward compliance with the manufacturer's performance criteria during such period.

(3) The manufacturer shall have the burden of proof under this section.

(4) Notwithstanding the terms, provisions or conditions of any franchise prior to the termination, cancellation, or nonrenewal of any franchise, the manufacturer shall furnish notification of such termination, cancellation or nonrenewal to the new motor vehicle dealer as follows:

(a) In the manner described in subsection (2)(b); and

(b) In not less than ninety (90) days prior to the effective date of such termination, cancellation or nonrenewal; or

(c) In not less than fifteen (15) days prior to the effective date of such termination, cancellation or nonrenewal with respect to any of the following:

1. Insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law;

2. Failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven (7) consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer;

3. Conviction of the new motor vehicle dealer, or any owner or operator thereof, of any felony which is punishable by imprisonment; or

4. Revocation of any license which the new motor vehicle dealer is required to have to operate a dealership;

(d) In not less than one hundred eighty (180) days prior to the effective date of such termination or cancellation where the manufacturer or distributor is discontinuing the sale of the product line.

(5) Notification under this section shall be in writing by certified mail or personally delivered to the new motor vehicle dealer; and shall contain:

(a) A statement of intent to terminate, cancel, or not to renew the franchise; and

(b) A statement of the reasons for the termination, cancellation or nonrenewal; and

(c) The date on which such termination, cancellation or nonrenewal takes effect.

(6) Upon the termination, nonrenewal or cancellation of any franchise, pursuant to this section, the new motor vehicle dealer shall be allowed fair and reasonable compensation by the manufacturer for the:

(a) New motor vehicle inventory which has been acquired from the manufacturer;

(b) Supplies and parts which have been acquired from the manufacturer;

(c) Equipment and furnishings provided the new motor vehicle dealer purchased from the manufacturer or its approved sources; and

(d) Special tools.

Such fair and reasonable compensation shall in no instance be less than the acquisition price and shall be paid by the manufacturer within ninety (90) days of the effective date of termination, cancellation or nonrenewal, provided the new motor vehicle dealer has clear title to the inventory and other items and is in a position to convey that title to the manufacturer.

(7) In the event of a termination, cancellation, or nonrenewal under this section, and the new motor vehicle dealer is leasing the dealership facilities from a lessor other than the manufacturer, the manufacturer shall pay the new motor vehicle dealer a sum equivalent to the rent for the unexpired term of the lease or one (1) year's rent, whichever is less.

(8) In the event of a termination, cancellation, or nonrenewal under this section and the new motor vehicle dealer owns the dealership facilities, the manufacturer shall pay the new motor vehicle dealer a sum equivalent to the reasonable rental value of the dealership facilities for one (1) year.

(a) If the termination, cancellation, or renewal is pursuant to subsection (4) above, then the manufacturer or distributor shall in addition to the relief described in subsection (8) above:

1. Assume the obligations for any lease of the dealership facilities; or
2. Arrange for a new lease of any dealership facilities; or
3. Negotiate a lease termination for the dealership facilities at the manufacturer's expense.

(b) If, in an action for damages under this section, the manufacturer or distributor fails to prove either that the manufacturer or distributor has acted in good faith or that there was good cause for the franchise termination, cancellation, or nonrenewal, then the commission shall order, in addition to any other damages under this section, that the manufacturer or distributor pay the new motor vehicle dealer an amount equal to the value of the dealership, as an ongoing business location. [~~No franchise entered into or renewed after January 1, 1973 between a motor vehicle dealer and a manufacturer or distributor may be cancelled, terminated, or not renewed by the manufacturer or the distributor except and only after sixty (60) days' notice has been given to the dealer and the bureau, which notice must outline the reasons and causes for the cancellation, termination, or non-renewal of the franchise. A notice of less than sixty (60) days may be approved by the bureau upon written application of both the dealer and manufacturer or distributor; or upon written application of the manufacturer or distributor, with notice to the dealer, if in the discretion of the bureau a lesser period is justified by reason of the circumstances of the cancellation, termination or failure to renew.~~

~~(2) A dealer may, within the sixty (60) day period or lesser period if approved by the bureau file a complaint against the manufacturer or the distributor with the bureau, questioning the reasons and causes given for the proposed cancellation, termination or nonrenewal of the franchise. Upon a complaint being filed, the bureau shall promptly set the matter for public hearing, in accordance with the provisions of KRS 190.057, for the purpose of determining whether the cancellation, termination or nonrenewal is in violation of the provisions of KRS 190.040 or whether just cause does exist for cancellation, termination or nonrenewal.~~

~~(3) The franchise shall stay in full force and effect pending the determination by the bureau of the issues involved. If the bureau determines that the manufacturer or distributor is acting in violation of the licensing law or that no just cause exists for the proposed action, then the bureau shall order that the franchise be kept in full force and effect.~~

~~(4) The bureau shall order that the franchise may be cancelled, terminated or not renewed if it finds the licensed dealer is acting in violation of the licensing law or that just cause does exist for the proposed action.~~

~~(5) Failure of the manufacturer or distributor to give proper notice or to keep the franchise in full force and effect pending determination by the bureau, or to abide by the final order of the bureau shall be cause for the bureau to refuse to issue a license to a replacement dealer or to a dealership which would be conducted in the same area and selling the same make of motor vehicles where the dealer in question was engaged in business.~~]

Section 7. KRS 190.046 is amended to read as follows:

(1) Notwithstanding the terms of any franchise agreement, each motor vehicle manufacturer or distributor, doing business within this Commonwealth, shall assume all responsiblity for and shall defend, indemnify and hold harmless its motor vehicle dealers against any loss, damages, and expenses, including legal costs, arising out of complaints, claims, or lawsuits resulting from warranty defects, which shall include structural or production defects or defects in the assembly, or design of motor vehicles, parts, accessories, or other functions beyond the control of the dealer, including without limitation, the selection of parts or components for the vehicle. Each manufacturer or distributor shall pay reasonable compensation to any authorized dealer who performs work to repair such defects, or to repair any damage to the manufacturer's or distributor's product sustained while the product is in transit to the dealer, when the carrier or the means of transportation is designated by the manufacturer or distributor. Each manufacturer or distributor shall provide to its dealers with each model year a schedule of time allowances for the performance of warranty repair work and services, which shall include time allowances for the diagnosis and performance of warranty work and service time, and shall be reasonable and adequate for the work to be performed.

(2) In the determination of what constitutes "reasonable compensation" under this section the principal factor to be considered shall be the amount of money which the dealer is charging its other customers for the same type service or repair work. However, other factors such as the compensation being paid by other manufacturers or distributors to their dealers for such work; and the prevailing amount of money being paid or charged by the dealers in the city or community in which the authorized dealer is doing business may be considered. "Reasonable compensation" comprehends diagnosing the defect, repair service, labor, parts and administrative and clerical costs, and in no event shall such compensation of a dealer be less than the amount charged by such dealer for like services and parts (minimum compensation for parts shall be dealer cost plus *thirty percent (30%)* [~~twenty-five percent (25%)~~] gross profit) to retail customers for non-warranty service and repairs, or less than the amounts indicated for such work on the schedule of warranty compensation required to be filed by the manufacturer with the bureau as a part of the manufacturer's license application by KRS 190.030.

(3) A manufacturer or distributor shall not require unreasonable proof to establish "reasonable compensation" or delay reimbursement of payment to the dealer beyond thirty-five (35) days from the submission

by mail of a valid warranty claim. If a valid warranty claim is not paid within forty-five (45) days, the dealer may give the manufacturer one (1) copy of the dealer's related repair order bearing the customer's signature, the dealer's signature, the date the work was completed, the vehicle serial number or identification number, the odometer reading, the date of delivery of the vehicle, a list of the parts and supplies used if applicable, a brief general description of the defect, and the amount of money charged the manufacturer or distributor for the work. If after fifteen (15) days, the valid warranty claim is still not paid, the dealer may deduct a like amount from any monies due or owing to the manufacturer or distributor. The dealer must hold the defective part or parts for inspection by the manufacturer or distributor for a period of time not to exceed ninety (90) days from the time the warranty claim is submitted. The manufacturer or distributor shall not unfairly discriminate against any dealer in the application of warranty, policy, and procedure or deny any valid warranty order claim submitted by a franchised dealer within thirty (30) days from completion of the work or longer if existing manufacturer-dealer relationships apply. Upon the written request of the dealer for valid reasons the manufacturer will extend the submission time. Any dispute between the dealer and the manufacturer or distributor shall be subject to the provisions of KRS 190.057.

Section 8. KRS 190.047 is amended to read as follows:

(1) In the event that a manufacturer, distributor, factory branch, or factory representative seeks to enter into a franchise establishing an additional new motor vehicle dealership, or relocating an existing new motor vehicle dealership within or into a relevant market area where the same line make is then represented, the manufacturer, distributor, factory branch, or factory representative shall, in writing, first notify the licensor, and each new motor vehicle dealer in such line make in the relevant market area, of the intention to establish an additional dealership, or to relocate an existing dealership within or into that market area. In no case will the relevant market area be less than a radius of ten (10) miles around an existing dealership. Within fifteen (15) days of receiving such notice, or within fifteen (15) days after the end of any appeal procedure provided by the manufacturer, distributor, factory branch, or factory representative, any such new motor vehicle dealership may file with the licensor a protest to the establishment or relocation of the new motor vehicle dealership. When such a protest is filed, the licensor shall inform the manufacturer, distributor, factory branch, or factory representative, that a timely protest has been filed, and that the manufacturer, distributor, factory branch, or factory representative shall not establish or relocate the proposed new motor vehicle dealership until the licensor has held a hearing, if the licensor has determined that there is good cause for not permitting such new motor vehicle dealership. For the purposes of this section, the reopening in a relevant market area of a new motor vehicle dealership that has not been in operation for one (1) year or more shall be deemed the establishment of an additional new motor vehicle dealership.

(2) In determining whether good cause has been established for not entering into or relocating an additional franchise for the same line make, the licensor shall take into consideration the existing circumstances, including, but not limited to:

(a) Permanency of the investment;

(b) Effect on the retail new motor vehicle business and the consuming public in the relevant market area;

(c) Whether it is injurious to the public welfare for an additional new motor vehicle dealership to be established;

(d) Whether the new motor vehicle dealer of the same line make in that relevant market area is providing adequate competition and convenient consumer care for the motor vehicles of the line make in the market area, which shall include the adequacy of motor vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel.

(3) Any parties to a hearing by the licensor concerning the establishing or relocating of a new motor vehicle dealership shall have a right of review of the decision in a court of competent jurisdiction. [~~Unless a franchise specifically states to the contrary, no franchise or any interest therein may be sold, transferred, or assigned without the approval of the manufacturer or distributor.~~

~~(2) A dealer desiring to sell, transfer or assign all or any portion of his franchise shall submit a written proposal of such sale, transfer or assignment to the manufacturer or distributor, and approval of such proposal shall not be arbitrarily or unreasonably withheld.~~

~~(3) The refusal of the manufacturer or the distributor to approve a proposed sale, transfer or assignment shall be subject to review by the bureau, provided a written application for review is filed with the bureau, with notice to the manufacturer or distributor, within thirty (30) days of the date of such refusal and such refusal shall not be final until the bureau, after a hearing has been held in accordance with the provisions of KRS 190.057, has determined that the approval was not arbitrarily or unreasonably withheld. The bureau shall make such determination within ninety (90) days after the application for review has been filed with the bureau.~~

~~(4) The burden of proof shall be on the dealer to show that the approval of the sale, transfer or assignment of any interest in the franchise was arbitrarily or unreasonably withheld. Factors to be considered in determining whether the manufacturer or distributor acted arbitrarily or unreasonably shall include~~

~~whether the basic financial and facility requirements of the franchise will be met by the proposed transfer, sale or assignment and that the proposed purchaser, transferee or assignee is capable of operating, managing and supervising the operation of the business in question.~~

~~(5) Failure of the manufacturer or distributor to abide by the final order of the bureau or to continue the franchise in effect pending the final determination of the issue by the bureau shall be cause for the bureau to refuse to issue a subsequent license in the same county or franchise area to an applicant who will be selling the same motor vehicles as the former dealer for the same manufacturer or distributor.~~

~~(6) Notwithstanding the provisions of KRS 190.010(2)(a), the provisions of this section shall apply to the personal representative, executor or administrator of the estate of an individual who had an interest in a franchise, or to the committee of an individual who has been declared incompetent and who has such an interest for one (1) year following appointment.~~]

Section 9. KRS 190.047, 1980 Acts Chapter 396, Section 69, effective July 1, 1982 is amended to read as follows:

(1) *In the event that a manufacturer, distributor, factory branch, or factory representative seeks to enter into a franchise establishing an additional new motor vehicle dealership, or relocating an existing new motor vehicle dealership within or into a relevant market area where the same line make is then represented, the manufacturer, distributor, factory branch, or factory representative shall, in writing, first notify the licensor, and each new motor vehicle dealer in such line make in the relevant market area, of the intention to establish an additional dealership, or to relocate an existing dealership within or into that market area. In no case will the relevant market area be less than a radius of ten (10) miles around an existing dealership. Within fifteen (15) days of receiving such notice, or within fifteen (15) days after the end of any appeal procedure provided by the manufacturer, distributor, factory branch, or factory representative, any such new motor vehicle dealership may file with the licensor a protest to the establishing or relocating of the new motor vehicle dealership. When such a protest is filed, the licensor shall inform the manufacturer, distributor, factory branch, or factory representative that a timely protest has been filed, and that the manufacturer, distributor, factory branch, or factory representative shall not establish or relocate the proposed new motor vehicle dealership until the licensor has held a hearing, if the licensor has determined that there is good cause for not permitting such new motor vehicle dealership. For the purposes of this section, the reopening in a relevant market area of a new motor vehicle dealership that has not been in operation for one (1) year or more shall be deemed the establishment of an additional new motor vehicle dealership.*

(2) In determining whether good cause has been established for not entering into or relocating an additional franchise for the same line make, the licensor shall take into consideration the existing circumstances, including, but not limited to:

(a) Permanency of the investment;

(b) Effect on the retail new motor vehicle business and the consuming public in the relevant market area;

(c) Whether it is injurious to the public welfare for an additional new motor vehicle dealership to be established.

(d) Whether the new motor vehicle dealer of the same line make in that relevant market area is providing adequate competition and convenient consumer care for the motor vehicles of the line make in the market area which shall include the adequacy of motor vehicle sales and service facilities, equipment, supply of vehicle parts and qualified service personnel.

(3) Any parties to a hearing by the licensor concerning the establishing or relocating of a new motor vehicle dealership shall have a right of review of the decision in a court of competent jurisdiction. [~~Unless a franchise specifically states to the contrary, no franchise or any interest therein may be sold, transferred, or assigned without the approval of the manufacturer or distributor.~~

~~(2) A dealer desiring to sell, transfer or assign all or any portion of his franchise shall submit a written proposal of such sale, transfer or assignment to the manufacturer or distributor, and approval of such proposal shall not be arbitrarily or unreasonably withheld.~~

~~(3) The refusal of the manufacturer or the distributor to approve a proposed sale, transfer or assignment shall be subject to review by the bureau, provided a written application for review is filed with the bureau, with notice to the manufacturer or distributor, within thirty (30) days of the date of such refusal and such refusal shall not be final until the bureau, after a hearing has been held in accordance with the provisions of KRS 190.057, has determined that the approval was not arbitrarily or unreasonably withheld. The bureau shall make such determination within ninety days after the application for review has been filed with the bureau.~~

~~(4) The burden of proof shall be on the dealer to show that the approval of the sale, transfer or assignment of any interest in the franchise was arbitrarily or unreasonably withheld. Factors to be considered in determining whether the manufacturer or distributor acted arbitrarily or unreasonably shall include whether the basic financial and facility requirements of the franchise will be met by the proposed transfer, sale or assignment and that the proposed purchaser, transferee or assignee is capable of operating, managing and supervising the operation of the business in question.~~

~~(5) Failure of the manufacturer or distributor to abide by the final order of the bureau or to continue the franchise in effect pending the final determination of the issue by the bureau shall be cause for the bureau to refuse to issue a subsequent license in the same county or franchise area to an applicant who will be selling the same motor vehicles as the former dealer for the same manufacturer or distributor.~~

~~(6) Notwithstanding the provisions of KRS 190.010(2)(a), the provisions of this section shall apply to the personal representative, executor or administrator of the estate of an individual who had an interest in a franchise, or to the guardian or conservator of an individual who has been declared mentally disabled and who has such an interest for one (1) year following appointment.~~]

SECTION 10. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) Any designated family member of a deceased or incapacitated dealer may succeed the dealer in the ownership or operation of the dealership under the existing franchise or distribution agreement, provided the designated family member gives the manufacturer, distributor, factory branch, or factory representative, or importer of new motor vehicles, written notice of the intention to succeed to the dealership within one hundred twenty (120) days of the dealer's death or incapacity, and unless there exists good cause for refusal to honor such succession on the part of the manufacturer, factory branch, factory representative, distributor, or importer.

(2) The manufacturer, distributor, factory branch, or factory representative, or importer may request, and the designated family member shall provide, upon said request, personal and financial data that is reasonably necessary to determine whether the succession should be honored.

SECTION 11. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) If a manufacturer, distributor, factory branch or factory representative, or importer believes that good cause exists for refusing to honor the succession to the ownership and operation of a dealership by a family member of a deceased or incapacitated dealer under the existing franchise agreement, the manufacturer, distributor, factory branch or factory representative, or importer may, within thirty (30) days of receipt of notice of the designated family member's intent to succeed the dealer in the ownership and operation of the dealership, serve upon the designated family member and the department notice of the grounds for its refusal to honor the succession, and of its intent to discontinue the existing franchise agreement with the dealership no sooner than ninety (90) days from the date such notice is served.

(2) If notice of refusal and discontinuance is not timely served upon the family member, the franchise agreement shall continue in effect, subject to termination only as otherwise permitted by this law.

(3) This section does not preclude a new motor vehicle dealer from designating any person as his successor by written instrument filed with the manufacturer, distributor, factory branch, factory representative, or importer.

Section 12. KRS 190.0491 is amended to read as follows:

(1) "Delivery" of a motor vehicle to a dealer by a manufacturer or distributor for the purposes of this section shall be accomplished by the:

(a) Tender of the motor vehicle and any documents necessary to enable the dealer to obtain title and possession of the motor vehicle at the dealer's place of business or designated place of delivery, and

(b) The giving of notice of such tender of the motor vehicle and documents to the dealer.

(2) Whenever a motor vehicle is damaged while in transit when the carrier or the means of transportation is designated by the manufacturer or distributor, or whenever a motor vehicle is otherwise damaged prior to delivery to the dealer, the dealer must:

(a) Notify the manufacturer or distributor of such damage within three (3) working days of the occurrence of the delivery of the motor vehicle as defined in subsection (1) of this section; and

(b) Must request from the manufacturer or distributor authorization to repair the damages sustained or to replace the parts or accessories damaged.

Such notification of damage by the dealer must be by certified mail, with a notice of delivery requested to be returned to the dealer, and shall be presumed to have occurred upon deposit of the notice with the United States postal service.

(3) In the event the manufacturer or distributor refuses or fails to authorize repair or replacement of any such damage within three (3) working days of notification of damage by the dealer, ownership of the motor vehicle shall revert to the manufacturer or distributor, and the dealer shall incur no obligations, financial or otherwise, for such damage to the motor vehicle. In determining when such notification of the damage by the dealer to the manufacturer or distributor occurs, the date the notice is received by the manufacturer or distributor by the United States postal service indicated on the notice of delivery returned to the dealer shall be controlling.

(4) In computing the lapse of three (3) working days under this section, the day of the occurrence of delivery of the motor vehicle to the dealer by the manufacturer or distributor, as defined in subsection (1) of this section, or the day of notification of the damage to the manufacturer or distributor by the dealer,

as described in subsection (3) of this section, is not to be included, but the last working day of the period so computed is to be included.

(5) Prior to the sale of any motor vehicle damaged prior to delivery to the dealer as described in subsection (2) of this section, excluding damage to glass, tires and bumpers when replaced by identical manufacturer's original equipment and any damage *not exceeding six percent (6%) of the sticker price of the vehicle* [~~requiring less than four (4) hours to repair, above~~], the occurrence and extent of such damage must be disclosed by the dealer to the consumer, and upon repair of the damage sustained, or replacement of the parts or accessories damaged, the manufacturer and/or dealer, must certify to the consumer that the motor vehicle has been repaired or remanufactured to the manufacturer's standards; if the dealer makes the certification he shall be indemnified by the manufacturer. Upon such certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the manufacturer.

(6) Whenever a motor vehicle is damaged after delivery to the dealer by the manufacturer or distributor, as defined in subsection (1) of this section, but before sale by the dealer to the consumer, the occurrence and extent of such damage must be disclosed by the dealer to the consumer prior to such sale, and upon repair of the damage sustained, or replacement of parts or accessories damaged, the dealer must certify to the consumer that this motor vehicle has been repaired or remanufactured according to the manufacturer's standards. Upon such certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the dealer.

(7) Notwithstanding the terms of any franchise agreement, it shall be a violation of this section for any new motor vehicle manufacturer to fail to indemnify and hold harmless its franchised dealers against any judgment or settlement for damages, including, but not limited to, court costs and reasonable attorneys' fees of the new motor vehicle dealer, arising out of complaints, claims or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, warranty (express or implied), or recission of the sale as is defined in Section 2-608 of the Uniform Commercial Code, to the extent that the judgment or settlement relates to the alleged defective or negligent manufacture, assembly, or design of new motor vehicles, parts, or accessories or other functions by the manufacturer, beyond the control of the dealer.

Section 13. KRS 190.070 is amended to read as follows:

(1) It shall be a violation of this section for any manufacturer, distributor, factory branch, or factory representative licensed under this code to require any new motor vehicle dealer in the Commonwealth:

(a) To order or accept delivery of any motor vehicle, part or accessory thereof, appliances, equipment, or any other commodity not required by law, which shall not have been voluntarily ordered by the new motor vehicle dealer.

(b) To order or accept delivery of any new motor vehicle with special features, appliances, accessories, or equipment not included in the list price of such motor vehicles, as publicly advertised by the manufacturer or distributor.

(c) To order for any person any parts, accessories, equipment, machinery tools, appliance, or any commodity whatsoever.

(d) To participate in an advertising campaign or contest, any promotional materials, training materials, showroom or other display decorations, or materials, at the expense of the dealer.

(e) To enter into any agreement with the manufacturer, distributor, factory branch, or factory representative, or to do any other act prejudicial to the new motor vehicle dealer by threatening to cancel a franchise or any contractual agreement existing between the dealer and the manufacturer, distributor, factory branch, or factory representative. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of such franchise, or contractual agreement shall not constitute a violation of this law.

(f) To change the capital structure of the dealership, or the means by or through which the dealer finances the operation of the dealership, provided that the dealership at all times meets any reasonable capital standards agreed to by the dealer.

(g) To refrain from participation in the management of investment in, or the acquisition of any other line of new motor vehicle or related products.

(h) To change location of the dealership, or to, during the course of the agreement, make any substantial alterations to the dealership premises, when to do so, would be unreasonable in light of the current economic, political, and social considerations.

(i) To prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by this law, or to require any controversy between a dealer and a manufacturer, distributor, or representative, to be referred to any person other than the duly constituted courts of the Commonwealth or the United States of America, or to the commissioner, if such referral would be binding upon the dealer.

(2) It shall be a violation of this section for any manufacturer, distributor, factory branch, or factory representative:

(a) To delay, refuse, or fail to deliver motor vehicles, or vehicle parts or accessories in reasonable quantities, and within a reasonable time, but in any case no more than sixty (60) days, after receipt of an

order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer or distributor, any new vehicle, parts, or accessories to new vehicles as are covered by such franchise, if such vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. The delivery to another dealer of a motor vehicle of the same model and similarly equipped as the vehicle ordered by a motor vehicle dealer who has not received delivery thereof, but who had placed his written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle to a motor vehicle dealer within sixty (60) days, without cause. This subsection is not violated, however, if such failure is caused by acts or causes beyond the control of the manufacturer, distributor, factory branch, or factory representative.

(b) To refuse to disclose to any new motor vehicle dealer, handling the same line make, the manner and mode of distribution of that line make within the relevant market areas.

(c) To prevent or attempt to prevent a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall be no transfer or assignment of the dealer's franchise without the consent of the manufacturer or distributor, which consent shall not be unreasonably withheld.

(d) To obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and such other person, other than for compensation for services rendered, unless such benefit is promptly accounted for, and transmitted to, the dealer.

(e) To increase prices of motor vehicles which the dealer had ordered for private retail customers prior to the dealer's receipt of the written official price increase notification, a sales contract signed by a private retail consumer shall constitute evidence of each such order. In the event of manufacturer price reductions, the amount of any such reduction received by a dealer shall be passed on to the private retail consumer by the dealer, if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reductions shall apply to all vehicles in the dealers inventory which were subject to the price reduction. Price differences applicable to new model or series motor vehicles at the time of the introduction of new models or series shall not be considered a price increase or price increase. Price changes caused by the following shall not be subject to the provisions of this subsection:

1. The addition to a motor vehicle of required or optional equipment pursuant to state or federal law;

2. Revaluation of the United States dollar, in the case of foreign-make vehicles.

(f) To offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line make to be sold to the state or any political subsection thereof, without making the same offer to all other dealers in the same line make within the relevant market area.

(g) To release to any outside party, except under subpoena, any business, financial, or personal information which may be, from time to time, provided by the dealer to the manufacturer, without the express written consent of the dealer.

(h) To deny any dealer the right of free association with any other dealer for any lawful purpose.

(i) To compete with a new motor vehicle dealer in the same line make, operating under an agreement or franchise from the aforementioned manufacturer, distributor, factory branch, or factory representative in the relevant market area. A manufacturer, distributor, factory branch, or factory representative shall not, however, be deemed to be competing when operating a dealership, either temporarily for a reasonable period, or in a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment, subject to loss in the dealership, and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions.

(j) To unfairly discriminate among its new motor vehicle dealers with respect to warranty reimbursement or authority granted its new motor vehicle dealers to make warranty adjustment with retail customers.

(k) To fail to give consent to the sale, transfer, or exchange of the franchise to a qualified buyer capable of being licensed as a new motor vehicle dealer in this state; provided that consent may be withheld when in light of other circumstances, granting the consent would be unreasonable.

(l) To fail to be licensed as provided in this chapter, and to maintain a bond in an amount as determined by this chapter. [~~No manufacturer of motor vehicles, no wholesaler or distributor of motor vehicles, and no officer, agent or representative of either shall induce or coerce, or attempt to induce or coerce, any retail motor vehicle dealer or prospective retail motor vehicle dealer in this state to sell, assign or transfer any retail instalment sales contract, obtained by such dealer in connection with the sale by him in this state of motor vehicles manufactured or sold by such manufacturer, wholesaler or distributor, to a specified sales finance company or class of such companies, or to any other specified person, by any of the acts or means hereinafter set forth, namely:~~

~~(a) By any statement, suggestion, promise or threat that such manufacturer, wholesaler or distributor will in any manner benefit or injure such dealer, whether such statement, suggestion, threat or promise is express or implied, or made directly or indirectly.~~

~~(b) By any act that will benefit or injure such dealer.~~

~~(c) By any contract, or any express or implied offer of contract, made directly or indirectly to such dealer, for handling such motor vehicles, on the condition that such dealers sell, assign or transfer his retail instalment contract thereon, in this state, to a specified sales finance company or class of such companies, or to any other specified person.~~

~~(d) By any express or implied statement or representation, made directly or indirectly, that such dealer is under any obligation whatsoever to sell, assign or transfer any of his retail sales contracts, in this state, on motor vehicles manufactured or sold by such manufacturer, wholesaler or distributor to such sales finance company, or class of companies or other specified person, because of any relationship or affiliation between such manufacturer, wholesaler or distributor and such finance company or companies or such specified person or persons.~~

~~(2) Any such statements, threats, promises, acts, contracts or offers of contracts, set forth in subsection (1) of this section are declared unfair trade practices and unfair competition and against the policy of this state, are unlawful and are prohibited.~~

~~(3) No sales finance company, and no officer, agent or representative thereof, shall induce or coerce or attempt to induce or coerce any retail motor vehicle dealer to transfer to such sales finance company any of the retail instalment sales contracts in this state of such dealer on any motor vehicle by any of the following acts or means, namely:~~

~~(a) By any statement or representation, express or implied, made directly or indirectly, that the manufacturer, wholesaler or distributor of such motor vehicles will grant such dealer a franchise to handle such motor vehicles if such dealer shall sell, assign or transfer all or part of such retail sales contracts to such sales finance company.~~

~~(b) By any statement or representation, express or implied, made directly or indirectly, that the manufacturer, wholesaler or distributor of such motor vehicles will in any manner benefit or injure such dealer if such dealer shall or shall not sell, assign or transfer all or part of such retail sales contracts to such sales finance company.~~

~~(c) By any express or implied statement or representation made directly or indirectly, that there is an express or implied obligation on the part of such dealer to so sell, assign or transfer all or part of such retail sales contracts on such motor vehicles to such sales finance company because of any relationship or affiliation between such sales finance company and the manufacturer, wholesaler or distributor of such motor vehicles.~~

~~(4) Any such statement or representation set forth in subsection (3) of this section is declared to be unfair trade practices and unfair competition and against the policy of this state, are unlawful and are prohibited.~~

~~(5) Any retail motor vehicle dealer who, pursuant to any inducement, statement, promise or threat hereinbefore declared unlawful, shall sell, assign or transfer any or all of his retail instalment contracts shall not be guilty of any unlawful act and may be compelled to testify to each such act.~~

~~(6) No manufacturer shall directly or indirectly pay or give, or contract to pay or give, anything of service or value to any sales finance company licensee in this state, and no such licensee in this state shall accept or receive or contract or agree to accept or receive directly or indirectly any payment or service of value from any manufacturer, if the effect of the payment or giving of any such thing of service or value by the manufacturer, or the acceptance or receipt thereof, by the sales finance company licensee, may be to lessen or eliminate competition or tend to grant an unfair trade advantage or create a monopoly in the licensee who accepts or receives the payment, thing or service of value or contracts or agrees to accept or receive the same.~~]

SECTION 14. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) It shall be a violation of this section for any new motor vehicle dealer:

(a) To require the purchaser of a motor vehicle as a condition of sale and delivery thereof, to also purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser, unless such features, appliances, accessories, or equipment are the type which are ordinarily installed on the vehicle by the manufacturer or distributor when the vehicle is received or acquired by the dealer.

(b) To represent or sell as a new or unused motor vehicle any vehicle which has been operated for demonstration purposes, or which is otherwise a used motor vehicle.

(c) To sell or offer for sale as a new or unused motor vehicle any motor vehicle for which he cannot secure for the purchaser thereof such new car warranty as may be extended by the manufacturer of the vehicle to purchasers of one (1) of its new vehicles, unless the fact that the vehicle being sold without a manufacturer's warranty is communicated to the purchaser, and disclosed prominently in writing on the bill of sale.

(d) To fail to have an established place of business which is used, or will be used primarily for the purpose of selling, buying, displaying, repairing, or servicing motor vehicles.

(e) To use false or fraudulent representations in connection with the operation of the new motor vehicle dealership.

(f) To fail to reasonably supervise his agents, salesmen, or employes.

(g) To transfer a new motor vehicle with a manufacturer's statement of origin to a motor vehicle dealer who does not have either a valid service agreement or franchise from the particular line make manufacturer, distributor, factory branch or factory representative.

Section 15. The following section of KRS is repealed:

190.041 Law not applicable to manufacturers or distributors — Exceptions.

Committee Substitute to **HB 421** is as follows:

HB 421, AN ACT relating to motor vehicle sales.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 190.010 is amended to read as follows:

As used in KRS 190.010 to 190.080 unless the context requires otherwise:

(1) "Manufacturer" means any person, partnership, firm, association, corporation or trust, resident or nonresident, who manufacturers or assembles new motor vehicles, or imports for distribution through distributors of new motor vehicles, or any partnership, firm, association, joint venture, corporation or trust, resident or nonresident, which is controlled by the manufacturer. Additionally, the term "manufacturer" shall include the following terms:

(a) "Distributor" which means any person, firm, association, corporation or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers, or who maintains factory representatives, or who controls any person, firm, association, corporation or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers.

(b) "Factory branch" which means a branch office maintained by a manufacturer for the purpose of selling, or offering for sale, new motor vehicles to a distributor, wholesaler, or new motor vehicle dealer, or for directing or supervising, in whole or in part, factory or distributor representatives, and shall further include any sales promotion organization, whether the same be a person, firm, or corporation, which is engaged in promoting the sale of new motor vehicles in this state of a particular brand or make to new motor vehicle dealers.

(c) "Factory representative" which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of his, its, or their new motor vehicles, or for supervising or contracting with his, its, or their dealers, or prospective dealers.

(d) "Distributor branch" which means a branch office similarly maintained by a distributor or wholesaler for the same purposes.

(e) "Distributor representative" which means a representative similarly employed by a distributor, distributor branch, or wholesaler.

(2) "Motor vehicle dealer" means any person not excluded by subsection *(3)*[~~(2)~~] of this section, *engaged in the business of selling, offering to sell, soliciting, or advertising the same, of new or used motor vehicles, or possessing motor vehicles for the purpose of resale, either on his own account, or on behalf of another, either as his primary business or incidental thereto* [~~who:~~

~~(a) For commission, money or other thing of value, is engaged in the business of selling, exchanging, buying, offering or attempting to negotiate a sale or exchange of an interest in motor vehicles; or~~

~~(b) Who is engaged wholly or in part in the business of selling motor vehicles, including motor driven cycles, whether or not such motor vehicles are owned by such person, firm or corporation~~].

(3)[~~(2)~~] The term "motor vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company or lending institution which is subject to state or federal regulation as such, with regard to its disposition of repossessed motor vehicles;

(b) Public officers while performing their official duties; or

(c) Employes of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as such employes.

(4) "New motor vehicle dealer" means a vehicle dealer who holds a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of said manufacturer's new motor vehicles.

(5) "Used motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in used motor vehicles, but does not mean any new motor vehicle dealer

selling, displaying, offering for sale, or dealing in used motor vehicles incidentally to engaging in the business of selling, displaying, offering for sale, or dealing in new motor vehicles, any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing his official duties.

(6) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease or other contractual arrangement under which a charge is made for its use at a periodic rate for at least a monthly term, and title to the motor vehicle is in a person other than the user, but does not mean a manufacturer or its affiliate leasing to its employes or to dealers.

(7)[~~(3)~~] "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer to sell motor vehicles.

[~~(4) The term "board" means the motor vehicle dealers board.~~

~~(5) The term "commissioner" means the commissioner of vehicle regulation.~~]

(8) "Auctioneer" means any person who offers, negotiates, or attempts to negotiate a sale, purchase, or exchange of a motor vehicle which may be lawfully kept or offered for sale by or at public auction or who sells same at auction.

(9)[~~(6)~~] "Motor vehicle" means *every vehicle intended primarily for use and operation on the public highways, which is self propelled, not including farm tractors and other machines and tools used in the production, harvesting and care of farm products* [~~any motor driven vehicle required to be registered or licensed before being operated upon the highways. Motor vehicle shall not include moped as defined in this section~~].

(10) "New motor vehicle" means a vehicle which is in the possession of the manufacturer, distributor, or wholesaler, or has been sold only to the holders of a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of said make of new vehicle, and which is, in fact, new and on which the original title has not been issued from the franchised dealer.

(11)[~~(7)~~] "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(12) "Commission" means the motor vehicle dealer's licensing board.

(13) "Commissioner" means the commissioner of vehicle regulation.

(14)[~~(8) The term~~] "Bureau" means the bureau of vehicle regulation.

(15)[~~(9)~~] "Licensor" means either the *commission* [~~commissioner~~] or the bureau or both.

[~~(10) "Manufacturer" means any person, resident or nonresident who manufactures or assembles motor vehicles.~~

~~(11) "Distributor" or "wholesaler" means a person, resident or nonresident who sells or distributes motor vehicles to licensed motor vehicle dealers, or who maintains distributor representatives.~~

~~(12) "Factory branch" means a branch office maintained by a person who manufactures or assembles motor vehicles, for the sale of motor vehicles to distributors, or for the sale of motor vehicles to motor vehicle dealers or for directing or supervising in whole or part, its representatives.~~

~~(13) "Distributor branch" means a branch office similarly maintained by a distributor or wholesaler for the same purposes.~~

~~(14) "Factory representative" means a representative employed by a person who manufactures or assembles motor vehicles or by a factory branch, for the purpose of making or promoting the sale of its motor vehicles, or for supervising or contacting its dealers or prospective dealers.~~

~~(15) "Distributor representative" means a representative similarly employed by a distributor, distributor branch or wholesaler.~~]

(16) *"Established place of business" means a permanent, enclosed commercial building located within this state easily accessible and open to the public at all reasonable times, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land use regulatory ordinances.*

(17) "Person" means a person, partnership, firm, corporation or association, *trust, estate or other legal entity.*

[~~(17) The term "new motor vehicle" means a motor vehicle which, after its final assembly, is either in the possession of the manufacturer, factory branch or distributor, or an authorized dealer operating under a franchise with the manufacturer, factory branch or distributor, and the legal or equitable title to which has never been the subject of a sale or transfer other than to another dealer operating under a similar franchise with the same manufacturer, factory branch or distributor.~~]

(18) [~~The term~~] "Franchise" means *the agreement or contract between any automobile manufacturer, written or otherwise, and any new motor vehicle dealer which purports to fix the legal rights and liabilities of the parties to such an agreement* [~~any written contract, agreement, or license between a motor~~

~~vehicle dealer and a manufacturer, factory branch or distributor of new motor vehicles by which the dealer is authorized to engage in the business of selling any specified make or makes of new motor vehicles~~].

(19) "Good faith" means honesty in fact, and the observance of reasonable commercial standards of fair dealing in the trade, as is defined and interpreted in Section 2-103(1)(b) of the Uniform Commercial Code.

(20) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a dealer who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who, under the laws of intestate succession of this state is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer.

(21) "Control" exists where one (1) manufacturer, dealer, corporation, association, partnership, individual or trust:

(a) Directly or indirectly, or acting through one (1) or more other persons owns, controls, or has power to vote twenty-five percent (25%) or more of the outstanding voting stock of the controlled manufacturer, distributor, corporation, association, partnership, individual or trust; or

(b) Constitutes or constituted a primary or significant source of new motor vehicles, parts or accessories for the controlled manufacturer, distributor, corporation, association, partnership, individual or trust; or

(c) Is determined by the commissioner, after notice and opportunity for a hearing, to exert or have authority to exert a significant degree of control over the controlled manufacturer, distributor, corporation, association, partnership, individual or trust's operations, or gives significant assistance in any form, including, but not limited to loans, business management assistance, or marketing assistance.

(22) "Fraud" means a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made in good faith; or an intentional failure to disclose material fact.

(23) "Sale" means the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest therein, or of any franchise related thereto, as well as any option, subscription or other contract, or solicitation looking to a sale, offer to attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto, with or as a bonus on account of the sale of anything, shall be deemed a sale of such motor vehicle or franchise.

Section 2. KRS 190.015 is amended to read as follows:

The legislature finds and declares that the distribution and sale of vehicles within this state vitally affects the general economy of the state and the public interest and the public welfare, and that in order to promote the public interest and public welfare, and in the exercise of its police power, it is necessary to regulate and license vehicle manufacturers, distributors or wholesalers, brokers and auctioneers, and factory or distributor representatives, and to regulate and license dealers of vehicles doing business in this state, in order to prevent frauds, impositions, and other abuses upon its citizens, and to protect and preserve the investments and properties of the citizens of this state [~~It is hereby declared to be the public policy of this commonwealth to provide for fair and impartial regulation of those persons engaged in the business of the manufacture, distribution or sale of motor vehicles. Any of the provisions of this chapter which are applicable to such activities shall be administered in such a manner as will promote honesty, integrity, safety, veracity and sound economic conditions in the motor vehicle sales industry and among those engaged therein, without unjust discrimination or undue preference or advantage. It is declared to be the further policy of the commonwealth to protect the public interest in the purchase and trade of motor vehicles, so as to insure protection against irresponsible vendors or dishonest or fraudulent sales practices~~].

Section 3. KRS 190.030 is amended to read as follows:

(1) No motor vehicle dealer, *new or used motor vehicle dealer, motor vehicle leasing dealer, broker, auctioneer or wholesaler, or a salesman of motor vehicles in any of the described categories herein,* [~~or motor vehicle salesman~~] shall engage in business as such in this state without a license therefor as provided in KRS 190.010 to 190.080. If any *such person* [~~motor vehicle dealer~~] acts as a motor vehicle salesman he shall secure a motor vehicle salesman's license in addition to a license for a motor vehicle dealer.

(2) No manufacturer of motor vehicles, or factory branch, or distributor or distributor branch, or wholesaler shall engage in business as such in this state without a license therefor as provided in KRS 190.010 to 190.080.

(3) No factory representative or distributor representative shall engage in business as such in this state without a license therefor as provided in KRS 190.010 to 190.080.

(4) Application for license shall be made to the licensor, at such time, in such form and containing such information as the licensor shall require and shall be accompanied by the required fee. The licensor

may require in such application, or otherwise, information relating to the applicant's solvency, his financial standing or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which said applicant proposes to engage in business, all of which may be considered by said licensor in determining the fitness of said applicant to engage in business as set forth in this section.

(5) All licenses shall be granted or refused within 30 days after application therefor, and shall expire, unless sooner revoked or suspended, on December 31 of the calendar year for which they are granted, except that where a complaint of unfair cancellation of dealer franchise is in the process of being heard, no replacement application for such franchise shall be considered until a decision is rendered by the board.

(6) The license fee for such calendar year, or part thereof, shall be as follows, effective January 1, *1982* [~~1967~~]:

(a) For *new* motor vehicle dealers, one hundred dollars ($100.00) for each office or branch or agent thereof, plus one *hundred dollars ($100)* [~~dollar ($1.00)~~] for a supplemental license for each used car lot not immediately adjacent to the office or to a branch.

(b) *For used motor vehicle dealers, one hundred dollars ($100) for each office or branch or agent thereof.*

(c) For motor vehicle leasing dealers, one hundred dollars ($100) for each office or branch or agent thereof.

(d) For motor vehicle manufacturers, *one hundred dollars ($100)* [~~fifty dollars ($50.00)~~]; and for each factory branch in this state, *one hundred dollars ($100)* [~~five dollars ($5.00)~~].

(e)[~~(c)~~] For distributors, *auctioneers* or wholesalers, the same as for dealers.

(f)[~~(d)~~] For motor vehicle salesmen, five dollars ($5.00).

(g)[~~(e)~~] For factory representative, or distributor branch representative, *one hundred dollars ($100)* [~~five dollars ($5.00)~~].

(7) The licenses of dealers, manufacturers, factory branches, distributors, and distributor branches shall specify the location of the office or branch and must be conspicuously displayed there. In case such location be changed, the licensor shall indorse the change of location on the license without charge if it be within the same municipality. A change of location to another municipality shall require a new license.

(8) Every salesman, factory representative or distributor representative shall carry his license when engaged in his business, and display the same upon request. The license shall name his employer, and in case of a change of employer, the salesman shall immediately mail his license to the licensor who shall indorse such change on the license without charge.

(9) Provided the licensor has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this statute the licensor may require such applicant or licensee to furnish and maintain a bond in such form, amount and with such sureties as it shall approve, but not less than [~~five thousand dollars ($5,000), nor more than~~] fifteen thousand dollars ($15,000), conditioned upon such applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by any person by reason of any acts of the licensee constituting grounds for suspension or revocation of his license hereunder. The bonds shall be executed in the name of the state of Kentucky for the benefit of any aggrieved parties, but the penalty of said bond shall not be invoked except after a court adjudication thereof. The above bonding requirements shall not apply to manufacturers, factory branches, and their agents.

(10) Application for dealer's license shall be submitted to the bureau in duplicate and contain such information as the bureau may require. No motor vehicle dealer, unless licensed under KRS 190.010 to 190.080, shall be permitted to register, receive, or use any motor vehicle registration plates.

(11) Every motor vehicle dealer licensed in accordance with the provisions of this section shall make reports to the licensor at such intervals and showing such information as the licensor may require.

Section 4. KRS 190.033 is amended to read as follows:

No motor vehicle dealer's license, *or auctioneer's license* or wholesaler's license shall be issued or renewed unless the applicant or holder of said license shall have on file with the bureau an approved indemnifying bond or insurance policy issued by some surety company or insurance carrier authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until cancelled under proper notice. All bonds or policies must be issued in the name of the holder or applicant for the dealer's license or wholesaler's license. The bond or policy shall provide public liability and property damage coverage for the operation of any vehicle owned or being offered for sale by the said dealer or wholesaler when being operated by the owner or seller, his agents, servants, employes, prospective customers or other persons. The amount of said insurance shall be *one hundred thousand dollars ($100,000)* [~~ten thousand dollars ($10,000)~~] for bodily injury or death of any one person; and *three hundred thousand dollars ($300,000)* [~~twenty thousand dollars ($20,000)~~] for bodily injury or death in any one accident; and *fifty thousand dollars ($50,000)* [~~five thousand dollars ($5,000)~~] property damage. Said bond or insurance policy may not be cancelled unless fifteen (15) days' notice by the bondsman or insurance carrier has been given in writing to the bureau. Upon the cancellation of any bond or insurance policy required hereunder, the right to engage in the business of a motor vehicle dealer or wholesaler shall immediately abate; provided, however, that if the bond or insurance policy is reinstated within thirty (30) days from the date of cancellation the rights granted by the license shall again be in force and effect, otherwise, the said license shall become void.

Section 5. KRS 190.035 is amended to read as follows:

No license shall be issued by the bureau *for the purposes and to the persons described in this Act, either as dealer or salesman* [~~to any person to act as a motor vehicle dealer, or as a motor vehicle salesman for a motor vehicle dealer~~], unless the applicant for the [~~motor vehicle dealer~~] license has *an established* [~~a fixed and permanent~~] place of business *as defined in KRS 190.010* [~~in this state, including a lot and a building of suitable character and adequate facilities for the purpose of performing the functional business and duties of a motor vehicle dealer, which shall include the books, records, files and equipment necessary to properly conduct such business. The place of business shall not consist of a residence, tent, temporary stand or open lot~~]. A *licensee* [~~dealer~~] may conduct more than one (1) business in a building otherwise meeting the requirements of this chapter providing he has suitable space and adequate facilities therein to properly conduct the business of a motor vehicle dealer. *Provided, however, a used motor vehicle dealer having annual unit sales of more than six (6) units shall have an established place of business as required in this chapter.* The lot requirement of this section may be waived if the dealer has sufficient space within a building to properly show and display the motor vehicles being sold by him. The dealer shall display a sign easily visible from the street identifying his business.

Section 6. KRS 190.045 is amended to read as follows:

(1) Not withstanding the terms, provisions or conditions of any franchise or notwithstanding the terms or provisions of any waiver, no manufacturer shall cancel, terminate or fail to renew any franchise with a licensed new motor vehicle dealer unless the manufacturer has:

(a) Satisfied the notice requirement of subsection (4); and

(b) Has good cause for cancellation, termination, or nonrenewal; and

(c) Has acted in good faith as defined in this Act.

(2) Notwithstanding the terms, provisions or conditions of any franchise or the terms or provisions of any waiver, good cause shall exist for the purposes of a termination, cancellation or nonrenewal when:

(a) There is a failure by the new motor vehicle dealer to comply with a provision of the franchise which provision is both reasonable and of material significance to the franchise relationship, provided that the dealer has been notified in writing of the failure within one hundred eighty (180) days after the manufacturer first acquired knowledge of such failure.

(b) If the failure by the new motor vehicle dealer, defined in (a) above, relates to the performance of the new motor vehicle dealer in sales or service, then good cause shall be defined as the failure of the new motor vehicle dealer to comply with reasonable performance criteria established by the manufacturer, if the new motor vehicle dealer was apprised by the manufacturer in writing of such failure, and

1. Said notification stated that notice was provided of failure of performance pursuant to this section;

2. The new motor vehicle dealer was afforded a reasonable opportunity, for a period of not less than six (6) months, to comply with such criteria; and

3. The new motor vehicle dealer did not demonstrate substantial progress toward compliance with the manufacturer's performance criteria during such period.

(3) The manufacturer shall have the burden of proof under this section.

(4) Notwithstanding the terms, provisions or conditions of any franchise prior to the termination, cancellation, or nonrenewal of any franchise, the manufacturer shall furnish notification of such termination, cancellation or nonrenewal to the new motor vehicle dealer as follows:

(a) In the manner described in subsection (2)(b); and

(b) In not less than ninety (90) days prior to the effective date of such termination, cancellation or nonrenewal; or

(c) In not less than fifteen (15) days prior to the effective date of such termination, cancellation or nonrenewal with respect to any of the following:

1. Insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law;

2. Failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven (7) consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer;

3. Conviction of the new motor vehicle dealer, or any owner or operator thereof, of any felony which is punishable by imprisonment; or

4. Revocation of any license which the new motor vehicle dealer is required to have to operate a dealership;

(d) In not less than one hundred eighty (180) days prior to the effective date of such termination or cancellation where the manufacturer or distributor is discontinuing the sale of the product line.

(5) Notification under this section shall be in writing by certified mail or personally delivered to the new motor vehicle dealer; and shall contain:

(a) A statement of intent to terminate, cancel, or not to renew the franchise; and

(b) A statement of the reasons for the termination, cancellation or nonrenewal; and

(c) The date on which such termination, cancellation or nonrenewal takes effect.

(6) Upon the termination, nonrenewal or cancellation of any franchise, pursuant to this section, the new motor vehicle dealer shall be allowed fair and reasonable compensation by the manufacturer for the:

(a) New motor vehicle inventory which has been acquired from the manufacturer;

(b) Supplies and parts which have been acquired from the manufacturer;

(c) Equipment and furnishings provided the new motor vehicle dealer purchased from the manufacturer or its approved sources; and

(d) Special tools.

Such fair and reasonable compensation shall in no instance be less than the acquisition price and shall be paid by the manufacturer within ninety (90) days of the effective date of termination, cancellation or nonrenewal, provided the new motor vehicle dealer has clear title to the inventory and other items and is in a position to convey that title to the manufacturer.

(7) In the event of a termination, cancellation, or nonrenewal under this section, and the new motor vehicle dealer is leasing the dealership facilities from a lessor other than the manufacturer, the manufacturer shall pay the new motor vehicle dealer a sum equivalent to the rent for the unexpired term of the lease or one (1) year's rent, whichever is less.

(8) In the event of a termination, cancellation, or nonrenewal under this section and the new motor vehicle dealer owns the dealership facilities, the manufacturer shall pay the new motor vehicle dealer a sum equivalent to the reasonable rental value of the dealership facilities for one (1) year.

(a) If the termination, cancellation, or renewal is pursuant to subsection (4) above, then the manufacturer or distributor shall in addition to the relief described in subsection (8) above:

1. Assume the obligations for any lease of the dealership facilities; or

2. Arrange for a new lease of any dealership facilities; or

3. Negotiate a lease termination for the dealership facilities at the manufacturer's expense.

(b) If, in an action for damages under this section, the manufacturer or distributor fails to prove either that the manufacturer or distributor has acted in good faith or that there was good cause for the franchise termination, cancellation, or nonrenewal, then the commission shall order, in addition to any other damages under this section, that the manufacturer or distributor pay the new motor vehicle dealer an amount equal to the value of the dealership, as an ongoing business location. [~~No franchise entered into or renewed after January 1, 1973 between a motor vehicle dealer and a manufacturer or distributor may be cancelled, terminated, or not renewed by the manufacturer or the distributor except and only after sixty (60) days' notice has been given to the dealer and the bureau, which notice must outline the reasons and causes for the cancellation, termination, or non-renewal of the franchise. A notice of less than sixty (60) days may be approved by the bureau upon written application of both the dealer and manufacturer or distributor; or upon written application of the manufacturer or distributor, with notice to the dealer, if in the discretion of the bureau a lesser period is justified by reason of the circumstances of the cancellation, termination or failure to renew.~~

~~(2) A dealer may, within the sixty (60) day period or lesser period if approved by the bureau file a complaint against the manufacturer or the distributor with the bureau, questioning the reasons and causes given for the proposed cancellation, termination or nonrenewal of the franchise. Upon a complaint being filed, the bureau shall promptly set the matter for public hearing, in accordance with the provisions of KRS 190.057, for the purpose of determining whether the cancellation, termination or nonrenewal is in violation of the provisions of KRS 190.040 or whether just cause does exist for cancellation, termination or nonrenewal.~~

~~(3) The franchise shall stay in full force and effect pending the determination by the bureau of the issues involved. If the bureau determines that the manufacturer or distributor is acting in violation of the licensing law or that no just cause exists for the proposed action, then the bureau shall order that the franchise be kept in full force and effect.~~

~~(4) The bureau shall order that the franchise may be cancelled, terminated or not renewed if it finds the licensed dealer is acting in violation of the licensing law or that just cause does exist for the proposed action.~~

~~(5) Failure of the manufacturer or distributor to give proper notice or to keep the franchise in full force and effect pending determination by the bureau, or to abide by the final order of the bureau shall be cause for the bureau to refuse to issue a license to a replacement dealer or to a dealership which would be conducted in the same area and selling the same make of motor vehicles where the dealer in question was engaged in business.~~]

Section 7. KRS 190.046 is amended to read as follows:

(1) Notwithstanding the terms of any franchise agreement, each motor vehicle manufacturer or distributor, doing business within this Commonwealth, shall assume all responsiblity for and shall defend, indemnify and hold harmless its motor vehicle dealers against any loss, damages, and expenses, including legal costs, arising out of complaints, claims, or lawsuits resulting from warranty defects, which shall include structural or production defects or defects in the assembly, or design of motor vehicles, parts, accessories, or other functions beyond the control of the dealer, including without limitation, the selection of parts or components for the vehicle. Each manufacturer or distributor shall pay reasonable compensation to any authorized dealer who performs work to repair such defects, or to repair any damage to the manufacturer's or distributor's product sustained while the product is in transit to the dealer, when the carrier or the means of transportation is designated by the manufacturer or distributor. Each manufacturer or distributor shall provide to its dealers with each model year a schedule of time allowances for the performance of warranty repair work and services, which shall include time allowances for the diagnosis and performance of warranty work and service time, and shall be reasonable and adequate for the work to be performed.

(2) In the determination of what constitutes "reasonable compensation" under this section the principal factor to be considered shall be the amount of money which the dealer is charging its other customers for the same type service or repair work. However, other factors such as the compensation being paid by other manufacturers or distributors to their dealers for such work; and the prevailing amount of money being paid or charged by the dealers in the city or community in which the authorized dealer is doing business may be considered. "Reasonable compensation" comprehends diagnosing the defect, repair service, labor, parts and administrative and clerical costs, and in no event shall such compensation of a dealer be less than the amount charged by such dealer for like services and parts (minimum compensation for parts shall be dealer cost plus *thirty percent (30%)* [~~twenty-five percent (25%)~~] gross profit) to retail customers for non-warranty service and repairs, or less than the amounts indicated for such work on the schedule of warranty compensation required to be filed by the manufacturer with the bureau as a part of the manufacturer's license application by KRS 190.030.

(3) A manufacturer or distributor shall not require unreasonable proof to establish "reasonable compensation" or delay reimbursement of payment to the dealer beyond thirty-five (35) days from the submission by mail of a valid warranty claim. If a valid warranty claim is not paid within forty-five (45) days, the dealer may give the manufacturer one (1) copy of the dealer's related repair order bearing the customer's signature, the dealer's signature, the date the work was completed, the vehicle serial number or identification number, the odometer reading, the date of delivery of the vehicle, a list of the parts and supplies used if applicable, a brief general description of the defect, and the amount of money charged the manufacturer or distributor for the work. If after fifteen (15) days, the valid warranty claim is still not paid, the dealer may deduct a like amount from any monies due or owing to the manufacturer or distributor. The dealer must hold the defective part or parts for inspection by the manufacturer or distributor for a period of time not to exceed ninety (90) days from the time the warranty claim is submitted. The manufacturer or distributor shall not unfairly discriminate against any dealer in the application of warranty, policy, and procedure or deny any valid warranty order claim submitted by a franchised dealer within thirty (30) days from completion of the work or longer if existing manufacturer-dealer relationships apply. Upon the written request of the dealer for valid reasons the manufacturer will extend the submission time. Any dispute between the dealer and the manufacturer or distributor shall be subject to the provisions of KRS 190.057.

Section 8. KRS 190.047 is amended to read as follows:

(1) Unless a franchise specifically states to the contrary, no franchise or any interest therein may be sold, transferred, or assigned without the approval of the manufacturer or distributor.

(2) A dealer desiring to sell, transfer or assign all or any portion of his franchise shall submit a written proposal of such sale, transfer or assignment to the manufacturer or distributor, and approval of such proposal shall not be arbitrarily or unreasonably withheld.

(3) The refusal of the manufacturer or the distributor to approve a proposed sale, transfer or assignment shall be subject to review by the *licensor* [~~bureau~~], provided a written application for review is filed with the *licensor* [~~bureau~~], with notice to the manufacturer or distributor, within thirty (30) days of the date of such refusal and such refusal shall not be final until the *licensor* [~~bureau~~], after a hearing has been held in accordance with the provisions of KRS 190.057, has determined that the approval was not arbitrarily or unreasonably withheld. The *licensor* [~~bureau~~] shall make such determination within ninety (90) days after the application for review has been filed with the *licensor* [~~bureau~~].

(4) The burden of proof shall be on the dealer to show that the approval of the sale, transfer or assignment of any interest in the franchise was arbitrarily or unreasonably withheld. Factors to be considered in determining whether the manufacturer or distributor acted arbitrarily or unreasonably shall include whether the basic financial and facility requirements of the franchise will be met by the proposed transfer, sale or assignment and that the proposed purchaser, transferee or assignee is capable of operating, managing and supervising the operation of the business in question.

(5) Failure of the manufacturer or distributor to abide by the final order of the *licensor* [~~bureau~~] or to continue the franchise in effect pending the final determination of the issue by the *licensor* [~~bureau~~]

shall be cause for the *licensor* [~~bureau~~] to refuse to issue a subsequent license in the same county or franchise area to an applicant who will be selling the same motor vehicles as the former dealer for the same manufacturer or distributor.

(6) In the event that a manufacturer, distributor, factory branch, or factory representative seeks to enter into a franchise establishing an additional new motor vehicle dealership, or relocating an existing new motor vehicle dealership within or into a relevant market area where the same line make is then represented, the manufacturer, distributor, factory branch, or factory representative shall, in writing, first notify the licensor, and each new motor vehicle dealer in such line make in the relevant market area, of the intention to establish an additional dealership, or to relocate an existing dealership within or into that market area. In no case will the relevant market area be less than a radius of ten (10) miles around an existing dealership. Within fifteen (15) days of receiving such notice, or within fifteen (15) days after the end of any appeal procedure provided by the manufacturer, distributor, factory branch, or factory representative, any such new motor vehicle dealership may file with the licensor a protest to the establishment or relocation of the new motor vehicle dealership. When such a protest is filed, the licensor shall inform the manufacturer, distributor, factory branch, or factory representative, that a timely protest has been filed, and that the manufacturer, distributor, factory branch, or factory representative shall not establish or relocate the proposed new motor vehicle dealership until the licensor has held a hearing, if the licensor has determined that there is good cause for not permitting such new motor vehicle dealership. For the purposes of this section, the reopening in a relevant market area of a new motor vehicle dealership that has not been in operation for one (1) year or more shall be deemed the establishment of an additional new motor vehicle dealership.

(7) In determining whether good cause has been established for not entering into or relocating an additional franchise for the same line make, the licensor shall take into consideration the existing circumstances, including, but not limited to:

(a) Permanency of the investment;

(b) Effect on the retail new motor vehicle business and the consuming public in the relevant market area;

(c) Whether it is injurious to the public welfare for an additional new motor vehicle dealership to be established;

(d) Whether the new motor vehicle dealer of the same line make in that relevant market area is providing adequate competition and convenient consumer care for the motor vehicles of the line make in the market area, which shall include the adequacy of motor vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel.

(8) Any parties to a hearing by the licensor concerning the establishing or relocating of a new motor vehicle dealership shall have a right of review of the decision in a court of competent jurisdiction.

(9)[~~(6) Notwithstanding the provisions of KRS 190.010(2)(a),~~] The provisions of this section shall apply to the personal representative, executor or administrator of the estate of an individual who had an interest in a franchise, or to the committee of an individual who has been declared incompetent and who has such an interest for one (1) year following appointment.

Section 9. KRS 190.047, 1980 Acts Chapter 396, Section 69, effective July 1, 1982 is amended to read as follows:

(1) Unless a franchise specifically states to the contrary, no franchise or any interest therein may be sold, transferred, or assigned without the approval of the manufacturer or distributor.

(2) A dealer desiring to sell, transfer or assign all or any portion of his franchise shall submit a written proposal of such sale, transfer or assignment to the manufacturer or distributor, and approval of such proposal shall not be arbitrarily or unreasonably withheld.

(3) The refusal of the manufacturer or the distributor to approve a proposed sale, transfer or assignment shall be subject to review by the *licensor* [~~bureau~~], provided a written application for review is filed with the *licensor* [~~bureau~~], with notice to the manufacturer or distributor, within thirty (30) days of the date of such refusal and such refusal shall not be final until the *licensor* [~~bureau~~], after a hearing has been held in accordance with the provisions of KRS 190.057, has determined that the approval was not arbitrarily or unreasonably withheld. The *licensor* [~~bureau~~] shall make such determination within ninety days after the application for review has been filed with the *licensor* [~~bureau~~].

(4) The burden of proof shall be on the dealer to show that the approval of the sale, transfer or assignment of any interest in the franchise was arbitrarily or unreasonably withheld. Factors to be considered in determining whether the manufacturer or distributor acted arbitrarily or unreasonably shall include whether the basic financial and facility requirements of the franchise will be met by the proposed transfer, sale or assignment and that the proposed purchaser, transferee or assignee is capable of operating, managing and supervising the operation of the business in question.

(5) Failure of the manufacturer or distributor to abide by the final order of the *licensor* [~~bureau~~] or to continue the franchise in effect pending the final determination of the issue by the *licensor* [~~bureau~~] shall be cause for the *licensor* [~~bureau~~] to refuse to issue a subsequent license in the same county or franchise

area to an applicant who will be selling the same motor vehicles as the former dealer for the same manufacturer or distributor.

(6) In the event that a manufacturer, distributor, factory branch, or factory representative seeks to enter into a franchise establishing an additional new motor vehicle dealership, or relocating an existing new motor vehicle dealership within or into a relevant market area where the same line make is then represented, the manufacturer, distributor, factory branch, or factory representative shall, in writing, first notify the licensor, and each new motor vehicle dealer in such line make in the relevant market area, of the intention to establish an additional dealership, or to relocate an existing dealership within or into that market area. In no case will the relevant market area be less than a radius of ten (10) miles around an existing dealership. Within fifteen (15) days of receiving such notice, or within fifteen (15) days after the end of any appeal procedure provided by the manufacturer, distributor, factory branch, or factory representative, any such new motor vehicle dealership may file with the licensor a protest to the establishing or relocating of the new motor vehicle dealership. When such a protest is filed, the licensor shall inform the manufacturer, distributor, factory branch, or factory representative that a timely protest has been filed, and that the manufacturer, distributor, factory branch, or factory representative shall not establish or relocate the proposed new motor vehicle dealership until the licensor has held a hearing, if the licensor has determined that there is good cause for not permitting such new motor vehicle dealership. For the purposes of this section, the reopening in a relevant market area of a new motor vehicle dealership that has not been in operation for one (1) year or more shall be deemed the establishment of an additional new motor vehicle dealership.

(7) In determining whether good cause has been established for not entering into or relocating an additional franchise for the same line make, the licensor shall take into consideration the existing circumstances, including, but not limited to:

(a) Permanency of the investment;

(b) Effect on the retail new motor vehicle business and the consuming public in the relevant market area;

(c) Whether it is injurious to the public welfare for an additional new motor vehicle dealership to be established;

(d) Whether the new motor vehicle dealer of the same line make in that relevant market area is providing adequate competition and convenient consumer care for the motor vehicles of the line make in the market area which shall include the adequacy of motor vehicle sales and service facilities, equipment, supply of vehicle parts and qualified service personnel.

(8) Any parties to a hearing by the licensor concerning the establishing or relocating of a new motor vehicle dealership shall have a right of review of the decision in Franklin Circuit Court.

(9)[~~(6) Notwithstanding the provisions of KRS 190.010(2)(a),~~] The provisions of this section shall apply to the personal representative, executor or administrator of the estate of an individual who had an interest in a franchise, or to the guardian or conservator of an individual who has been declared mentally disabled and who has such an interest for one (1) year following appointment.

SECTION 10. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) Any owner of a new motor vehicle dealership may appoint by will, or any other written instrument, a designated family member to succeed in the ownership interest of the said owner in the new motor vehicle dealership.

(2) Unless there exists good cause for refusal to honor succession on the part of the manufacturer or distributor, any designated family member of a deceased or incapacitated owner of a new motor vehicle dealership may succeed to the ownership of the new motor vehicle dealership under the existing franchise provided that:

(a) The designated family member gives the manufacturer or distributor written notice of his or her intention to succeed to the ownership of the new motor vehicle dealership within one hundred twenty (120) days of the owner's death or incapacity; and

(b) The designated family member agrees to be bound by all the terms and conditions of the franchise.

(3) The manufacturer or distributor may request, and the designated family member shall provide, promptly upon said request, personal and financial data that is reasonably necessary to determine whether the succession should be honored.

SECTION 11. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) If a manufacturer or distributor believes that good cause exists for refusing to honor the succession to the ownership of a new motor vehicle dealership by a family member of a deceased or incapacitated owner of a new motor vehicle dealership under the existing franchise agreement, the manufacturer or distributor may, not more than sixty (60) days following the receipt of:

(a) Notice of the designated family member's intent to succeed to the ownership of the new motor vehicle dealership; or

(b) Any personal or financial data which it has requested;
serve upon the designated family member and the commission, notice of its refusal to honor the succession and its intent to discontinue the existing franchise with the dealer no sooner than ninety (90) days from the date such notice is served.

(2) The notice provided in subsection (1)(b) of this section must state the specific grounds for the refusal to honor the succession and of its intent to discontinue the existing franchise with the new motor vehicle dealer no sooner than ninety (90) days from the date such notice is served.

(3) If notice of refusal and discontinuance as provided in subsection (1)(b) of this section is not timely served upon the family member, the franchise shall continue in effect subject to termination only as otherwise permitted by this Act.

(4) In determining whether good cause for the refusal to honor the succession exists, the manufacturer, distributor, factory branch, or importer has the burden of proving that the successor is a person who is not of good moral character or does not meet the franchisor's existing and reasonable standards, and considering the volume of sales and service of the new motor vehicle dealership, the uniformly applied business experience standards in the market area.

Section 12. KRS 190.0491 is amended to read as follows:

(1) "Delivery" of a motor vehicle to a dealer by a manufacturer or distributor for the purposes of this section shall be accomplished by the:

(a) Tender of the motor vehicle and any documents necessary to enable the dealer to obtain title and possession of the motor vehicle at the dealer's place of business or designated place of delivery, and

(b) The giving of notice of such tender of the motor vehicle and documents to the dealer.

(2) Whenever a motor vehicle is damaged while in transit when the carrier or the means of transportation is designated by the manufacturer or distributor, or whenever a motor vehicle is otherwise damaged prior to delivery to the dealer, the dealer must:

(a) Notify the manufacturer or distributor of such damage within three (3) working days of the occurrence of the delivery of the motor vehicle as defined in subsection (1) of this section; and

(b) Must request from the manufacturer or distributor authorization to repair the damages sustained or to replace the parts or accessories damaged.
Such notification of damage by the dealer must be by certified mail, with a notice of delivery requested to be returned to the dealer, and shall be presumed to have occurred upon deposit of the notice with the United States postal service.

(3) In the event the manufacturer or distributor refuses or fails to authorize repair or replacement of any such damage within three (3) working days of notification of damage by the dealer, ownership of the motor vehicle shall revert to the manufacturer or distributor, and the dealer shall incur no obligations, financial or otherwise, for such damage to the motor vehicle. In determining when such notification of the damage by the dealer to the manufacturer or distributor occurs, the date the notice is received by the manufacturer or distributor by the United States postal service indicated on the notice of delivery returned to the dealer shall be controlling.

(4) In computing the lapse of three (3) working days under this section, the day of the occurrence of delivery of the motor vehicle to the dealer by the manufacturer or distributor, as defined in subsection (1) of this section, or the day of notification of the damage to the manufacturer or distributor by the dealer, as described in subsection (3) of this section, is not to be included, but the last working day of the period so computed is to be included.

(5) Prior to the sale of any motor vehicle damaged prior to delivery to the dealer as described in subsection (2) of this section, excluding damage to glass, tires and bumpers when replaced by identical manufacturer's original equipment and any damage *not exceeding six percent (6%) of the sticker price of the vehicle* [~~requiring less than four (4) hours to repair, above~~], the occurrence and extent of such damage must be disclosed by the dealer to the consumer, and upon repair of the damage sustained, or replacement of the parts or accessories damaged, the manufacturer and/or dealer, must certify to the consumer that the motor vehicle has been repaired or remanufactured to the manufacturer's standards; if the dealer makes the certification he shall be indemnified by the manufacturer. Upon such certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the manufacturer.

(6) Whenever a motor vehicle is damaged after delivery to the dealer by the manufacturer or distributor, as defined in subsection (1) of this section, but before sale by the dealer to the consumer, the occurrence and extent of such damage must be disclosed by the dealer to the consumer prior to such sale, and upon repair of the damage sustained, or replacement of parts or accessories damaged, the dealer must certify to the consumer that this motor vehicle has been repaired or remanufactured according to the manufacturer's standards. Upon such certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the dealer.

(7) Notwithstanding the terms of any franchise agreement, it shall be a violation of this section for any new motor vehicle manufacturer to fail to indemnify and hold harmless its franchised dealers against

any judgment or settlement for damages, including, but not limited to, court costs and reasonable attorneys' fees of the new motor vehicle dealer, arising out of complaints, claims or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, warranty (express or implied), or recission of the sale as is defined in Section 2-608 of the Uniform Commercial Code, to the extent that the judgment or settlement relates to the alleged defective or negligent manufacture, assembly, or design of new motor vehicles, parts, or accessories or other functions by the manufacturer, beyond the control of the dealer.

Section 13. KRS 190.070 is amended to read as follows:

(1) *It shall be a violation of this section for any manufacturer, distributor, factory branch, or factory representative licensed under this code to require any new motor vehicle dealer in the Commonwealth:*

(a) To order or accept delivery of any motor vehicle, part or accessory thereof, appliances, equipment, or any other commodity not required by law, which shall not have been voluntarily ordered by the new motor vehicle dealer.

(b) To order or accept delivery of any new motor vehicle with special features, appliances, accessories, or equipment not included in the list price of such motor vehicles, as publicly advertised by the manufacturer or distributor.

(c) To order for any person any parts, accessories, equipment, machinery tools, appliance, or any commodity whatsoever.

(d) To participate in an advertising campaign or contest, any promotional materials, training materials, showroom or other display decorations, or materials, at the expense of the dealer.

(e) To enter into any agreement with the manufacturer, distributor, factory branch, or factory representative, or to do any other act prejudicial to the new motor vehicle dealer by threatening to cancel a franchise or any contractual agreement existing between the dealer and the manufacturer, distributor, factory branch, or factory representative. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of such franchise, or contractual agreement shall not constitute a violation of this law.

(f) To change the capital structure of the dealership, or the means by or through which the dealer finances the operation of the dealership, provided that the dealership at all times meets any reasonable capital standards agreed to by the dealer.

(g) To refrain from participation in the management of investment in, or the acquisition of any other line of new motor vehicle or related products.

(h) To change location of the dealership, or to, during the course of the agreement, make any substantial alterations to the dealership premises, when to do so, would be unreasonable in light of the current economic, political, and social considerations.

(i) To prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by this law, or to require any controversy between a dealer and a manufacturer, distributor, or representative, to be referred to any person other than the duly constituted courts of the Commonwealth or the United States of America, or to the commissioner, if such referral would be binding upon the dealer.

(2) It shall be a violation of this section for any manufacturer, distributor, factory branch, or factory representative:

(a) To delay, refuse, or fail to deliver motor vehicles, or vehicle parts or accessories in reasonable quantities, and within a reasonable time, but in any case no more than sixty (60) days, after receipt of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer or distributor, any new vehicle, parts, or accessories to new vehicles as are covered by such franchise, if such vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. The delivery to another dealer of a motor vehicle of the same model and similarly equipped as the vehicle ordered by a motor vehicle dealer who has not received delivery thereof, but who had placed his written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle to a motor vehicle dealer within sixty (60) days, without cause. This subsection is not violated, however, if such failure is caused by acts or causes beyond the control of the manufacturer, distributor, factory branch, or factory representative.

(b) To refuse to disclose to any new motor vehicle dealer, handling the same line make, the manner and mode of distribution of that line make within the relevant market areas.

(c) To prevent or attempt to prevent a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall be no transfer or assignment of the dealer's franchise without the consent of the manufacturer or distributor, which consent shall not be unreasonably withheld.

(d) To obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and such other person, other than for compensation for services rendered, unless such benefit is promptly accounted for, and transmitted to, the dealer.

(e) To increase prices of motor vehicles which the dealer had ordered for private retail customers prior to the dealer's receipt of the written official price increase notification, a sales contract signed by a

private retail consumer shall constitute evidence of each such order. In the event of manufacturer price reductions, the amount of any such reduction received by a dealer shall be passed on to the private retail consumer by the dealer, if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reductions shall apply to all vehicles in the dealers inventory which were subject to the price reduction. Price differences applicable to new model or series motor vehicles at the time of the introduction of new models or series shall not be considered a price increase or price increase. Price changes caused by the following shall not be subject to the provisions of this subsection:

1. The addition to a motor vehicle of required or optional equipment pursuant to state or federal law;

2. Revaluation of the United States dollar, in the case of foreign-make vehicles.

(f) To offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line make to be sold to the state or any political subsection thereof, without making the same offer to all other dealers in the same line make within the relevant market area.

(g) To release to any outside party, except under subpoena, any business, financial, or personal information which may be, from time to time, provided by the dealer to the manufacturer, without the express written consent of the dealer.

(h) To deny any dealer the right of free association with any other dealer for any lawful purpose.

(i) To compete with a new motor vehicle dealer in the same line make, operating under an agreement or franchise from the aforementioned manufacturer, distributor, factory branch, or factory representative in the relevant market area. A manufacturer, distributor, factory branch, or factory representative shall not, however, be deemed to be competing when operating a dealership, either temporarily for a reasonable period, or in a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment, subject to loss in the dealership, and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions.

(j) To unfairly discriminate among its new motor vehicle dealers with respect to warranty reimbursement or authority granted its new motor vehicle dealers to make warranty adjustment with retail customers.

(k) To fail to give consent to the sale, transfer, or exchange of the franchise to a qualified buyer capable of being licensed as a new motor vehicle dealer in this state; provided that consent may be withheld when in light of other circumstances, granting the consent would be unreasonable.

(l) To fail to be licensed as provided in this chapter, and to maintain a bond in an amount as determined by this chapter. [~~No manufacturer of motor vehicles, no wholesaler or distributor of motor vehicles, and no officer, agent or representative of either shall induce or coerce, or attempt to induce or coerce, any retail motor vehicle dealer or prospective retail motor vehicle dealer in this state to sell, assign or transfer any retail instalment sales contract, obtained by such dealer in connection with the sale by him in this state of motor vehicles manufactured or sold by such manufacturer, wholesaler or distributor, to a specified sales finance company or class of such companies, or to any other specified person, by any of the acts or means hereinafter set forth, namely:~~

~~(a) By any statement, suggestion, promise or threat that such manufacturer, wholesaler or distributor will in any manner benefit or injure such dealer, whether such statement, suggestion, threat or promise is express or implied, or made directly or indirectly.~~

~~(b) By any act that will benefit or injure such dealer.~~

~~(c) By any contract, or any express or implied offer of contract, made directly or indirectly to such dealer, for handling such motor vehicles, on the condition that such dealers sell, assign or transfer his retail instalment contract thereon, in this state, to a specified sales finance company or class of such companies, or to any other specified person.~~

~~(d) By any express or implied statement or representation, made directly or indirectly, that such dealer is under any obligation whatsoever to sell, assign or transfer any of his retail sales contracts, in this state, on motor vehicles manufactured or sold by such manufacturer, wholesaler or distributor to such sales finance company, or class of companies or other specified person, because of any relationship or affiliation between such manufacturer, wholesaler or distributor and such finance company or companies or such specified person or persons.~~

~~(2) Any such statements, threats, promises, acts, contracts or offers of contracts, set forth in subsection (1) of this section are declared unfair trade practices and unfair competition and against the policy of this state, are unlawful and are prohibited.~~

~~(3) No sales finance company, and no officer, agent or representative thereof, shall induce or coerce or attempt to induce or coerce any retail motor vehicle dealer to transfer to such sales finance company any of the retail instalment sales contracts in this state of such dealer on any motor vehicle by any of the following acts or means, namely:~~

~~(a) By any statement or representation, express or implied, made directly or indirectly, that the manufacturer, wholesaler or distributor of such motor vehicles will grant such dealer a franchise to handle such~~

~~motor vehicles if such dealer shall sell, assign or transfer all or part of such retail sales contracts to such sales finance company.~~

~~(b) By any statement or representation, express or implied, made directly or indirectly, that the manufacturer, wholesaler or distributor of such motor vehicles will in any manner benefit or injure such dealer if such dealer shall or shall not sell, assign or transfer all or part of such retail sales contracts to such sales finance company.~~

~~(c) By any express or implied statement or representation made directly or indirectly, that there is an express or implied obligation on the part of such dealer to so sell, assign or transfer all or part of such retail sales contracts on such motor vehicles to such sales finance company because of any relationship or affiliation between such sales finance company and the manufacturer, wholesaler or distributor of such motor vehicles.~~

~~(4) Any such statement or representation set forth in subsection (3) of this section is declared to be unfair trade practices and unfair competition and against the policy of this state, are unlawful and are prohibited.~~

~~(5) Any retail motor vehicle dealer who, pursuant to any inducement, statement, promise or threat hereinbefore declared unlawful, shall sell, assign or transfer any or all of his retail instalment contracts shall not be guilty of any unlawful act and may be compelled to testify to each such act.~~

~~(6) No manufacturer shall directly or indirectly pay or give, or contract to pay or give, anything of service or value to any sales finance company licensee in this state, and no such licensee in this state shall accept or receive or contract or agree to accept or receive directly or indirectly any payment or service of value from any manufacturer, if the effect of the payment or giving of any such thing of service or value by the manufacturer, or the acceptance or receipt thereof, by the sales finance company licensee, may be to lessen or eliminate competition or tend to grant an unfair trade advantage or create a monopoly in the licensee who accepts or receives the payment, thing or service of value or contracts or agrees to accept or receive the same.~~]

SECTION 14. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) It shall be a violation of this section for any new motor vehicle dealer:

(a) To require the purchaser of a motor vehicle as a condition of sale and delivery thereof, to also purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser, unless such features, appliances, accessories, or equipment are the type which are ordinarily installed on the vehicle by the manufacturer or distributor when the vehicle is received or acquired by the dealer.

(b) To represent or sell as a new or unused motor vehicle any vehicle which has been operated for demonstration purposes, or which is otherwise a used motor vehicle.

(c) To sell or offer for sale as a new or unused motor vehicle any motor vehicle for which he cannot secure for the purchaser thereof such new car warranty as may be extended by the manufacturer of the vehicle to purchasers of one (1) of its new vehicles, unless the fact that the vehicle being sold without a manufacturer's warranty is communicated to the purchaser, and disclosed prominently in writing on the bill of sale.

(d) To fail to have an established place of business which is used, or will be used primarily for the purpose of selling, buying, displaying, repairing, or servicing motor vehicles.

(e) To use false or fraudulent representations in connection with the operation of the new motor vehicle dealership.

(f) To fail to reasonably supervise his agents, salesmen, or employes.

(g) To transfer a new motor vehicle with a manufacturer's statement of origin to a motor vehicle dealer who does not have either a valid service agreement or franchise from the particular line make manufacturer, distributor, factory branch or factory representative.

Section 15. The following section of KRS is repealed:

190.041 Law not applicable to manufacturers or distributors — Exceptions.

HB 438, AN ACT relating to motor vehicle sales.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) The motor vehicle commission is hereby created as an agency of the Commonwealth to carry out the functions and duties conferred upon it by this section in conjunction with the bureau of motor vehicle regulation.

(2) The commission shall consist of twelve (12) members, eleven (11) of whom are to be appointed by the Governor and each of whom may be franchised new motor vehicle dealers, duly licensed and engaged in business as such in this state. No two (2) such dealer members may be franchised by the same manufacturer. One (1) shall be appointed from the public at large.

(3) (a) Members of the commission qualify by taking the constitutional oath of office which shall, with the certificate of appointment, be evidence of the authority of the member to act.

(b) Each member of the commission shall be entitled to one hundred dollars ($100) per day for each day actually engaged in the duties of the office, including time spent in necessary travel to and from meetings and otherwise, together with all travel and other necessary expenses incurred while performing official duties.

(4) Upon July 15, 1982, the governor shall appoint four (4) members of the board to serve for a period of one (1) year; four (4) members to serve for a period of two (2) years; and four (4) members to serve for a period of three (3) years. Thereafter, their successors in office shall be appointed by the governor for a term of three (3) years each. One (1) member shall be a representative of an automobile manufacturer. One (1) member shall be a representative of automobile wholesalers. One (1) member shall be a person with no direct financial interest in the industry.

(5) The commission shall hold a regular annual meeting in September of each year and elect a chairman and vice-chairman to serve for the ensuing year. The commission shall have regular meetings as the majority of the members specifies and special meetings at the request of any five (5) members. Reasonable notice of all meetings shall be given as commission rules prescribe. A majority of the commission, including the public member, shall constitute a quorum.

(6) The commission shall employ an executive director who shall be the chief administrative officer of the commission, who shall maintain all minutes of the commission proceedings and who shall be custodian of the files and records of the commission. The executive director shall employ the staff authorized by the commission. The commission may, by interagency contract, utilize assistance of any state agency.

(7) The commission shall deposit all monies received by it from license fees paid under this law with the state treasurer, who shall keep them in a separate fund to be known as the "motor vehicle commission fund." The commission may use this fund for salaries, wages, per diem, professional and consulting fees, grants, loans, contracts, travel expenses, equipment, office rent and expenses and other necessary expenses incurred in carrying out its duties under this section as provided by legislative appropriation. At the close of each biennium, the unexpended balance remaining in the motor vehicle commission fund shall be transferred to the general fund.

(8) The commission shall administer the provisions of this section, establish the qualifications of manufacturers and dealers, and insure that the distribution and sale of new motor vehicles is conducted as provided herein, and under the commission's rules.

(9) The commission is authorized to issue orders and make determinations as may be necessary to carry out the provisions of this Act. The orders shall set forth the findings on which the order is based, and the reason for the particular action taken. All orders shall be signed by the chairman or vice-chairman and attested by the executive director.

(10) The commission may hold hearings, administer oaths, receive evidence, issue subpoenas to compel the attendance of witnesses and the production of documents related to the hearing and make findings of fact and decisions in administering the provisions of this Act and the rules, orders and other actions of the commission.

(11) The commission may cause legal proceedings to be instituted to enforce the provisions of this section and its rules, orders and decisions. Should it appear from any investigation of a possible violation of any other law or regulation that a violation of the provisions of this Act may have occurred, the matter shall be referred to the commission to determine whether proceedings under this Act are appropriate. The commission may make contracts and execute instruments necessary or convenient to the exercise of its power or performance of its duties.

(12) The availability of administrative procedures under this section shall not preclude the utilization of other remedies for violation of the provisions of KRS Chapter 190 which are available to the affected parties, including actions for injunctive relief.

SECTION 2. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

The decision of the commission granting or refusing to grant an application for a license, or to suspend or revoke a license shall not become final for a period of thirty (30) days from the date thereof, during which time the applicant or licensee may appeal from the decision of the commission to the circuit court of Franklin County. Nothing herein shall be construed to limit the authority of the court to grant such relief as the circumstances may require. If the issues involved were first presented to the commission by a complaint filed with the commission, the complainant may appeal from the decision of the commission in the same manner as prescribed above.

SECTION 3. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, or the terms or provisions of any waiver, any person who is injured in his business or property by a violation of this section or any person so injured because he refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of this section, may bring a civil action in the Franklin circuit court to enjoin further violations, to recover the actual damages sustained by him, together with costs of the suit, including a reasonable attorney's fee.

(2) The commission may order, deny, suspend, or revoke the license of any new motor vehicle dealer, manufacturer, distributor, factory branch, or factory representative for failing to comply with any provisions of this Act, or in lieu thereof, or in addition thereto, may assess monetary penalties of a civil nature not to exceed one thousand dollars ($1,000) per vehicle sold by the new motor vehicle dealer, manufacturer, distributor, factory branch, or factory representative within the Commonwealth during the period of time of non-conformance to this Act. In no case shall the fine exceed two percent (2%) of the retail value of the vehicles sold.

(3) The provisions of this Act shall apply to all persons required to be licensed under the terms herein, and to dealerships and contracts existing between new motor vehicle dealers and manufacturers, distributors, factory branches, or factory representatives at the time of its passage, and to all such future new motor vehicle dealerships and contracts.

Section 4. KRS 190.010 is amended to read as follows:

As used in KRS 190.010 to 190.080 unless the context requires otherwise:

(1) "Motor vehicle dealer" means any person not excluded by subsection (2) of this section who:

(a) For commission, money or other thing of value, is engaged in the business of selling, exchanging, buying, offering or attempting to negotiate a sale or exchange of an interest in motor vehicles; or

(b) Who is engaged wholly or in part in the business of selling motor vehicles, including motor driven cycles, whether or not such motor vehicles are owned by such person, firm or corporation.

(2) The term "motor vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company or lending institution which is subject to state or federal regulation as such, with regard to its disposition of repossessed motor vehicles;

(b) Public officers while performing their official duties; or

(c) Employes of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as such employes.

(3) "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer to sell motor vehicles.

(4) The term *"commission"* [~~"board"~~] means the motor vehicle dealers *commission* [~~board~~].

(5) The term "commissioner" means the commissioner of vehicle regulation.

(6) "Motor vehicle" means any motor driven vehicle required to be registered or licensed before being operated upon the highways. Motor vehicle shall not include moped as defined in this section.

(7) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(8) The term "bureau" means the bureau of vehicle regulation.

(9) "Licensor" means either the commissioner or the bureau or both.

(10) "Manufacturer" means any person, resident or nonresident who manufactures or assembles motor vehicles.

(11) "Distributor" or "wholesaler" means a person, resident or nonresident who sells or distributes motor vehicles to licensed motor vehicle dealers, or who maintains distributor representatives.

(12) "Factory branch" means a branch office maintained by a person who manufactures or assembles motor vehicles, for the sale of motor vehicles to distributors, or for the sale of motor vehicles to motor vehicle dealers or for directing or supervising in whole or part, its representatives.

(13) "Distributor branch" means a branch office similarly maintained by a distributor or wholesaler for the same purposes.

(14) "Factory representative" means a representative employed by a person who manufactures or assembles motor vehicles or by a factory branch, for the purpose of making or promoting the sale of its motor vehicles, or for supervising or contacting its dealers or prospective dealers.

(15) "Distributor representative" means a representative similarly employed by a distributor, distributor branch or wholesaler.

(16) "Person" means a person, partnership, firm, corporation or association.

(17) The term "new motor vehicle" means a motor vehicle which, after its final assembly, is either in the possession of the manufacturer, factory branch or distributor, or an authorized dealer operating under

a franchise with the manufacturer, factory branch or distributor, and the legal or equitable title to which has never been the subject of a sale or transfer other than to another dealer operating under a similar franchise with the same manufacturer, factory branch or distributor.

(18) The term "franchise" means any written contract, agreement, or license between a motor vehicle dealer and a manufacturer, factory branch or distributor of new motor vehicles by which the dealer is authorized to engage in the business of selling any specified make or makes of new motor vehicles.

Section 5. KRS 190.020 is amended to read as follows:

The bureau shall, under administrative regulations promulgated by the bureau and approved by the *commission* [~~board~~], issue the licenses provided for by KRS 190.010 to 190.080 and shall have supervision over the licensees thereunder in respect to all the provisions of KRS 190.010 to 190.080.

Section 6. KRS 190.030 is amended to read as follows:

(1) No motor vehicle dealer, or motor vehicle salesman shall engage in business as such in this state without a license therefor as provided in KRS 190.010 to 190.080. If any motor vehicle dealer acts as a motor vehicle salesman he shall secure a motor vehicle salesman's license in addition to a license for a motor vehicle dealer.

(2) No manufacturer of motor vehicles, or factory branch, or distributor or distributor branch, or wholesaler shall engage in business as such in this state without a license therefor as provided in KRS 190.010 to 190.080.

(3) No factory representative or distributor representative shall engage in business as such in this state without a license therefor as provided in KRS 190.010 to 190.080.

(4) Application for license shall be made to the licensor, at such time, in such form and containing such information as the licensor shall require and shall be accompanied by the required fee. The licensor may require in such application, or otherwise, information relating to the applicant's solvency, his financial standing or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which said applicant proposes to engage in business, all of which may be considered by said licensor in determining the fitness of said applicant to engage in business as set forth in this section.

(5) All licenses shall be granted or refused within 30 days after application therefor, and shall expire, unless sooner revoked or suspended, on December 31 of the calendar year for which they are granted, except that where a complaint of unfair cancellation of dealer franchise is in the process of being heard, no replacement application for such franchise shall be considered until a decision is rendered by the *commission* [~~board~~].

(6) The license fee for such calendar year, or part thereof, shall be as follows, effective January 1, 1967:

(a) For motor vehicle dealers, one hundred dollars ($100.00) for each office or branch or agent thereof, plus one dollar ($1.00) for a supplemental license for each used car lot not immediately adjacent to the office or to a branch.

(b) For motor vehicle manufacturers, fifty dollars ($50.00); and for each factory branch in this state, five dollars ($5.00).

(c) For distributors or wholesalers, the same as for dealers.

(d) For motor vehicle salesmen, five dollars ($5.00).

(e) For factory representative, or distributor branch representative, five dollars ($5.00).

(7) The licenses of dealers, manufacturers, factory branches, distributors, and distributor branches shall specify the location of the office or branch and must be conspicuously displayed there. In case such location be changed, the licensor shall indorse the change of location on the license without charge if it be within the same municipality. A change of location to another municipality shall require a new license.

(8) Every salesman, factory representative or distributor representative shall carry his license when engaged in his business, and display the same upon request. The license shall name his employer, and in case of a change of employer, the salesman shall immediately mail his license to the licensor who shall indorse such change on the license without charge.

(9) Provided the licensor has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this statute the licensor may require such applicant or licensee to furnish and maintain a bond in such form, amount and with such sureties as it shall approve, but not less than five thousand dollars ($5,000), nor more than fifteen thousand dollars ($15,000), conditioned upon such applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by any person by reason of any acts of the licensee constituting grounds for suspension or revocation of his license hereunder. The bonds shall be executed in the name of the state of Kentucky for the benefit of any aggrieved parties, but the penalty of said bond shall not be invoked except after a court adjudication thereof. The above bonding requirements shall not apply to manufacturers, factory branches, and their agents.

(10) Application for dealer's license shall be submitted to the bureau in duplicate and contain such information as the bureau may require. No motor vehicle dealer, unless licensed under KRS 190.010 to 190.080, shall be permitted to register, receive, or use any motor vehicle registration plates.

(11) Every motor vehicle dealer licensed in accordance with the provisions of this section shall make reports to the licensor at such intervals and showing such information as the licensor may require.

Section 7. KRS 190.040 is amended to read as follows:

(1) A license may be denied, suspended or revoked on the following grounds:

(a) Proof of financial or moral unfitness of applicant;

(b) Material misstatement in application for license;

(c) Filing a materially false or fraudulent tax return as certified by the department of revenue;

(d) Willful failure to comply with any provision of this section or any rule or regulation promulgated under this chapter;

(e) Willfully defrauding any retail buyer to the buyer's damage;

(f) Willful failure to perform any written agreement with any buyer;

(g) Failure or refusal to furnish and keep in force any bond required;

(h) Having made a fraudulent sale, transaction or repossession;

(i) False or misleading advertising;

(j) Fraudulent misrepresentation, circumvention or concealment through whatsoever subterfuge or device of any of the material particulars or the nature thereof required hereunder to be stated or furnished to the retail buyer;

(k) Employment of fraudulent devices, methods or practices in connection with compliance with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;

(l) Having violated any law relating to the sale, distribution or financing of motor vehicles;

(m) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent or any representative whatsoever of such motor vehicle manufacturer or factory branch, who has induced or coerced or attempted to induce or coerce any automobile dealer to accept delivery of any motor vehicle or vehicles, parts or accessories therefor, or any other commodities which shall not have been ordered by said dealer;

(n) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative whatsoever of such motor vehicle manufacturer or factory branch, who has attempted to induce or coerce or has induced or coerced, any automobile dealer to enter into any agreement with such manufacturer, factory branch or representative thereof, or to do any other act unfair to said dealer, by threatening to cancel any franchise existing between such manufacturer, factory branch or representative thereof and said dealer;

(o) Being a manufacturer, factory branch, distributor, field representative, officer, agent or any representative whatsoever of such motor vehicle manufacturer or factory branch, who has unfairly, without due regard to the equities of said dealer and without just provocation, canceled the franchise of any motor vehicle dealer. The nonrenewal of a franchise or selling agreement without just provocation or cause shall be deemed an evasion of this section and shall constitute an unfair cancellation;

(p) Being a distributor or wholesaler who makes, attempts to make or aids or abets the making of a sale of a motor vehicle to a person other than a licensed motor vehicle dealer. Nothing herein shall prevent any license holder from selling any motor vehicle to any of its employes;

(q) Being a dealer who advertises for sale a new motor vehicle unless he is a dealer operating under a franchise with a licensed manufacturer, factory branch or distributor authorizing the sale of such new motor vehicle.

(2) The licensor may without notice deny the application for a license within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for such denial. Upon request by the applicant whose license has been so denied, the licensor shall set the time and place of hearing a review of such denial, the same to be heard with reasonable promptness.

(3) No license shall be suspended or revoked except after a hearing thereon. The licensor shall give the licensee at least thirty (30) days' notice of the time and place of hearing and of the charges against it.

(4) The bureau or *commission* [~~board~~] may inspect the pertinent books, letters, records and contracts of a licensee.

(5) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of any or all of his salesmen while acting as his agent, if such licensee approved of or had knowledge of said acts or other similar acts and after such approval or knowledge retained the benefit, proceeds, profits or advantages accruing from said acts or otherwise ratified said acts.

(6) Any licensee or other person in interest being dissatisfied with a final order of the bureau approved by the *commission* [~~board~~] may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided by KRS 281.780 to 281.785.

Section 8. KRS 190.053 is amended to read as follows:

Whenever any licensee is found to be violating any of the provisions of this chapter, or any order or rule or regulation prescribed by the bureau pursuant thereto, or is found to be permitting any of its salesmen to violate any of the provisions of this chapter, or any order, or rule or regulation prescribed by the bureau pursuant thereto, the bureau may, upon complaint or upon its own motion, issue its order to such licensee notifying it to appear before the bureau at a fixed time and place at which time and place the bureau shall have a hearing. If the bureau and the *commission* [~~board~~] are satisfied, after a hearing, that the licensee has violated or refused to observe any of the provisions of this chapter, or any order, or rule or regulation of the bureau, or has permitted any of its salesmen to violate any of the provisions of this chapter or any order, or rule or regulation prescribed by the bureau pursuant thereto, the bureau may suspend or revoke the license of such licensee. The renewal by the bureau of any license shall not be construed to be a waiver or condonement of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee therefor.

Section 9. KRS 190.057 is amended to read as follows:

(1) Hearings under this chapter shall be heard by the bureau and may be held at the most convenient place for the parties and witnesses. The hearing shall be conducted by an examiner of the bureau. After the final conclusion of the hearing, the examiner shall make a report and recommended order, which report and recommended order shall contain a finding of fact and a conclusion of law, and such report and recommended order shall be served by mail upon each of the parties. Any of the parties thereto may, within twenty (20) days after the date of the report and recommended order, file and serve exceptions thereto and reasons in support thereof. Replies may be served and filed within twenty (20) days after the date of the filing of exceptions. Thereafter the commissioner shall consider and pass upon the case. When passed upon by the commissioner and approved by the *commission* [~~board~~], the decision shall be served by mail upon all parties and shall be a final order of the bureau. The report and recommended order will not become the decision of the bureau through failure to file exceptions, but in the absence of exceptions ordinarily will be taken by the bureau as the basis of its decision.

(2) A final order may be withdrawn, set aside or amended, provided, however, that such action is taken between the date of the rendition of the final order and the expiration of the time for appeal or until an appeal has been taken.

Section 10. KRS 190.063 is amended to read as follows:

All records of the *commission* [~~board~~], including those maintained by the bureau for its account, shall be public records. All persons holding any license which is authorized by this chapter, as of June 16, 1966, shall have the right to continue to hold, maintain, and renew such license after June 16, 1966, subject only to the suspension or revocation thereof pursuant to the provisions of this chapter.

Section 11. KRS 190.067 is amended to read as follows:

The bureau of vehicle regulation shall serve as the administrative and enforcement agency of the *commission* [~~board~~] in all respects and shall perform such services and duties as it may be legally called upon to do. In addition to the other powers granted to the bureau, it shall have the powers of arrest for violation of the provisions of this chapter. In the event the *commission* [~~board~~] fails to perform any of its official duties within the time prescribed herein, the bureau may perform said duties and certify its actions to the *commission* [~~board~~].

Section 12. KRS 190.073 is amended to read as follows:

The bureau with the approval of the *commission* [~~board~~] may promulgate appropriate and reasonable regulations for the purpose of carrying out the provisions of this chapter.

Section 13. KRS 190.075 is amended to read as follows:

At the instance of the *commission* [~~board~~], the bureau or of any person having any interest in the subject matter, the courts of this state may enjoin any person from violating any of the provisions of this chapter, or any order, rule, regulation or requirement of the bureau. The Franklin Circuit Court shall hold concurrent venue with the courts of this Commonwealth of all civil and injunctive actions instituted by the *commission* [~~board~~] or the bureau for the enforcement of the provisions of this chapter, or the orders, rules, regulations or requirements properly promulgated under this chapter.

Section 14. The following KRS sections are repealed:

190.041 Law not applicable to manufacturers or distributors — Exceptions.
190.061 Motor vehicle dealer's board — Members — Qualifications, terms — Meetings — Quorum.

HB 477, AN ACT relating to the backside improvement commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.218 is amended to read as follows:

(1) There is hereby established, under the general jurisdiction of the Kentucky state racing commission, a backside improvement commission. This commission shall consist of four (4) members, three (3) of which shall be voting members and one (1) shall be a nonvoting member. The voting members shall be as follows: one (1) member appointed by the president pro tempore of the Kentucky senate, one (1) member appointed by the speaker of the Kentucky house of representatives, and one (1) member appointed by the chairman of the Kentucky state racing commission. The nonvoting member shall be appointed by the Kentucky division of the horsemen's benevolent and protective association. The appointee of the chairman of the Kentucky state racing commission shall serve as chairman of the backside improvement commission. The members of the commission shall serve without compensation, but shall be entitled to reimbursement for all expenses incurred in the discharge of official business.

(2) There is hereby created a trust and revolving fund for the backside improvement commission, consisting of money allocated to the fund under the provisions of KRS 138.515, together with such other money as may be contributed to or allocated to the fund from all other sources. Money to the credit of the backside improvement fund at the end of each fiscal year shall not lapse but shall be carried forward in such fund to the succeeding fiscal year. *The commission shall have the authority and may invest any and all funds received by the trust fund and interest earned by the investment of said funds in types of investments appropriate to the investment needs of the trust fund after having considered the financial return on authorized investment alternatives, the financial safety of investment alternatives and the impact of any authorized investments on the state's economy. The commission shall review the status of the trust fund investments quarterly and report its findings to the department of finance, the Kentucky state racing commission and the legislative research commission.*

(3) The backside improvement commission shall employ such qualified personnel as may be required to assist the commission in carrying out the provisions of this section. Such persons shall serve at the pleasure of the commission and compensation for such personnel shall be fixed by the commission. The compensation of such personnel and the necessary expenses incurred by the commission or by the committee in carrying out the provisions of this section shall be paid out of the backside improvement fund.

(4) The purpose of the fund shall be to improve the backside of racing associations averaging nine hundred thousand dollars ($900,000) or less pari-mutuel handle per racing day. The backside development commission shall use the backside development fund to promote, enhance, and improve the conditions of the backside of eligible racing associations. Said conditions shall include but not be limited to the living and working quarters of backside employes.

(5) The Kentucky state racing commission shall adopt such rules and regulations as may be necessary to carry out the provisions and purposes of this section.

HB 516, AN ACT relating to real estate licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) Upon payment of the established application fees, any person of good moral character who holds a real estate license in good standing issued by any state or territory which has licensing and educational standards substantially equal to or greater than this state may be licensed without examination if such state or territory extends similar reciprocity to licensees of this state.

(2) Every nonresident applicant shall file an irrevocable consent stating that legal actions may be commenced against the applicant in the proper court of any county of this state in which a cause of action may arise in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state on the commission, the consent stipulating and agreeing that service of process or pleadings on the commission shall be taken and held in all courts to be as valid and binding as if service had been made upon the applicant in the state of Kentucky. Any process or pleadings served upon the commission, shall be by duplicate copies, one (1) of which shall be filed in the office of the commission and the other immediately forwarded by certified mail, return receipt requested or by registered mail to the main office of the applicant against which the process or pleadings are directed.

Section 2. KRS 324.050, Application of non-resident for license, is repealed.

HB 578, AN ACT relating to medical assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the department for human resources undertakes to pay shall be designated and limited by regulations promulgated by said department, pursuant to the provisions hereof. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of medical assistance program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any such medical assistance program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the medical assistance program and the dentist prior to the removal of such teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for human resources after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available including but not limited to the following categories except where such aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric *and* [~~,~~] dental [~~and optometric~~] services;

(e) *Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eye glasses are provided only to children under age twenty-one (21).*

(f) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where such students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified herein.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric and dental supplies shall be on bases which relate the amount of the payment to the cost of providing such services or supplies. It shall be one (1) of the functions of the council to make recommendations to the department for human resources with respect to such bases for payment.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the department for human resources shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for premature births. This statement shall indicate the procedures used in providing such medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. The amount of payments for units of services need not be uniform for the entire state but may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in such locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, so long as the place of practice is within the boundaries of the state.

(6) [~~Nothing in this section shall require that any payment be made for optometric services or ophthalmic supplies.~~

~~(7)~~] Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

The Committee on Education reported **HB 314** with Committee Amendment attached thereto, **HB 574** with Committee Amendment attached thereto, and **SB 100** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 314, AN ACT relating to school districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.210 is amended to read as follows:

(1) In independent school districts, the members of the school board shall be elected from the district at large. In county school districts, members shall be elected from divisions.

(2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five (5) divisions as nearly equal in population and containing integral voting precincts insofar as is practicable. In first dividing the county district into divisions the board shall, if more than one (1) of its members reside in one (1) division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200 and 160.220 to 160.250.

(3) [~~No change shall be made in the boundary lines of the present division of the county school district until January 1, 1959, except in case of merger of districts or change in territory due to annexation.~~] Any changes made in division boundary lines shall be such as will make divisions as nearly equal in population and containing integral voting precincts insofar as is practical. No change may be made in division boundary lines more frequently than five (5) years after the last change in any division lines, except in case of merger of districts *or* a change in territory [~~is~~] due to annexation. [~~In counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions. To be eligible to be elected from a division, a candidate must reside in that division. The divisions, based upon 1970 United States Census Bureau Reports on total population by census tracts for Jefferson County, Kentucky shall be as follows: Division One shall include census tracts 1-28; Division Two shall include census tracts 29-35, 47-53, 57-74, 80-84, 93, 129, 130; Division Three shall include census tracts 75-79, 85-88, 98-106, 107.01, 108; Division Four shall include census tracts 121.01, 123-128; Division Five shall include census tracts 36-46, 56, 90, 120, 121.02, 122; Division Six shall include census tracts 54, 55, 91, 92, 94, 95, 110.02, 113, 114, 117.01, 117.02, 118, 119; Division Seven shall include census tracts 89, 96, 97, 107.02, 109, 110.01, 111, 112, 115, 116, 117.03, 131, 132. The terms of the members to be elected, KRS 160.044 notwithstanding, shall be four (4) years and the election for the initial four (4) year terms shall be as follows: The election of the members from Divisions Two, Four and Seven shall be held at the next regular November election following the effective date of the merger pursuant to KRS 160.041, and the election of the members from Divisions One, Three, Five and Six shall be held at the regular November election two (2) years thereafter.~~

~~(4) In counties containing cities of the first class, responsibility for the establishment or the changing of school board division boundaries shall be with the county board of elections. Where division and census tract boundaries do not coincide with existing election precinct boundaries, school board divisions shall be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute must be completed on or before January 1, 1979, and on or before January 1 in any succeeding year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the county board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the superintendent of public instruction within ten (10) days following its publication.~~]

(4)[~~(5)~~] (a) Notwithstanding the provisions of subsection (3) of this section, if one hundred (100) residents of a county school district division petition the state board for elementary and secondary education stating that the school district divisions are not divided as nearly equal in population as can reasonably be expected, the superintendent of public instruction shall cause an investigation to determine the validity of the petition, said investigation to be completed within thirty (30) days after receipt of the petition.

(b) If the investigation reveals the school district to be unequally divided according to population, the state board for elementary and secondary education, upon the recommendation of the superintendent of public instruction, shall order the local board of education to make such changes in school district divisions as are necessary to equalize population within the five (5) school divisions.

(c) If any board fails to comply with the order of the state board for elementary and secondary education within thirty (30) days or prior to August 1 in any year in which any members of the board are to be elected, members shall be elected from the district at large until the order of the state board for elementary and secondary education has been complied with.

(d) No change shall be made in the boundary of any division under the provisions of this subsection after August 1 in the year in which a member of the school board is to be elected from any division.

(5) Notwithstanding the provisions of subsection (2) of this section, in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions as nearly equal in population as is practicable with members elected from divisions. To be eligible to be elected from a division, a candidate must reside in that division.

(6) In counties containing cities of the first class, responsibility for the establishment or the changing of school board division boundaries shall be with the local board of education, subject to the review and approval of the county board of elections. Where division boundaries do not coincide with existing election precinct boundaries, school board divisions shall be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute must be completed on or before January 1 in any year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the county board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the superintendent of public instruction within ten (10) days following its publication.

Section 2. KRS 160.280 is amended to read as follows:

(1) Members of boards of education shall receive no salaries, but members of boards of education may receive a per diem of twenty dollars ($20) in any calendar year, and their actual expenses for each regular or special meeting attended[~~, except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished and members elected from the divisions and in the manner prescribed by KRS 160.210(3), shall receive a per diem of forty dollars ($40), and may be reimbursed for other actual and necessary expenditures incurred in the district in the performance of their duties authorized by the board~~]. In no case shall the expenses incurred within the district or per diem of any member exceed four hundred dollars ($400) in any calendar year[~~, except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished and members elected from the divisions and in the manner prescribed by KRS 160.210. Members of boards of education may be reimbursed for actual and necessary expenditures incurred outside the district in the performance of their duties authorized by the board. In no case shall the expenses incurred within the district or per diem of any member exceed one thousand dollars ($1,000) per calendar year. All claims shall be made out according to law and filed with the secretary of the board and shall be approved and paid as other claims against the board~~].

(2) Notwithstanding the provisions of subsection (1) of this section, members of boards of education in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished and members elected from the divisions and in the manner prescribed by KRS 160.210(5) shall receive a per diem of forty dollars ($40), and may be reimbursed for other actual and necessary expenditures incurred in the district in the performance of their duties authorized by the board. In no case shall the expenses incurred within the district or per diem of any member exceed two thousand five hundred dollars ($2,500) per calendar year.

(3) Members of boards of education may be reimbursed for actual and necessary expenditures incurred outside the district in the performance of their duties authorized by the board.

(4) All claims shall be made according to law and filed with the secretary of the board and shall be approved and paid as other claims against the board.

Committee Amendment No. 1 to **HB 314** is as follows:

Amend printed copy of **HB 314,** page 1, line 9, by placing brackets around the word "nearly"

Page 2, line 6, by placing brackets around the word "nearly"

Page 5, line 16, by deleting the word "*nearly*"

HB 574, AN ACT relating to teacher certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.030 is amended to read as follows:

(1) The certification of all teachers and other school personnel is vested in the state board for elementary and secondary education. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance

of their respective assignments within the common schools. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the published rules and regulations of the state board for elementary and secondary education through the superintendent of public instruction.

(2) In the case of nontax supported schools, standards for teacher certification shall provide for the certification without further educational requirements, of any administrator, supervisor, or teacher who has attended, and received a bachelor's degree from, a standard college or university.

(3) Certificates shall be issued to persons who have completed, at such colleges and universities as have been approved by the state board for elementary and secondary education for the preparation of teachers and other school personnel, the curricula prescribed by the Kentucky council on teacher education and certification and approved by the state board for elementary and secondary education for the certificates.

(4) *The holder of any type of Kentucky teacher certification issued by the department of education may have any certificate, certificate endorsement, or subject specialization deleted from the official certification record upon request, subject to the following provisions:*

(a) The request shall be submitted to the department of education on forms provided by the department prior to December 31 and shall become effective on the following July 1. The department of education shall notify each school district of decertification affecting its personnel on or before April 1 of each year.

(b) No portion of the certification shall be deleted for any subject or assignment in which the teacher has had experience during the three-year period preceding the request unless approved by the local board of education.

(c) If the certification for classroom teaching at the secondary level is to be retained at least one (1) teaching major or one (1) area of concentration must be retained.

(d) A certificate which is a prerequisite or a concurrent requirement to the issuance of another certificate or certificate endorsement must be retained.

(e) Once any portion of the certification record is deleted under this section, it will be restored only upon reapplication by the individual showing restored competency and proficiency by completion of a twelve-hour program pertinent to the deleted area at an institution approved for teacher education.

(5) The state board for elementary and secondary education shall approve the curricula of any standard college or university, or of any department thereof for the training of teachers, when the curricula comply with the rules and regulations of the state board for elementary and secondary education and are equivalent to any or all the curricula prescribed for the state institutions for the issuance of certificates to students of the state institutions, and when the institution has otherwise met the terms and conditions provided in KRS 161.010 to 161.120. Any student of such institution who has completed any of these curricula or the equivalent thereof, as approved by the state board for elementary and secondary education, and who in addition thereto has completed the prescribed requirements for the issuance of certificates for teaching to students of the state institutions may, by the state board for elementary and secondary education, be granted a certificate for teaching of the same validity and tenure as certificates issued to students completing like requirements in the state institutions.

Committee Amendment No. 1 to **HB 574** is as follows:

Amend printed copy of **HB 574,** page 2, lines 12, 13, and 22, by inserting the following after the word "*request*": '*of the teacher-holder*"

SB 100, AN ACT relating to community education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Board" means the board of education of a local school district;

(2) "Community school" means a school that makes its facilities available for citizen use, coordinates activities of local citizens in identifying program needs and establishing priorities, identifies and utilizes available program resources, and assists in the initiation of programs to improve the cultural, social, recreational, and educational opportunities available in a community;

(3) "Community education program" means a program in which a public building, including a public elementary or secondary school, is used as a community center operated by a local education agency in cooperation with other groups in the community, community organizations, and local governmental agencies to provide educational, recreational, cultural, health care, and other related community services in accordance with the needs, interests, and concerns of the community;

(4) "Community education director" means an employe of a local school district who is responsible for a system-wide program of community education in a school district;

(5) "Community education coordinator" means an employe of a local school district who is responsible for the coordination of a specific program or other component of a total community education program within a local school district or community.

SECTION 2. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the availability of funds, a public school district may receive funding for a community school program if it meets all of the following criteria:

(a) Submits an application for approval by the state board of education in the manner and form prescribed by the department of education;

(b) Submits a plan, approved by the local board, which outlines the proposed community education program, including procedures for obtaining the involvement and cooperation of other agencies and groups in identifying and recommending programs for meeting the needs of citizens;

(c) Establishes an advisory council, appointed by the board of education, to assist in conducting community needs assessments and recommending program priorities;

(d) Employs at least one full-time community education director;

(2) Two (2) or more school districts may combine for purposes of qualfying as a community school. Any qualified school district or combination of school districts with a total population of five thousand (5,000) or more persons is eligible to receive state funding equal to seventy-five percent (75%) of the state average of the salaries paid to local instructional supervisors. Certification requirements for the position shall be developed by the department of education.

(3) Funded positions shall be awarded to qualified districts in the ratio of district population to state population.

(4) Each community school receiving state funds for a community education program must submit an annual report to the state department of education. The report shall include an evaluation of the program and a financial statement. Failure to submit the report shall result in the loss of the community school designation.

The Committee on Judiciary-Civil reported **HB 188, HB 363,** and **SB 35** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 188, AN ACT relating to liability of persons donating items of food to nonprofit organizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

(1) Any person who in good faith donates food for use or distribution by a nonprofit corporation organized under KRS Chapter 273 shall not be liable for civil damages as a result of an act or omission affecting the nature, age, condition, or packaging of the donated food, unless the act or omission constitutes gross negligence or wilful and wanton misconduct.

(2) Subsection (1) shall not apply to any person who donates food to a nonprofit corporation organized under KRS Chapter 273 which sells or offers for sale the donated food.

SECTION 2. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

The department for human resources, district health departments, and local health departments may inspect donated food items for wholesomeness and may establish procedures for the handling of food items.

SECTION 3. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

Nothing contained in this Act shall be construed to limit any liability on the part of a donee nonprofit corporation which accepts such donated food.

HB 363, AN ACT relating to state lands.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.060 is amended to read as follows:

(1) All deeds and judgments conveying to *or from* or vesting in *or divesting* the state *of* any land or interest in land shall be recorded in the office of the county clerk of the county where the land or the greater part of it lies.

(2) In cases conveying to or vesting in the state any land or interest therein, other than highway right of way acquisitions, the deed or copy of the judgment shall be immediately transmitted to the secretary of state by the clerk. The county clerk shall endorse on the *document* [~~deed~~] the [~~deed~~] book, [~~and~~] page number and county where he has recorded it, as follows: "Recorded in .... [~~Deed~~] Book ...., Page ...., ... County Clerk's Office."

(3) In cases of deeds or judgments conveying from or divesting the state of land or an interest therein, the clerk shall immediately transmit a copy of the document to the secretary of state. This document shall be endorsed as follows: "Recorded in .... Book ...., Page ...., ... County Clerk's Office." [~~He shall then immediately transmit the deed and his certificate of record to the secretary of state.~~]

SB 35, AN ACT relating to guardians, conservators and mentally disabled persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent and purpose of the General Assembly to recognize that disabled persons have varying degrees of disability.

(2) Persons who are only partially disabled must be legally protected without a determination of total incompetency and without the attendant deprivation of civil and legal rights that such a determination requires.

(3) To this end, guardianship and conservatorship for disabled persons shall be utilized only as is necessary to promote their well-being, including protection from neglect, exploitation, and abuse; shall be designed to encourage the development of maximum self-reliance and independence in each person; and shall be ordered only to the extent necessitated by each person's actual mental and adaptive limitations.

(4) If the court determines that some form of guardianship or conservatorship is necessary, partial guardianship or partial conservatorship shall be the preferred form of protection and assistance for a disabled person.

SECTION 2. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Conservator" means an individual, agency, or corporation appointed by the court to manage the financial resources of a disabled person.

(2) "Limited conservator" means an individual, agency, or corporation appointed by the court to assist in managing the financial resources of a partially disabled person and whose powers and duties have been specifically enumerated by court order.

(3) "Guardian" means an individual, agency, or corporation appointed by the court to have full care, custody, and control of a disabled person and to manage his financial resources.

(4) "Limited guardian" means a guardian who possesses fewer than all of the legal powers and duties of a full guardian, and whose powers and duties have been specifically enumerated by court order.

(5) "Standby" guardian or conservator means a person or entity designated by the court to assume the powers and duties assigned to a limited guardian, guardian, limited conservator, or conservator upon his death, resignation, removal, or incapacity.

(6) "Testamentary" guardian or conservator means an individual, agency, or corporation nominated in the will of a limited guardian, guardian, limited conservator, or conservator to succeed the testator in that capacity upon his death.

(7) "Developmental disability" means a severe, chronic disability of a person which:

(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) Is manifested before the person attains age twenty-two (22);

(c) Is likely to continue indefinitely;

(d) Results in substantial functional limitations in three (3) or more of the following areas of major life activity: (i) self-care; (ii) receptive and expressive language; (iii) learning; (iv) mobility; (v) self-direction; (vi) capacity for independent living; and (vii) economic self-sufficiency; and

(e) Reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

(8) "Disabled" means a legal, not a medical disability, and is measured by functional inabilities. It refers to any person fourteen (14) years of age or older who is:

(a) Unable to make informed decisions with respect to his personal affairs to such an extent that he lacks the capacity to provide for his physical health and safety, including but not limited to health care, food, shelter, clothing, or personal hygiene; or

(b) Unable to make informed decisions with respect to his financial resources to such an extent that he lacks the capacity to manage his property effectively by those actions necessary to obtain, administer, and dispose of both real and personal property.

Such inability shall be evidenced by acts or occurrences within six (6) months prior to the filing of the petition for guardianship or conservatorship and shall not be evidenced solely by isolated instances of negligence, improvidence, or other behavior.

(9) "Partially disabled" refers to an individual who lacks the capacity to manage some of his personal affairs and/or financial resources as provided in subsection (8) of this section, but who cannot be found to be fully disabled as provided therein.

(10) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of his affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors.

(11) "Interdisciplinary evaluation report" means a report of an evaluation of a respondent performed pursuant to the provisions of this Act to determine whether he is partially disabled or disabled as defined herein.

(12) "Interested person or entity" means an adult relative or friend of the respondent or ward, an official or representative of a public or private agency, corporation, or association concerned with that person's welfare, or any other person found suitable by the court.

(13) "Petitioner" means a person who institutes a proceeding under this Act.

(14) "Respondent" means an individual alleged to be a partially disabled or disabled person.

(15) "Ward" means a person for whom a limited guardian, guardian, limited conservator, or conservator has been appointed.

(16) "Committee" means a person appointed by the court prior to July 1, 1982, to have full care, custody, and control of a disabled person and his estate.

SECTION 3. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) The district courts shall have exclusive jurisdiction over all proceedings involving a determination of partial disability or disability, the modification of orders, the appointment and removal of guardians and conservators, and the management and settlement of their accounts.

(2) If the respondent or ward is a resident of this state, the venue for all proceedings under this Act shall be:

(a) In the county where the respondent or ward resides;

(b) In the county of domicile of the respondent or ward; or

(c) In the county where the parent of the respondent or ward is domiciled if the respondent or ward is a minor. Nothing in this section shall preclude transfer of venue for good cause shown.

(3) If no local conservator has been appointed and no petition in a disability proceeding is pending in this state, a domiciliary foreign conservator may file with a court in this state in a county in which property belonging to the disabled person is located authenticated copies of his appointment and of any official bond he has given. Thereafter, he may exercise as to assets in this state all powers of a local conservator and may maintain actions and proceedings in this state subject to any conditions imposed upon nonresident parties generally.

SECTION 4. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) A petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator may be filed by any interested person or by an individual needing guardianship or conservatorship. The petition shall set forth the following:

(a) The name and address of the respondent;

(b) The date of birth of the respondent, if known;

(c) The nature and degree of the alleged disability of the respondent;

(d) The facts and reasons supporting the need for guardianship or conservatorship;

(e) A description and approximation of the value of the respondent's financial resources, including government benefits, insurance entitlements, and anticipated yearly income, if known;

(f) The names and addresses of the respondent's next of kin, if known;

(g) The name and address of the individual or facility, if any, having custody of the respondent;

(h) The name, address and interest of the petitioner; and

(i) The name and address of the petitioner's attorney, if any.

(2) The petition shall be accompanied by a verified application of the person or entity desiring appointment as limited guardian, guardian, limited conservator, or conservator. The application shall state the name, address and qualifications of the applicant and his relationship to the respondent. If it is proposed that a standby limited guardian, guardian, limited conservator, or conservator be designated, the petition shall also be accompanied by the application of the person or entity desiring to be so designated. Additional petitions may be filed prior to the date of the hearing by other persons desiring appointment.

SECTION 5. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) Prior to a hearing on a petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator, an interdisciplinary evaluation report shall be filed with the court. The report shall be compiled by at least three (3) individuals, including a physician, a psychologist licensed or certified under the provisions of KRS Chapter 319, and a social worker with a graduate degree in social work. The social worker shall, whenever possible, be chosen from among employes of the Department for Human Resources residing or working in the area, and there shall be no additional compensation for their service on the interdisciplinary evaluation team.

(2) At least one (1) person participating in the compilation of the report shall have knowledge of the particular disability which the respondent is alleged to have or knowledge of the skills required of the respondent to care for himself and his estate.

(3) If the respondent is alleged to be partially disabled or disabled due to mental illness, at least one (1) person participating in the compilation of the interdisciplinary evaluation report shall be a qualified mental health professional as defined in KRS 202A.010(10). If the respondent is alleged to be partially disabled or disabled due to mental retardation, at least one (1) person participating in the compilation of the evaluation report shall be a qualified mental retardation professional as defined in KRS 202B.010(3).

(4) The interdisciplinary evaluation report shall contain:

(a) A description of the nature and extent of the respondent's disabilities, if any;

(b) Current evaluations of the respondent's social, intellectual, physical, and educational condition, adaptive behavior, and social skills. Such evaluations may be based on prior evaluations not more than three (3) months old, except that evaluations of the respondent's intellectual condition may be based on individual intelligence test scores not more than one (1) year old;

(c) An opinion as to whether guardianship or conservatorship is needed, the type of guardianship or conservatorship needed, if any, and the reasons therefor;

(d) An opinion as to the length of time guardianship or conservatorship will be needed by the respondent, if at all, and the reasons therefor;

(e) If limited guardianship or conservatorship is recommended, a further recommendation as to the scope of the guardianship or conservatorship, specifying particularly the rights to be limited and the corresponding powers and duties of the limited guardian or limited conservator;

(f) A description of the social, education, medical, and rehabilitative services currently being utilized by the respondent, if any;

(g) A determination whether alternatives to guardianship or conservatorship are available;

(h) A recommendation as to the most appropriate treatment or rehabilitation plan and living arrangement for the respondent and the reasons therefor;

(i) A listing of all medications the respondent is receiving, the dosage, and a description of the impact of the medication upon the respondent's mental and physical condition and behavior;

(j) A determination whether attending a hearing on a petition filed under this Act would subject the respondent to serious risk of physical harm;

(k) The names and addresses of all individuals who examined or interviewed the respondent or otherwise participated in the evaluation; and

(l) Any dissenting opinions or other comments by the evaluators.

(5) The evaluation report may be compiled by a community mental health-mental retardation center, a licensed facility for mentally ill or developmentally disabled persons, if the respondent is a resident of such facility, or a similar agency.

(6) In all cases where the respondent is a resident of a licensed facility for mentally ill or developmentally disabled persons and the petition is filed by an employe of that facility, the petition shall be accompanied by an interdisciplinary evaluation report prepared by the facility.

(7) Except as provided in subsection (6), the court shall order appropriate evaluations to be performed by qualified persons or a qualified agency. The report shall be prepared and filed with the court and copies mailed to the attorneys for both parties at least twenty (20) days prior to the hearing. All items specified in subsection (4) of this section shall be included in the report.

(8) The examiners shall be paid by the county in which the petition is filed upon an order of allowance entered by the court. Payment shall be in an amount which is reasonable as determined by the court, except no payment shall be required of the county for an evaluation performed by a salaried employe of a state agency for an evaluation performed within the course of his employment. Additionally, no payment shall be required of the county for an evaluation performed by a salaried employe of a community mental health-mental retardation center or private facility or agency where the costs incurred by the center, facility, or agency are reimbursable through third party payors. Affidavits or other competent evidence are admissible to prove the services rendered but not to prove their value.

(9) The respondent may file a response to the evaluation report no later than five (5) days prior to the hearing.

(10) The respondent may secure an independent evaluation. If the respondent is unable to pay for such evaluation, compensation for the independent evaluation may be paid by the county in an amount which is reasonable as determined by the court.

SECTION 6. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) If the petition is accompanied by an interdisciplinary evaluation report when filed, the court shall fix a date and a place for a hearing to be held within thirty (30) days after the filing of the petition. If no interdisciplinary evaluation report accompanies the petition when filed, the court shall fix a date and a place for a hearing to be held within sixty (60) days after the filing of the petition.

(2) Notice of the time and place of the hearing shall be given not less than fourteen (14) days prior to the hearing to the attorneys for both parties, all persons named in the petition, and the person proposed for appointment as limited guardian, guardian, limited conservator, or conservator.

SECTION 7. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) Unless an appearance has been entered on behalf of the respondent, the court shall appoint counsel for the respondent within one (1) week of the filing of a petition for determination of disability under this Act.

(2) Appointed counsel shall be entitled to compensation for services. If counsel is appointed for a poor person as defined in KRS 453.190, the court shall prescribe reasonable compensation to be paid by the county in which the proceeding is held in accordance with the complexity of the issues, the time involved, and other relevant considerations, except that appointed counsel shall not be compensated at a rate higher than thirty-five dollars ($35.00) an hour for time spent in court and no higher than twenty-five dollars ($25.00) an hour for time spent out of court. If the petition is found to be frivolous or not brought in good faith, counsel fees shall be charged to the petitioner.

(3) In all proceedings under this Act, it shall be the duty of the county attorney to assist the petitioner, to represent the interest of the Commonwealth, and to assist the court in its inquiry by the presentation of evidence.

SECTION 8. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) At a hearing convened pursuant to this Act for the purpose of determining the disability of a respondent, the respondent shall have a jury trial and shall have the right to present evidence and to confront and cross-examine all witnesses.

(2) The hearing may be closed to the public on request of the respondent or his counsel.

(3) The respondent shall be present at the hearing, and his presence may be waived only upon a determination of the interdisciplinary evaluation team that his attendance would subject him to serious risk of physical harm. Such determination shall be evidence only of the respondent's physical inability to attend the hearing and shall not be considered in determining the need for guardianship or conservatorship.

(4) The court may remove itself to the place of residence of the respondent to conduct the hearing in the presence of the respondent.

(5) The burden of proof shall be on the Commonwealth to prove the disability or partial disability of the respondent by clear and convincing evidence.

(6) The respondent will not be determined partially disabled or disabled unless at least one (1) of the persons who participated in the interdisciplinary evaluation required by this Act testifies in person at the hearing. This section shall not be interpreted to preclude the respondent from requiring the testimony of more than one (1) person participating in the preparation of the evaluation report.

SECTION 9. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) At a hearing convened under this Act for a determination of partial disability or disability, the jury shall:

(a) Inquire into the nature and extent of the general intellectual functioning of the respondent;

(b) Inquire into the respondent's capacity to make informed decisions concerning his personal affairs and financial resources;

(c) Determine whether the respondent is disabled, partially disabled, or has no disability in relation to the management of his financial resources; and

(d) Determine whether the respondent is disabled, partially disabled, or has no disability in relation to the management of his personal affairs.

(2) If the respondent is found not to be disabled or partially disabled, the petition shall be dismissed.

(3) If the respondent is found to be disabled or partially disabled, the court shall, at the same hearing, without a jury, determine:

(a) The type of guardian or conservator to be appointed;

(b) The specific legal disabilities to which the respondent is subject, if the respondent has been determined to be partially disabled;

(c) The corresponding powers and duties of the limited guardian or limited conservator, if the respondent has been determined to be partially disabled;

(d) The individual or entity to be appointed by the court as limited guardian, guardian, limited conservator, or conservator;

(e) The individual or entity, if any, to be appointed as standby guardian or conservator; and

(f) The duration of the term of guardianship or conservatorship.

SECTION 10. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) If the respondent is found partially disabled in managing his personal affairs, but not partially disabled or disabled in managing his financial resources, a limited guardian shall be appointed.

(2) If the respondent is found partially disabled in managing his financial resources, but not partially disabled or disabled in managing his personal affairs, a limited conservator shall be appointed.

(3) If the respondent is found partially disabled in managing both his personal affairs and financial resources, a limited guardian shall be appointed, unless the court considers it in the best interest of the ward to appoint both a limited guardian and a limited conservator.

(4) If the respondent is found disabled in managing his financial resources, but not partially disabled or disabled in managing his personal affairs, a conservator shall be appointed.

(5) If the respondent is found disabled in managing both his personal affairs and financial resources, a guardian shall be appointed, unless the court considers it in the best interest of the ward to appoint both a limited guardian and a conservator.

(6) The order of appointment of a limited guardian, guardian, limited conservator, or conservator shall specify:

(a) The type of guardianship or conservatorship to which the ward is subject;

(b) The name and address of the limited guardian, guardian, limited conservator, or conservator;

(c) The name and address of the standby guardian or conservator, if a standby guardian or conservator is designated;

(d) The specific legal disabilities to which the respondent is subject, if the respondent has been determined to be partially disabled;

(e) The corresponding powers and duties of the limited guardian or limited conservator, if the respondent has been determined to be partially disabled; and

(f) The duration of the term of guardianship or conservatorship.

(7) A limited guardian or limited conservator shall not be appointed for a term greater than five (5) years and may be appointed for a lesser period. A guardian or conservator may be appointed for a period of unlimited duration.

(8) The judgment of partial disability or disability and the order of appointment shall be filed in the district court. The judgment shall be indexed in the book in which notices of actions and encumbrances are indexed. Unless such judgment is filed and indexed, it shall not constitute notice to any subsequent bona fide purchaser for value, mortgagee, or encumbrancer.

(9) If the respondent is determined to be disabled or partially disabled but no limited guardian, guardian, limited conservator, or conservator is appointed at the hearing, the determination shall have no legal effect.

(10) The rights of which a ward is legally deprived upon a determination of disability in managing his personal affairs and financial resources include, but are not limited to, the right to vote, dispose of property, execute instruments, enter into contractual relationships, determine his living arrangements, consent to medical procedures, and obtain a motor vehicle operator's license.

(11) A partially disabled or disabled person for whom a limited guardian, limited conservator, or conservator has been appointed retains all legal and civil rights except those which have by court order been designated as legal disabilities or which have been specifically granted to the limited guardian, limited conservator, or conservator. A person who is partially disabled may be subject to some but not all of the disabilities specified in subsection (10) of this section.

SECTION 11. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) The court may appoint as limited guardian, guardian, limited conservator, or conservator any suitable person or any entity, public or private, capable of conducting an active guardianship or conservatorship program. The court shall not ordinarily or customarily appoint the department for human resources or any other person or entity, public or private, that is directly providing services to the respondent unless no other suitable person or entity is available and willing to be appointed. Appointment of the department for human resources shall be consistent with the provisions of KRS 210.290.

(2) Prior to the appointment, the court shall make a reasonable effort to question the respondent concerning his preference regarding the person or entity to be appointed limited guardian, guardian, limited conservator, or conservator, and any preference indicated shall be given due consideration. The court shall appoint the person or entity best qualified and willing to serve.

SECTION 12. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

Prior to the expiration of a term of guardianship or conservatorship, the limited guardian, guardian, limited conservator, or conservator may petition, pursuant to Section 13, for a renewal of his appointment for a period not to exceed five (5) years. The petition shall be accompanied by verified affidavits of a physician, a psychologist licensed or certified under the provisions of KRS Chapter 319, and a social worker with a graduate degree in social work supporting the need for the continuation of the guardianship or conservatorship.

SECTION 13. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) A partially disabled or disabled person, his limited guardian, guardian, limited conservator, or conservator, or any other interested person may petition the court for:

(a) Termination or modification of an order of partial disability or disability;

(b) Removal and/or replacement of a limited guardian, guardian, limited conservator or conservator; or

(c) Renewal of the appointment of a limited guardian, guardian, limited conservator, or conservator.

(2) Petitions pursuant to this section shall set forth:

(a) The name and address of the ward;

(b) The name and address of the limited guardian, guardian, limited conservator, or conservator;

(c) The name, address, and interest of the petitioner;

(d) The names and addresses of the ward's next of kin, if known;

(e) The name and address of the individual or facility, if any, having custody of the ward;

(f) The relief requested; and

(g) The facts and reasons supporting the request.

(3) A request under subsection (1) of this section, if made by the ward, may be communicated to the court by any means, including but not limited to oral communication or informal letter. If such a request is communicated by means other than a petition, the court shall appoint a suitable person who may, but need not be, an employe of the state, county, or court to prepare a written petition to be filed with the court within seven (7) days following the appointment.

(4) Within thirty (30) days after the filing of a petition, the court shall conduct a hearing at which the ward shall be entitled to counsel. Notice of the time and place of the hearing shall be given not less than fourteen (14) days prior to the hearing to both parties and all persons named in the petition.

(5) At the request of any party or on its own initiative, the court may order an interdisciplinary evaluation of the ward. The time period in which the court must review a petition may be extended for an appropriate period of time if such an evaluation is ordered by the court.

(6) Upon conclusion of the hearing, the court shall enter a written order setting forth the factual basis for its finding and may do any of the following:

(a) Dismiss the petition;

(b) Remove the guardian or conservator and dissolve the guardianship or conservatorship order;

(c) Remove the limited guardian, guardian, limited conservator, or conservator and appoint a successor;

(d) Modify the original guardianship or conservatorship order; or

(e) Make any other order which the court deems appropriate and in the best interest of the ward.

(7) If the original order is dissolved and no further order is issued, the ward shall be relieved of all legal disabilities. The court shall enter an order and judgment restoring to the person all of the rights and privileges of a citizen. The clerk shall note such judgment or modification in the book in which notices of actions and encumbrances are indexed.

(8) The clerk of the court shall transmit a certified copy of the restoration judgment or modification to the originating court, if the judgment or modification is ordered by a court other than the court in which the original judgment was entered.

SECTION 14. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) Any person appointed committee for an incompetent person prior to July 1, 1982, shall assume the duties of a guardian and shall be subject to all of the provisions of this Act pertaining to guardians, including all reporting requirements. The committee shall, within one (1) year from July 1, 1982, petition for modification of the original order if a less restrictive guardianship or conservatorship would be more appropriate.

(2) In all instances where an adjudication of incompetency was entered prior to July 1, 1982, and no committee has been appointed or is serving on that date, the adjudication of incompetency shall be considered null and void if no guardian or conservator is appointed within one (1) year of July 1, 1982.

SECTION 15. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

It shall be the general duty of the limited guardian or guardian to carry out diligently and in good faith the specific duties and powers assigned by the court and to:

(1) Assure that the personal, civil, and human rights of the ward are protected; and

(2) Encourage the ward to:

(a) Participate to the maximum extent of his abilities in all decisions which affect him;

(b) Act in his own behalf on all matters in which he is able to do so; and

(c) Develop or regain, to the maximum extent possible, his capacity to meet the essential requirements for his physical health or safety, and, if impaired, his capacity to manage his financial resources.

SECTION 16. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

The court may assign to a limited guardian any portion of the powers and duties specified in Section 17 of this Act. The court may assign other duties as are necessary to enhance the ward's safety and well being. A limited guardian shall comply with the reporting requirements specified by Section 18 of this Act which pertain to his powers and duties as specified by the court, provided that all reports submitted shall include the information required by subsections (d) and (f) of Section 18(1) of this Act.

SECTION 17. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

A guardian of a disabled person shall have the following powers and duties, except as modified by order of the court:

(1) To take custody of the ward and to establish his place of abode within the state, except that, if at any time a guardian places a ward in a licensed residential facility for developmentally disabled persons, the guardian shall, within thirty (30) days of such placement, file with the court notice of the placement, stating with specificity the reasons for such placement, and an interdisciplinary evaluation report detailing the social, psychological, medical or other considerations on which such placement is predicated, a description of the treatment of habilitation programs which will benefit the ward as a result of such placement, and a determination that such placement will provide appropriate treatment in the least restrictive available treatment and residential program. For purposes of this subsection, the interdisciplinary evaluation report may be one performed within two (2) months prior to the placement for purposes of determining whether such placement is necessary and appropriate, or may be an evaluation and assessment provided by the residential facility immediately after placement. Notice to the court shall not be required where the ward is transferred from one licensed residential facility to another.

(2) To make provision for the ward's care, comfort, and maintenance and arrange for such educational, social, vocational, and rehabilitation services as are appropriate and as will assist the ward in the development of maximum self-reliance and independence.

(3) To give any necessary consent or approval to enable the ward to receive medical or other professional care, counsel, treatment or service, except that a guardian may not consent on behalf of a ward to an abortion, sterilization, psychosurgery, removal of a bodily organ, or amputation of a limb unless the procedure is first approved by order of the court or is necessary, in an emergency situation, to preserve the life or prevent serious impairment of the physical health of the ward.

(4) To act with respect to the ward in a manner which limits the deprivation of civil rights and restricts his personal freedom only to the extent necessary to provide needed care and services to him.

(5) To expend sums from the financial resources of the ward reasonable and necessary to carry out the powers and duties assigned to him by the court and, unless a separate conservator has been appointed, to manage the financial resources of this ward.

(6) If a separate limited conservator or conservator has been appointed for the ward, the expenditure of funds by the limited guardian shall be consistent with the duties assigned to and procedures and policies established by such limited conservator or conservator. Conflicts arising between a limited guardian and a limited conservator or conservator regarding the expenditure of funds which are unable to be otherwise resolved shall be submitted to the court for resolution.

SECTION 18. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) A guardian shall file with the court at least annually a verified report stating:

(a) The ward's current mental, physical, and social condition;

(b) The address of every residence of the ward during the reporting period and length of stay at each residence;

(c) A summary of the medical, social, educational, vocational, and other professional services received by the ward during the reporting period;

(d) An outline of the guardian's visits with and activities on behalf of the ward;

(e) A recommendation as to the need for continued guardianship;

(f) A statement signed by the standby guardian, if one has been appointed, that the standby guardian continues to be willing to serve in the event of the death, resignation, removal, or incapacity of the guardian; and

(g) Other information requested by the court or useful in the opinion of the guardian.

(2) For the purpose of filing the report required by subsection (1) of this section, the guardian shall be given access to records pertaining to the ward held by public or private agencies which contain information necessary for the guardian to perform his duties.

(3) The court shall review the report required in subsection (1) of this section and take whatever action it considers necessary to enhance the well-being of the ward.

(4) In addition to the requirements of this section, a guardian shall comply with the reporting requirements of Section 22 unless a separate conservator has been appointed.

SECTION 19. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

It shall be the general duty of the limited conservator or conservator to carry out, diligently and in good faith, the specific duties and powers assigned by the court and to:

(1) Manage or assist in managing those financial resources placed under his supervision and/or control as would a prudent person managing his own resources and, if a conservator has special skills or is named conservator on the basis of representations of special skills or expertise, he shall use those skills; and

(2) Encourage the ward to:

(a) Participate, to the maximum extent of his abilities, in all decisions which affect him;

(b) Act on his own behalf on all matters in which he is able to do so; and

(c) Develop or regain, to the maximum extent possible, his capacity to manage his financial resources and, if impaired, his capacity to meet the essential requirements for his physical health or safety.

SECTION 20. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) A limited conservator or conservator shall expend or distribute, or authorize the expenditure or distribution of, or assist in the expenditure or distribution of, the principal or income from the financial resources placed under his supervision and control to assure that:

(a) The essential requirements for the physical health or safety of the ward are met;

(b) The rights of the ward are protected;

(c) The financial resources of the ward which are subject to the conservatorship are prudently managed;

(d) The ward has the opportunity to develop or regain the capacity to perform the functions listed in paragraphs (a), (b), and (c) of subsection (2) of Section 19; and

(e) The limited guardian or guardian for the ward, if any, is able to carry out the duties and powers assigned to him by the court.

(2) In performing his duties, the limited conservator or conservator shall consider:

(a) The size of the financial resources under the limited conservator's or conservator's supervision or control;

(b) The probable duration of the conservatorship;

(c) The likelihood that the ward may be able to manage his financial resources in the future;

(d) The accustomed standard of living of the ward;

(e) Other funds or resources used for the support of the ward which have not been placed under the control or supervision of the limited conservator or conservator; and

(f) The requests of the ward and the ward's limited guardian or guardian, if any.

(3) In addition to the duties and powers listed in subsection (1) of this section, the court may assign to a limited conservator any of the duties and powers listed in Section 21 of this Act which the partially disabled person lacks the ability to perform.

SECTION 21. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) A conservator has all of the powers conferred herein and any additional powers conferred by law on trustees in this state. The conservator may take possession of the ward's real and personal property, and of all rents, incomes, and benefits therefrom, whether accruing before or after his appointment, and of the proceeds arising from the sale, mortgage, lease or exchange thereof. Subject to such possession the title of all such estate and to the increment and proceeds thereof shall be to the ward and not to the conservator. It is the duty of the conservator to protect and preserve the estate, to retain, sell and invest it as hereinafter provided, prosecute or defend actions, claims or proceedings in any jurisdiction for the protection of the estate's assets, to account for it faithfully, to perform all other duties required of him by law, and, at the termination of the conservatorship, to deliver the assets of the ward to the persons lawfully entitled thereto.

(2) The conservator shall apply the money and property for the payments of debts, taxes, claims, charges and expenses of the conservatorship and for the support, care, maintenance and education of the ward or his dependents.

(3) Any sale of realty of a ward shall be as provided in KRS Chapter 389A.

SECTION 22. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) Within sixty (60) days of appointment, the limited conservator or conservator shall file with the court a verified inventory of all the property of the ward which has come to his possession or knowledge, including a statement of all encumbrances, liens, and other secured claims on any item, any claims against the estate of the ward, and any cause of action accruing to the ward. The limited conservator or conservator shall provide a copy thereof to the ward if he has sufficient mental capacity to understand it.

(2) A limited conservator or conservator shall file with the court a verified report and account biennially within sixty (60) days after the anniversary date of his appointment. Said report shall contain:

(a) The present personal status of the ward whose estate is managed by the conservator;

(b) The conservator's plan for preserving and maintaining the estate of which he has control or supervision;

(c) The need for continuation or cessation of the conservatorship; and

(d) The need for any alteration in the powers of the conservatorship.

The biennial report shall specify the amount and type of real and personal property received by the conservator and remaining in his control or invested by him, the nature of such investment, and expenditures made during the preceding year. Upon request of the court, the conservator shall produce for examination any information or documentation which the court may consider relevant to the accounting of the financial and property transactions of the estate.

(3) Upon the resignation, removal, or death of a limited conservator or conservator, or on the termination of the conservatorship, the limited conservator or conservator, or his personal representative, shall forthwith submit a final report and account to the court and to the former ward and to the successor limited conservator or conservator, or, if the ward is deceased, to his personal representative, and shall pay over the trust estate to the person entitled thereto. Upon approval of the report and account, the limited conservator or conservator shall be discharged and his surety, if any, released.

SECTION 23. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

The court may require a limited conservator or conservator to provide surety on his bond consistent with the provisions of KRS 395.130.

SECTION 24. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

A parent, spouse or child of a partially disabled or disabled person who has been appointed as limited guardian, guardian, limited conservator, or conservator of that person may, by will, nominate an individual to succeed in that capacity upon the testator's death. Such nomination shall be reviewed by the court pursuant to Section 13 of this Act upon admitting the will to probate if no other person is serving in that capacity at the time of the testator's death and no standby guardian or conservator has been appointed.

SECTION 25. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) The court may exercise the powers of a limited guardian or limited conservator or may appoint an individual or agency to exercise such powers if, during the pendency of a proceeding for a determination of partial disability or disability or an appeal therefrom, it appears that there is danger of serious impairment to the health or safety of the respondent or damage or dissipation to his property if immediate action is not taken.

(2) Prior to a hearing on the need for an emergency appointment of a limited guardian or limited conservator, a petition shall be filed which sets forth the following:

(a) The name, age, and address of the respondent;

(b) The danger alleged to be imminent;

(c) The type of appointment and the protection and assistance requested;

(d) The facts and reasons supporting the request;

(e) The name, address, and qualifications of the proposed limited guardian or limited conservator, if any;

(f) The name, address, and interest of the petitioner;

(g) The names and addresses of the respondent's next of kin, if known;

(h) The name and address of the individual or facility, if any, having custody of the respondent; and

(i) The date of filing of the petition for determination of disability or partial disability.

(3) Within one (1) week of the filing of a petition pursuant to this section, the court shall conduct a hearing at which the respondent shall be entitled to counsel. Notice of the time and place of the hearing shall be given not less than forty-eight (48) hours prior to the hearing to all persons named in the petition and to the county attorney.

(4) The burden shall be on the Commonwealth to prove by clear and convincing evidence the need for the emergency appointment of a limited guardian or conservator.

(5) If the court exercises the powers of a limited guardian or limited conservator or appoints another to do so in an emergency situation as set forth in subsection (1) of this section, the court shall state on the record findings of fact as to the danger determined to be imminent, the sources relied on in arriving at such determination, the type of assistance to be provided, and the powers and duties of the emergency guardian or conservator. The authority of the guardian or conservator shall expire upon resolution of the appeal or action.

SECTION 26. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) On appointment of a limited guardian, guardian, limited conservator, or conservator, or at any time thereafter, the court may designate another suitable person or entity to assume the powers and duties assigned to the limited guardian, guardian, limited conservator, or conservator upon his death, resignation, removal, or incapacity. Prior to such designation, the individual or entity to be designated shall file with the court a written application stating the name, address, and qualifications of the applicant and his relationship, if any, to the respondent.

(2) The individual so designated shall file an acceptance with the court within ten (10) days of the death, resignation, or incapacity of his predecessor. Notice shall also be given to the ward and his nearest adult relative. An individual serving on a standby basis may exercise all the powers and duties assigned to his predecessor upon filing of his acceptance unless otherwise ordered by the court.

(3) In an emergency situation and in the absence and unavailability of the initially appointed guardian or conservator, the standby guardian or conservator may temporarily assume the powers and duties of the initially appointed guardian or conservator.

SECTION 27. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) No court costs shall be charged to a respondent or ward in any proceeding under this Act, if the respondent or ward is a poor person as defined in KRS 453.190.

(2) Limited guardians, guardians, limited conservators and conservators are entitled to reasonable compensation for services rendered and to reimbursement for reasonable and necessary expenses incurred in the exercise of their assigned guardianship or conservatorship duties and powers. Such compensation and reimbursement shall be paid from the financial resources of the ward. Compensation and reimbursement of guardians limited conservators and conservators shall not exceed that provided for in KRS 386.180.

SECTION 28. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) All determinations of disability and orders of appointment, modification, and termination shall be filed as public records with the clerk of the court. All other court records of a respondent made in all proceedings under this Act shall be confidential and shall not be open to the general public except as provided in subsection (3) of this section.

(2) Following the dismissal or withdrawal of a petition filed under this chapter or a determination that a respondent is no longer disabled, the respondent may at any time move to have all court records pertaining to the proceedings expunged from the files of the court, provided that he submits a full release of all claims arising from the proceedings.

(3) Any person seeking to obtain confidential information contained in the court files or the court records of proceedings under this Act may file a written motion stating why the information is needed. The court may issue an order to disclose such information upon a showing that the disclosure is appropriate under the circumstances and in the best interest of the person or the public. The court shall maintain a log of the individuals and entities granted access to the file or records.

SECTION 29. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) Any person who wrongfully causes or conspires with or assists another in causing the unwarranted determination of disability or partial disability of any individual under this Act or the denial of any individual of any rights accorded to him under the provisions of this Act shall be guilty of a class A misdemeanor.

(2) Any person who intentionally violates the confidentiality of any records or reports under this Act shall be guilty of a class B misdemeanor.

Section 30. KRS 23A.200 is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70); however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202A *and* [~~,~~] 202B [~~and 203~~]. The filing fee shall be paid to the clerk at the time the case is filed.

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	1.00
(c) Providing a copy of a document (per page)	.25
(d) Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e) Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk at the disposition of the action by the party against whom the costs have been assessed as follows:

(a) For a jury of more than six (6) persons	$25.00
(b) For a jury of six (6) persons	12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

(a) Service of process (per process)	$ 3.00

(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

Section 31. KRS 202A.030 is amended to read as follows:

(1) If a person in need of immediate care and treatment because of mental illness is present at, or is presented at, a hospital without a court order required for hospitalization under a procedure included in this chapter, *or* KRS Chapter [~~203 or~~] 210, two (2) authorized staff physicians, or one (1) authorized staff physician and one (1) qualified mental health professional, of the hospital may order admission of the individual for up to seventy-two (72) hours pending an application for a hearing as provided by the involuntary hospitalization procedures of this chapter, *or* KRS Chapter [~~203~~] 210. The physician may, at the time of such admission, initiate without delay any application for an emergency hospitalization order, or other involuntary hospitalization as provided by this chapter, *or* KRS Chapter [~~203 or~~] 210.

(2) The authorized staff personnel admitting the individual for involuntary hospitalization under the provisions of subsection (1) of this section must certify in the record of the individual that in their opinion the individual is a mentally ill person and presents an immediate danger or an immediate threat of danger to self or others, as a result of mental illness, if not restrained. The authorized staff personnel admitting a mentally ill person shall further certify in the medical record of the individual that treatment which will reasonably benefit the individual is available at the facility to which he has been admitted and that hospitalization is the least restrictive alternative mode of treatment.

(3) Any person may be admitted to a hospital upon the certification of two (2) physicians, or one (1) physician and one (1) qualified mental health professional, that they have examined the person and have concluded that he is a mentally ill person; that because of his illness he is in need of care and can reasonably benefit from treatment in a hospital; that hospitalization is the least restrictive alternative mode of treatment; and because of such illness he presents an immediate danger or an immediate threat of danger to self or others if not restrained. No person shall be admitted to a hospital on the basis of such certification at any time after the expiration of three (3) days from the date of the examination.

(4) Any individual who has been admitted to a hospital under subsections (1) or (3) of this section shall be released from the hospital within seventy-two (72) hours (excluding weekends and holidays) unless a proper petition for further hospitalization has been filed under the provisions of this chapter, in which case the individual may be retained until the proceeding is terminated by a judgment or an order of the appropriate

court. In no case shall the patient be retained in the hospital longer than twenty-one (21) days from the date of application under this section without a hearing and order of the appropriate court pursuant to the applicable provisions of this chapter, unless the patient agrees to remain voluntarily.

Section 32. KRS 202A.070 is amended to read as follows:

(1) Proceedings for involuntary hospitalization of an individual for sixty (60) consecutive days may be initiated by filing a petition as described in this chapter in the appropriate circuit court.

(2) Upon receipt of the petition the court shall give notice to the respondent, to his legal guardian, if any, and to his spouse, parent, or nearest known relative or friend concerning the allegations and contents of the petition and proposed hearing except that when no circuit judge is available in the county, the district judge may do all things necessary to accomplish the purposes of KRS Chapters 202A, 202B, [~~203~~] and 210.

(3) As soon as practicable, after notice of the commencement of the proceedings is given to the respondent, the court shall appoint two (2) physicians to examine the respondent and certify to the court their findings as to whether the respondent is a mentally ill person who presents an immediate danger or an immediate threat of danger to self or others as a result of mental illness and who can reasonably benefit from treatment. Each physician shall also certify as to whether in his opinion hospitalization is the least restrictive alternative mode of treatment presently available. The examination shall be held at a hospital or other medical facility or any other suitable place not likely to have a harmful effect on the patient's health.

(4) The court may, after reviewing the allegations contained in the petition, issue a warrant for the arrest of the person named in the petition. Such person if arrested on such warrant shall be conveyed immediately to any hospital, medical facility or institution approved by the secretary and shall be there examined by two (2) physicians. The physicians shall certify to the court their findings as to whether the respondent is a mentally ill person who presents an immediate danger or an immediate threat of danger to self or others as a result of mental illness and who can reasonably benefit from treatment. Each physician shall also certify as to whether in his opinion hospitalization is the least restrictive alternative mode of treatment presently available.

(5) If after their examination the physicians certify that the respondent is a mentally ill person who presents an immediate danger or an immediate threat of danger to self or others as a result of mental illness and that he can reasonably benefit from treatment and that hospitalization is the least restrictive alternative mode of treatment presently available, then such person may be retained in the hospital pending a hearing and order of the appropriate court, or may be transported to an appropriate hospital for retention. In no case shall the patient be retained in a hospital longer than twenty-one (21) days from the date of the examination without a hearing and order of the appropriate court.

(6) If the criteria for involuntary hospitalization as set forth in subsections (3) and (4) of this section are not certified, the court may, without taking any further action, terminate the proceedings and dismiss the application. Otherwise, the court shall forthwith fix a date and notice of a hearing and render an order within twenty-one (21) days from the date of the examination of the respondent.

(7) The respondent shall be represented at such hearing by an attorney either retained by the respondent or provided by the Commonwealth. The respondent shall be afforded an opportunity to testify, to present, and cross-examine witnesses against him. The court may in its discretion receive the testimony of any other person. The hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental health of the respondent. The hearing may be held by the court in chambers, at a hospital, or other suitable place.

(8) Respondent's presence at the hearing may be waived by the respondent or respondent may be excused from the hearing upon a finding that respondent's presence would seriously disrupt the proceedings or that the respondent's presence at the hearing would be harmful to respondent.

(9) If upon completion of the hearing the court finds that the respondent is (a) a mentally ill person, (b) because of this illness presents an immediate danger or an immediate threat of danger to self or others, (c) that the least restrictive alternative mode of treatment requires hospitalization, and (d) that treatment which can reasonably benefit the respondent is available in the hospital, then the court shall order the individual hospitalized in a hospital selected by the department for a period not to exceed sixty (60) consecutive days.

(10) The hospitalization under this section shall be for a period of time not to exceed sixty (60) consecutive days from the date of the court order. Release shall be by writ of habeas corpus pursuant to the provisions of this section except that a staff physician may release the patient subject to the provisions of this chapter.

(11) When a formal application has been made for a further involuntary hospitalization under the provisions of this chapter, the patient shall not be retained in the hospital longer than ten (10) days from the date of application without a hearing and order of the appropriate court pursuant to the applicable provisions of this chapter, unless the patient agrees to remain voluntarily.

Section 33. KRS 202A.090 is amended to read as follows:

(1) The certificate referred to in this chapter shall be in the form prescribed by the department. The certificate shall state that the respondent has been examined by each of the examining physicians making

the certificate within three (3) days prior to the date of the certificate. It shall state the facts and circumstances upon which the judgment of the examining physician is based and shall be sworn to before a notary or the clerk or judge of the court.

(2) When a person has been hospitalized under the provisions of this chapter requiring a petition and certification of two (2) physicians, said certification may be accepted by the circuit court as evidence in lieu of direct testimony from the physicians, whenever the presence of the two (2) physicians at the hearing is waived by the respondent.

(3) Where possible the persons selected by the court to perform examinations as described in this chapter and KRS Chapter[~~s 203 and~~] 210 shall have made a special study of mental illness. The examiner shall be entitled to a reasonable fee for such examination and certification, to be paid by the county in which the petition is filed, upon a certified copy of an order of allowance made by the court holding the hearing.

Section 34. KRS 202A.140 is amended to read as follows:

(1) Legal residents of the state who have become public charges in other states and have been returned to Kentucky because they have been adjudged mentally ill by the state returning them may be immediately admitted to a hospital at the request of the secretary or his designated representative.

(2) Within seventy-two (72) hours (excluding weekends and holidays) of the admission date, the staff of the hospital shall determine the need of the person for further hospitalization. If two authorized staff physicians conclude that the patient is mentally ill and presents an immediate danger or an immediate threat of danger to self or others, and can reasonably benefit from treatment in a hospital, and hospitalization is the least restrictive alternative mode of treatment available, they shall file in the appropriate court a certification requesting involuntary hospitalization procedures to be initiated under the provisions of this chapter or KRS Chapter [~~203 or~~] 210, unless the patient has agreed to remain voluntarily.

Section 35. KRS 202A.170 is amended to read as follows:

(1) The chief medical officer of the hospital shall provide reasonable means and arrangements for informing voluntary and involuntary patients of their rights as provided in this chapter.

(2) Voluntary patients shall be informed of their rights to release under this chapter and arrangements shall be made for assisting voluntary patients in making and presenting requests for release.

(3) Any individual who has been involuntarily hospitalized under the provisions of this chapter or KRS Chapter [~~203 or~~] 210 shall be entitled to a writ of habeas corpus upon proper petition by himself or a friend to any court generally empowered to issue the writ of habeas corpus in the county in which he is detained.

(4) Subject to the general rules and regulations of the hospital any patient voluntarily or involuntarily hospitalized under any section of this chapter or KRS Chapter [~~203 or~~] 210 may exercise all civil rights including but not limited to the right to dispose of property, execute instruments, make purchases, enter into contractual relationships and vote unless he has been adjudicated *mentally disabled* [~~incompetent~~] and has not been restored to legal capacity. Each patient has the right to communicate by sealed mail. Each patient, notwithstanding any limitations authorized under this section on the right of communication, shall have the right to communicate by sealed mail with his attorney, the court, and the office of the secretary at the expense of the department.

Section 36. KRS 202B.020 is amended to read as follows:

Hospitalization for the care and treatment of mentally retarded persons shall be provided by the same procedures as hospitalization of mentally ill persons as provided in KRS *Chapter* [~~Chapters 203 and~~] 210 and as set forth in KRS 202A.020 to 202A.160 and 202A.190, except that:

(a) When the court appoints qualified persons to examine an allegedly mentally retarded respondent such persons shall, where possible, have made a special study of mental retardation;

(b) A qualified mental retardation professional may be substituted for one but not both physicians when certification is required for involuntary hospitalization under this chapter; and

(c) All functions of a hospital as set forth in KRS Chapter 202A may be carried out by a mental retardation residential treatment center.

Section 37. KRS 202B.050 is amended to read as follows:

All rights guaranteed by KRS Chapters 202A[~~, 203~~] and 210 to mentally ill persons shall apply to mentally retarded persons.

Section 38. KRS 210.285 is amended to read as follows:

In addition to the specific authority granted by other provisions of KRS Chapters 202A, 202B, [~~203~~] and 210, the department for human resources shall have authority to prescribe the form of applications, records, reports, and medical certificates provided for under KRS Chapters 202A, 202B[~~, 203~~] and 210 and the information required to be contained therein; to require reports from the head of any hospital relating to the admission examination, diagnosis, release or discharge of any patient; to visit hospitals regularly to review the hospitalization procedures of all new patients admitted between visits; to investigate by personal visit complaints made by any persons on behalf of any patients or by any patients themselves; and to adopt such rules and regulations not inconsistent with the provisions of KRS Chapters 202A, 202B, [~~203~~] and 210 as it may find to be reasonably necessary for proper and efficient hospitalization of the mentally ill.

Section 39. KRS 222.410 is amended to read as follows:

(1) The department for human resources shall study the problems of drug abuse and drug addiction within the state, formulate and carry out programs of education designed to curb the excessive use of drugs and reduce the number of drug abusers and drug addicts, establish such facilities and employ such personnel as are necessary and available for the diagnosis and rehabilitation of drug abusers and drug addicts, and accept for examination, diagnosis, guidance and treatment any person coming to it of his own volition for advice and guidance.

(2) The department may contract for space and facilities to be used for outpatient clinics and may contract with hospitals and private doctors for the emergency hospitalization and care of drug abusers and drug addicts. The department may enter into cooperative agreements with municipal and other agencies operating facilities for treating drug abusers or drug addicts, and it may employ such medical, phychiatric, psychological, secretarial and other assistance as may be necessary to carry out the purposes of this section.

(3) The department may accept gifts, bequests, contributions and patient fees, at its discretion, and use such funds to further the purposes of this section.

(4) The department may establish rules and regulations for the admission of patients to its facilities and may set fees for treatment. Except as otherwise provided by law, all provisions of KRS Chapters 202A, 202B, [~~203~~] and 210 relating to charges and collections for treatment of the mentally ill shall apply to fees and collection of fees for treatment of alcoholics, drug abusers or drug addicts.

Section 40. KRS 222.430 is amended to read as follows:

(1) Involuntary hospitalization of the drug dependent person, drug addict or person under the influence of drugs as defined in KRS 222.011 shall take place by the same procedures as hospitalization of the mentally ill as provided in KRS Chapters 202A and 210.

(2) All rights guaranteed by KRS Chapters 202A, 202B, [~~203~~] and 210 to mentally ill persons shall be guaranteed to the drug dependent person, drug addict and the person under the influence of drugs.

Section 41. KRS 26A.015 is amended to read as follows:

(1) For the purposes of this section the following words or phrases shall have the meaning indicated:

(a) "Proceeding" includes pretrial, trial, appellate review, or other stages of litigation;

(b) "Fiduciary" includes such relationships as executor, administrator, *conservator,* trustee, and guardian;

(c) "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

1. Ownership in a mutual or common investment fund that holds securities, or a proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, or ownership of government securities is a "financial interest" only if the outcome of the proceeding could substantially affect the value of the interest;

2. An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization.

(2) Any justice or judge of the Court of Justice or master commissioner shall disqualify himself in any proceeding:

(a) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings, or has expressed an opinion concerning the merits of the proceeding;

(b) Where in private practice or government service he served as a lawyer or rendered a legal opinion in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter in controversy, or the judge, master commissioner or such lawyer has been a material witness concerning the matter in controversy;

(c) Where he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a pecuniary or proprietary interest in the subject matter in controversy or in a party to the proceeding;

(d) Where he or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

1. Is a party to the proceeding, or an officer, director, or trustee of a party;

2. Is acting as a lawyer in the proceeding and the disqualification is not waived by stipulation of counsel in the proceeding filed therein;

3. Is known by the judge or master commissioner to have an interest that could be substantially affected by the outcome of the proceeding;

4. Is to the knowledge of the judge or master commissioner likely to be a material witness in the proceeding.

(e) Where he has knowledge of any other circumstances in which his impartiality might reasonably be questioned.

(3) (a) Any justice or judge of the Court of Justice disqualified under the provisions of this section shall be replaced by the chief justice.

(b) Any master commissioner disqualified under the provisions of this section or unable to discharge the duties of his office for any other reason shall be replaced by a special commissioner who shall be appointed by the judge of the court before whom the action is pending. The special commissioner shall meet the same qualifications as a master commissioner and shall take an oath and execute a bond as the regular commissioner is required to do.

Section 42. KRS 15.733 is amended to read as follows:

(1) For the purposes of this section the following words or phrases shall have the meaning indicated:

(a) "Proceeding" includes pretrial, trial, appellate review, or other stages of litigation;

(b) "Fiduciary" includes such relationships as executor, administrator, *conservator,* trustee, and guardian;

(c) "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

1. Ownership in a mutual or common investment fund that holds securities, or a proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, or ownership of government securities is a "financial interest" only if the outcome of the proceeding could substantially affect the value of the interest;

2. An office in an educational, religious, charitable, fraternal, or civil organization is not a "financial interest" in securities held by the organization.

(2) Any prosecuting attorney shall disqualify himself in any proceeding in which he or his spouse, or a member of his immediate family either individually or as a fiduciary:

(a) Is a party to the proceeding, or an officer, director, or trustee of a party;

(b) Is acting as a lawyer in the proceeding;

(c) Is known by the prosecuting attorney to have an interest that could be substantially affected by the outcome of the proceeding;

(d) Is to the prosecuting attorney's knowledge likely to be a material witness in the proceeding;

(e) Has served in private practice or government service, other than as a prosecuting attorney, as a lawyer or rendered a legal opinion in the matter in controversy;

(f) Has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding.

(3) Any prosecuting attorney may be disqualified by the court in which the proceeding is presently pending, upon a showing of actual prejudice.

(4) In the event that a prosecuting attorney is disqualified, he shall certify such fact in writing to the attorney general who may direct another commonwealth's attorney or county attorney or an assistant attorney general as a special prosecutor to represent the Commonwealth in that proceeding.

Section 43. KRS 40.060 is amended to read as follows:

All applications for the veterans' bonus shall be submitted to the administrator, in writing, upon forms prepared and made available by the administrator; and shall be accompanied by such documentary evidence as the administrator may by regulation prescribe. Every application shall be verified under oath, and shall contain representations of the claimant (or, if he shall have been adjudged *mentally disabled* [~~incompetent~~], or be an infant, or his [~~committee or~~] guardian *or conservator*), that:

(1) The facts therein stated are true to the best of his or her knowledge and belief;

(2) All documents submitted in support of the application are believed by the claimant to be genuine originals, or copies, as the case may be; and the claimant has no knowledge that any fact appearing therein is false, or no longer true, or that the document has been superseded or canceled;

(3) The claimant has not received a veterans' bonus or like compensation from any other state;

(4) That the claimant has neither paid nor agreed to pay, directly or indirectly, any compensation for assistance received in preparing or tendering the application; and has not solicited, received, or agreed to receive, directly or indirectly, any compensation for rendering assistance to any other claimant; and

(5) The claimant has knowledge of the penal and forfeiture provisions of this chapter.

Section 44. KRS 61.360 is amended to read as follows:

The governor or his agent may appoint special local peace officers, for such time as he deems necessary, to preserve the peace and protect the property of any person from waste or destruction, provided, however, that no such peace officer(s) shall be actively employed at any factory, mine, workshop, retail establishment, or at any other location where a strike, a slow down, a sit in, or any other type of work stoppage exists, if the employment of such peace officer(s) would result in the unreasonable expansion of the normal complement of such peace officers or the relieving of normal guards or peace officers to perform other duties. Upon the application of an owner of property for such services, and upon payment of a fee of ten dollars ($10) for each officer to be appointed, the governor may immediately appoint the person recommended by the owner, if the person is eligible. No person shall be eligible for appointment under this section unless he has established to the satisfaction of the governor that he possesses the following qualifications:

(1) No person shall serve as a special local peace officer:

(a) Unless he is a citizen of the United States, is twenty-one (21) years of age or over, and unless he is able to read and write;

(b) Unless he has resided in the county wherein he is appointed to serve for a period of at least one (1) year;

(c) Who has ever been convicted of or is under indictment for a crime involving moral turpitude, dishonesty or fraud; unauthorized divulging or selling of information or evidence; impersonation of a law enforcement officer or employe of the United States or any state or political subdivision thereof; illegally using, carrying or possessing a firearm or dangerous weapon; habitual drunkenness; using or selling or possessing narcotics; or who has been adjudged mentally *disabled* [~~incompetent~~] by a court of competent jurisdiction and such adjudication has not been set aside; or has renounced his citizenship, or being an alien, is illegally or unlawfully in the United States;

(d) Who within a period of two (2) years has hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute;

(e) Unless he has filed his photograph with the county clerk of the county in which he is to serve, together with his affidavit stating his full name, age and residence address and that he is not prohibited from serving by this section.

(2) The photograph so filed with the county clerk shall constitute a public record. The governor may remove any officer so appointed at will or at the request of the owner of the property.

(3) The duties of the officer shall be confined to the premises of the property to be protected, except while in pursuit of a person fleeing from the property after committing an act of violence or destruction of the property. In that case, the officer may pursue the person and make arrest anywhere within this state. He may wear such badges and insignia as will plainly indicate to the public that he is a special local peace officer, but he shall not, in any event, wear any uniform, or any part thereof, of any public police officer; nor shall he in any way impersonate a public police officer or represent himself to any person or persons as being a public police officer; nor shall he perform any of the duties of a public police officer, except those specifically herein granted and at the places herein specifically designated.

(4) Application fees shall be placed in the state treasury and credited to a revolving fund for administrative expenses.

(5) Every special local peace officer appointed pursuant to this section shall execute bond in the amount of five thousand dollars ($5,000).

Section 45. KRS 61.906 is amended to read as follows:

In order to qualify for a commission as a special law enforcement officer under KRS 61.900 to 61.930, an individual must present satisfactory evidence of compliance with the following conditions and requirements:

(1) No person shall be eligible for a commission who:

(a) Has been dishonorably discharged from the armed forces of the United States; or

(b) Has been convicted in any jurisdiction of any felony or of any crime involving moral turpitude for which he has not received a full pardon; or

(c) Has been convicted of any other offense or offenses more than five times within the previous three years; or

(d) Has by any court of competent jurisdiction been declared *mentally disabled* [~~incompetent~~] by reason of mental defect or disease and has not been restored; or

(e) Suffers from habitual drunkenness or from narcotics addiction or dependence, or from any physical defect or deficiency which the secretary determines to materially impair the applicant's ability to perform the duties of a special law enforcement officer.

(2) Every person to be eligible for a commission shall:

(a) Have reached his twenty-first birthday;

(b) Provide, on forms supplied by the secretary, such information pertaining to himself as may be reasonably be requested thereon, including, but not limited to: his name; age; date of birth; current address and employment; prior addresses and employment for the past ten years; aliases, if any; arrest and conviction record, if any; social security number; fingerprints; photographs; and general physical description. The accuracy of such information shall be attested by the applicant and his attestation shall be notarized by one authorized to administer oaths; and

(c) Be of good moral character; and

(d) Provide references from two reputable residents of the Commonwealth who are not related to him and who have known him well for a period of not less than three years, attesting to his good character; and

(e) Pay the fees provided in KRS 61.908; and

(f) Provide evidence satisfactory to the secretary that he meets the following requirements:

(i) Is a graduate of an accredited high school; or of an equivalent technical or vocational training or education program satisfactory to the secretary; or holds a G.E.D. certificate; provided, however, that all special local peace officers formally commissioned under KRS 61.360 and with unexpired commissions on December 31, 1976, shall be deemed to have met the requirements of this subsection; and

(ii) Has successfully completed not fewer than eighty hours of training in a program approved by the council and dealing comprehensively with the subjects of criminal law and the law of arrest, search and seizure; or has been employed as a full-time sworn public peace officer for a period of not less than one year within the past five years, and has never been discharged for cause from employment as a sworn public peace officer; or has been employed in a full-time capacity as a military policeman engaged in law enforcement for the United States armed forces for a period of not less than one year within the past five years; or has successfully completed a written, oral and practical examination approved by the council and dealing comprehensively with the subject matter of criminal law and the law of arrest, search and seizure; and

(iii) Demonstrates, in written and practical examinations approved by the council, knowledge of and proficiency in firearms safety, range firing, the moral and legal aspects of firearms use, and first aid. Provided, however, that all special local peace officers formally commissioned under KRS 61.360 and with unexpired commissions on December 31, 1976 shall be deemed to have met the requirements of these subsections.

Section 46. KRS 62.030 is amended to read as follows:

Every person, before entering on the duty of executor, administrator, guardian, curator or *conservator* [~~committee~~] of a person who is mentally *disabled* [~~retarded or mentally ill~~], or any other like trust or employment, in lieu of all other oaths not expressly required by law, shall take in substance the following oath or affirmation "I do solemnly swear (or affirm) that I will faithfully perform the duties of .... according to law."

Section 47. KRS 62.090 is amended to read as follows:

If a surety in any official bond, or bond of a personal representative, guardian, *conservator,* curator, assignee or trustee, [~~committee of a mentally ill person,~~] master commissioner, receiver, or in any bond or covenant which by law may be required to be executed in court, or before an officer at the commencement or during the progress of any civil judicial proceeding, wishes to be relieved from future liability and to obtain indemnity for liability already incurred, or either, he may file a motion in the court in which the original bond was given or in whose clerk's office the bond is required to be kept. If the bond was not given in any court or is not required to be kept in any office, the motion shall be filed in the circuit court of the county in which the principal resides, or if the principal has no residence in this state, then in the circuit court of the county of the residence of the surety. The motion may be filed in the court or the motion and notice, with return showing service, may be filed in the office of the clerk of the court.

Section 48. KRS 73.230 is amended to read as follows:

Any person desiring to have his land processioned, or desiring to take depositions as allowed by KRS 73.220, may give ten (10) days' notice to any person interested, or his agent or attorney, or, if an infant, *or person adjudged mentally disabled* [~~mentally ill or mentally retarded person~~], to his guardian or *conservator* [~~committee~~], of the time and place when and where the processioners will convene. If the party interested does not reside in the state, and has no known agent therein, notice shall be published pursuant to KRS chapter 424 and shall also be posted for the same period that publication is required on the courthouse door. The printer of the paper in which the notice is published shall make an affidavit of the fact of publication, which, with the notice, shall be filed with the processioners before they act, and returned with their proceedings. An affidavit of a disinterested person of the service of a notice on persons interested, or their agents, or the fact of such agency, shall, in like manner, be made and filed with the processioners, and returned with their report.

Section 49. KRS 91.450 is amended to read as follows:

Within a reasonable time after the tax bills for the year have been listed with the tax receiver, he shall mail a postpaid tax notice, directed to the best of his knowledge, to every person against whom a tax bill has been listed. In the case of an infant or mentally *disabled* [~~ill~~] person the notice shall be mailed to his guardian or *conservator* [~~committee~~], and in the case of an absent owner whose address is unknown to the tax receiver it shall be mailed to the agent of the owner. The tax notice shall give a brief description of the property taxed, and shall state the number and amount of the bill listed against the taxpayer, the date of its maturity, and the penalties imposed for nonpayment. The failure of the tax receiver to send the tax notice, or of the taxpayer to receive it, shall not invalidate the tax, or the interest or penalties provided for by KRS 91.430, or any subsequent proceeding for the collection of either.

Section 50. KRS 92.560 is amended to read as follows:

As soon as the tax levy ordinance in each city of the second class becomes in force, the auditor shall deliver the assessment books to the city clerk, who shall from them make out the tax bills. Each bill shall show each lot and the assessment thereon separately, the name of the supposed owner, the net total assessment of personal property against the person and the tax thereon. The tax bills shall be so arranged that the bill for each half-year may be detached and have each part intelligible. There shall be attached to each bill a stub showing in condensed form the items and amounts in the bill, and the bills and stubs shall be numbered consecutively, the number of each stub to correspond to the bill to which it is attached. The bills and stubs shall be bound in book form. On or before April 1 of each year the clerk shall deliver the assessment books and tax bills to the auditor, and together they shall ascertain whether the sum of the tax bills equals the amount of the tax which, at the rate fixed, the total assessment should realize, and if it does not, they shall find and correct the error. When the error is corrected, the auditor shall receipt for the assessment books and tax bills. The auditor shall then deliver all tax bills to the treasurer and take his receipt for the gross amount of the bills. As soon as practicable after receiving the tax bills, the treasurer shall mail to each person against whom a tax bill has been listed, or to his guardian or *conservator* [~~committee~~], a postpaid notice, directed to the best of his knowledge, stating the number and amount of the bill, the date when due and the penalties imposed for nonpayment. The failure of the treasurer to send the notice, or of the taxpayer, guardian or *conservator* [~~committee~~] to receive it, shall not invalidate the tax or the interest or penalties, or any subsequent proceeding for the collection thereof.

Section 51. KRS 92.710 is amended to read as follows:

(1) The treasurer of each city of the second class shall, within ten (10) days after selling real property for taxes, make a written report thereof to the city auditor. The report shall show the time and place of the sale, the name of each delinquent, the years for which the sale was made, the number of each tax bill, the amount of taxes, interest, penalties and costs on each tax bill for each year, the name of the purchaser, the amount paid, and a brief description, by lot and block numbers as shown by the city maps or some other method sufficiently accurate to identify each parcel, of the property sold. The report shall be recorded in the auditor's office in an appropriate book provided for that purpose, with an alphabetical index of the names of delinquents whose property has been sold, and with appropriate columns and spaces opposite each name in which shall be entered a record of the sale and redemption of the property or of its conveyance to the purchaser in case it is not redeemed. The original report of the treasurer shall likewise be preserved. Upon the purchase of any real property by any person other than the city and the payment of the purchase price, the treasurer shall give the purchaser a certificate of purchase, which shall be in substance a copy of the treasurer's report as to the property bought. A duplicate of each such certificate shall be recorded in a book kept for that purpose as a public record in the auditor's office. In cases where the property is bought by the city, it shall not be necessary for the treasurer to issue a certificate of purchase, but the treasurer's report shall be deemed his certificate of any such purchase by the city.

(2) The collector of each city of the third class, after selling any real property for taxes, shall return upon the same paper upon which his levy is written a description of the property sold, the time and place of sale, a statement that he first advertised the sale according to law, the name of the purchaser and the amount paid by him for the property sold. The collector shall deliver the levy and return to the office of the city clerk, who shall record or bind it in a book kept for that purpose, and the original return of the collector shall also be filed and preserved in the office of the city clerk. The collector shall make all sales, returns and settlements before the end of the fiscal year. The collector shall give to the purchaser of any real property sold by him for taxes, except when the city is the purchaser, a certificate of purchase, containing a description of the land purchased, the time of sale, the quantity sold, the price, the amount of taxes sold for, and the year or years for which the taxes were owed. The certificate will be sufficiently descriptive if the property can be conveniently found from an inspection of the map of the city or, if the property is not properly described in the map, if the description is otherwise sufficient to enable the purchaser to find the property. All certificates of purchase shall be recorded or bound in a book kept for that purpose by the city clerk, as a public record. The collector's return of any sale of real property to the mayor for the use of the city shall be deemed his certificate of such purchase by the city.

(3) The collector or treasurer of each city of the fourth class, within twenty (20) days after selling any real property for taxes, shall report in writing to the county clerk of the county in which the city is located. The report shall show when the sale was made, the steps taken by the collector or treasurer prior to and at the sale, the name of the purchaser, the price, and a full description of the property. The county clerk shall record and index the report in the book in which he records the sheriff's report of tax sales. Such reports, when recorded, shall operate as conveyances to the purchasers, whether the city or private persons, and shall vest in the purchasers the title of the persons whose property was sold at the sale, except that of persons under legal disability, and shall be constructive notice as to the claim existing in favor of the purchaser against the real property of persons under no legal disability. The county clerk shall have a fee of fifty cents (50¢) for each entry so made.

(4) The collector or treasurer of each city of the fourth class shall, within thirty (30) days after each sale of real property, issue to the purchaser a certificate of purchase, describing the property sold and stating the time of sale and the price. If the collector or treasurer fails to make the report of sale to the county clerk provided for in subsection (3) of this section, any purchaser may file with the county clerk the collector's or treasurer's certificate of purchase. The clerk shall then record and index the certificate of purchase in the book mentioned in subsection (3) of this section, and it shall have the same effect as the collector's or treasurer's report would have had if returned.

(5) Any purchaser, other than the city, of real property sold for taxes of a city of the fourth class shall forfeit his right to the purchase unless, within six (6) months after the collector or treasurer delivers to him the certificate of purchase, the purchaser gives written notice of his purchase as follows:

(a) To the statutory guardian, parent or person in charge of an infant, in the order named, if the property belonged to an infant.

(b) To the *guardian or conservator* [~~committee~~] or the person in charge of *a mentally disabled* [~~an incompetent~~] person *or his estate*, in the order named, if the property belonged to *a mentally disabled* [~~an incompetent~~] person.

Section 52. KRS 92.730 is amended to read as follows:

(1) When real property has been sold for taxes of a city of the third class and purchased by the mayor for the benefit of the city, the owner of the property, or his heirs, representatives or assigns, may redeem the property at any time within two (2) years from the day of sale, by paying to the city the amount bid at the sale, with eight per cent (8%) per annum interest thereon from the day of sale.

(2) When real property has been sold for taxes of a city of the third class and purchased by someone other than the city, the owner of the property, or his heirs or personal representatives, may redeem the property at any time within one (1) year from day of sale, by paying or tendering to the purchaser or his representatives the full amount for which the property was sold, with twenty per cent (20%) per annum interest thereon from the day of sale. If the purchaser refuses to accept payment, or is a nonresident of the city, the owner may deposit the amount and interest with the city treasurer and take his receipt therefor, and shall at once file the receipt with the city clerk, which shall operate as a redemption of the property.

(3) If the owner of the property is a minor, or *a mentally disabled* [~~an incompetent~~] person, and the property is not redeemed within two (2) years from the day of sale, by the owner or by someone for him, the purchaser, other than the city, may bring suit in equity in the circuit court of the county to have a sufficient amount of the property sold to pay the sum bid at the collector's sale, with interest at ten per cent (10%) per annum and costs of suit, and to pay any other taxes appearing to be due on the property at the time judgment is rendered. The plaintiff shall, before any judgment is rendered, give good security to the defendant, to be approved by the court, that he will pay all taxes for which the property is adjudged to be sold, and shall, before any deed to the property sold under the judgment is made, produce to the court and file in the action proper and legal receipts for such taxes. No such suit against a person under disability shall be brought after five (5) years from the day of the collector's sale.

Section 53. KRS 92.740 is amended to read as follows:

(1) When real property has been sold for taxes of a city of the fourth class, an owner not under disability, or his representatives, heirs or assigns, may redeem the property from the city or any other purchaser at any time within two (2) years from the day of sale, by paying the purchase money with interest at the rate of ten per cent (10%) per annum, the costs and a penalty of fifteen per cent (15%) upon the total amount of the purchase price. Any person under disability at the date of sale, except *a person adjudged mentally disabled* [~~an incompetent person~~], shall have one (1) year after the removal of the disability, and any *mentally disabled* [~~incompetent~~] person shall have five (5) years from the receipt of the notice provided for in subsection (5) of KRS 92.710, in which to redeem his property on the same terms as other owners.

(2) If the property is redeemed from the city, the city clerk shall collect the amount of the tax, penalty and costs from the delinquent taxpayer, and give him a receipt therefor.

(3) When a redemption is made, the purchaser shall mark the word "redeemed" on the margin of the record book provided for in subsection (3) of KRS 92.710, in a space left for that purpose, with the date and his signature. The county clerk shall have a fee of twenty-five cents (25¢) for each redemption.

Section 54. KRS 99.200 is amended to read as follows:

Notwithstanding any requirement of law to the contrary or the absence of direct provision therefor in the instrument under which a fiduciary is acting, every executor, administrator, trustee, guardian, *conservator* or any other person holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, the state, its subdivisions, cities, all other public bodies, all public officers, corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations, trust companies, banking corporations), the commissioner of banking and securities as conservator, liquidator or rehabilitator of any such person, partnership or corporation, persons, partnerships and corporations organized under or subject to the provisions of the insurance law, the commissioner of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation, any of which owns or holds any real property within a development area, may grant, sell, lease or otherwise transfer any such real property to a redevelopment corporation, and receive and hold any cash, stocks, notes, mortgages, or other securities or obligations, which they are allowed by law to acquire, exchanged therefor by such redevelopment corporation, and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the redevelopment corporation in connection with the development and the development plan.

Section 55. KRS 99.270 is amended to read as follows:

Certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are secured by a first mortgage on the real property in a development area, or any part thereof, shall be securities in which all the following persons, partnerships or corporations and public bodies or public officers may legally invest the funds within their control, provided that the principal amount secured by such mortgage shall not exceed the limits, if any, imposed by law for such investments by the person, partnership, corporation, public body or public officer making the same: Every executor, administrator, trustee, guardian, *conservator* [~~committee~~] or other person or corporation holding trust funds or acting in a fiduciary capacity; the state, its subdivisions, cities, all other public bodies, all public officers; persons, partnerships and corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations, trust companies, banking corporations); the commissioner of banking and securities as conservator, liquidator or rehabilitator of any such person, partnership or corporation; persons, partnerships or corporations organized under or subject to the provisions of the insurance law; fraternal benefit societies; and the commissioner of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation.

Section 56. KRS 117.075 is amended to read as follows:

(1) Any qualified voter who has not been declared *mentally disabled* [~~incompetent~~] by a court of competent jurisdiction, and who, on account of age, infirmity or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election, he shall present to the clerk by mail his verified statement that his inability to appear is due to age, infirmity, or illness, and a verified statement of a physician corroborating the voter's statement and indicating whether or not the condition is temporary, applying to the instant election only, or is expected to be a continuing one. If the condition is indicated as being continuing the voter need not file further statements of disability. For ensuing elections the voter may make reference to the statement previously filed when applying for a special ballot. The county clerk shall maintain a file of all such statements. Upon receipt of the verified statement, the clerk shall immediately mail to the voter a special ballot, and envelopes, and the voter shall cast his vote in the same manner as provided for the absent voter in KRS 117.335.

(2) Special ballots cast by disabled persons shall be tabulated in the same manner as are special ballots cast by absent voters.

Section 57. KRS 132.043 is amended to read as follows:

(1) To the extent that any right or interest, vested or otherwise, in a plan established by or for an individual or individuals for retirement purposes and meeting the requirements for exemption under the federal income tax laws may be held to be subject to assessment and taxation, the basis of the assessment shall be the fair cash value of such vested right or interest.

(2) The owner or person enjoying such right or interest, on January 1 of each year, shall pay a tax to the state of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of the fair cash value. No other tax shall be assessed by the state or by any county, city, school district, or other taxing district on any such right or interest or against the holder of any such right or interest.

(3) The administrator, executor, trustee, *conservator, guardian,* [~~committee,~~] curator, or agent of any plan established for retirement purposes, as defined in subsection (1) of this section may list and pay the applicable tax for all of the participants in the plan subject to taxation by virtue of their respective vested rights or interests in such pension plan, and the owner or person enjoying such right or interest shall be deemed to have paid such tax.

Section 58. KRS 132.190 is amended to read as follows:

(1) The property subject to taxation, unless exempted by the constitution, shall be as follows:

(a) All real and personal property within this state, including intangible personal property of nonresidents and corporations not organized under the laws of this state that has acquired a business situs within this state, except that twenty-five (25) domestic fowls to each family shall be exempt from taxation for any purpose.

(b) All intangible personal property of individuals residing in this state and of corporations organized under the laws of this state unless it has acquired a business situs without this state.

(2) The property enumerated in paragraph (b) of subsection (1) of this section shall be considered and estimated in fixing the valuation of corporate franchises.

(3) Property shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale.

(4) The situs of intangible personal property for purposes of taxation shall be at the residence of the real or beneficial owner, and not at the residence of the fiduciary or agent having custody or possession. Any intangible property owned by a resident shall be taxable in this state, unless by the date of assessment he has changed his place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state. The fact that a person again abides within this state within six (6) months from so changing his actual place of abode shall be prima facie evidence that he did not intend permanently to have his actual place of abode without this state. A person so changing his actual place of

abode and not intending permanently to continue it without this state and not having listed his property for taxation as a resident of this state shall, for the purpose of having his property assessed for taxation within this state, be deemed to have resided, on the day when his property should have been so assessed, at his last actual or habitual place of abode within this state. The fact that a person does not claim or exercise the right to vote at public elections within this state shall not of itself constitute him a nonresident of this state.

(5) An administrator, executor, trustee, *guardian, conservator* [~~committee~~], curator, or agent residing in this state shall not be liable for taxes on intangible personal property held by him if the real or beneficial owner of the property resides outside of this state. This exemption shall not apply in the case of an executor or administrator in the exercise of his office as personal representative while the estate of a deceased person is in process of settlement and before the share of the nonresident legatee or beneficiary is set apart to him, or before the legatee or beneficiary is entitled to be paid his share.

(6) Nothing contained in this section shall affect the liability for franchise taxes payable by corporations organized under the laws of this state; nor the method of taxation of banks and trust companies provided in KRS 136.270; nor the method of taxation of savings and loan associations provided in KRS 136.300; and nothing contained in this section shall alter or repeal KRS 136.030.

Section 59. KRS 132.510 is amended to read as follows:

Every executor, administrator, guardian, *conservator,* trustee, trustee in bankruptcy, receiver or other person acting in a fiduciary capacity shall, when required, file with the department of revenue a sworn inventory showing in detail the amount and character of personal property in his hands, unless the inventory has been filed as a public record in the court in which the fiduciary qualifies. The department may examine the books and accounts of any person acting in a fiduciary capacity. No fiduciary shall receive a final discharge until he has satisfied the court settling his accounts that all taxes against the estate have been paid.

Section 60. KRS 132.810 is amended to read as follows:

(1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the department of revenue. The assessed value of property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax paid by the taxpayer is the same as if the increase had not been made.

(2) (a) Every person filing an application for exemption under the homestead exemption provision must be sixty-five (65) years of age or older during the year for which application is made.

(b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.

(c) Only one (1) exemption per residential unit shall be allowed regardless of the number of residents sixty-five (65) years of age or older occupying said unit, but the $6,500 exemption shall be construed to mean $6,500 in terms of the purchasing power of the dollar in 1972. Every two (2) years thereafter, if the cost of living index of the United States department of labor has changed as much as one (1) per cent, the maximum exemption shall be adjusted accordingly.

(d) The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

(e) A mobile home may qualify as a residential unit for purposes of the homestead exemption provision provided the mobile home is classified as real property as defined in KRS 132.750.

(f) When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, *guardian, conservator* [~~committee~~], curator or agent shall report such transfer to the property valuation administrator.

(3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead exemption provision for state, county, city or special district purposes.

(4) The provisions of this section shall become effective with the 1976 taxable year and persons eligible for a homestead exemption under this section shall file applications:

(a) Any time during the 1976 taxable year.

(b) By March 1 in any year after the 1976 taxable year.

Section 61. KRS 140.080 is amended to read as follows:

(1) The following exemptions chargeable against the lowest bracket or brackets of inheritable interests shall be free from any tax under the preceding provisions of this chapter:

(a) Surviving spouse, $50,000;

(b) 1. Infant child by blood or adoption, $20,000;

2. Child by blood who has been declared *mentally disabled* [~~incompetent~~] by a court of competent jurisdiction, $20,000; or a

3. Child adopted during infancy who has been declared *mentally disabled* [~~incompetent~~] by a court of competent jurisdiction, $20,000;

(c) 1. Parent, $5,000;

2. Child by blood, $5,000;

3. Stepchild, $5,000;

4. Child adopted during infancy, $5,000; or a

5. Grandchild who is the issue of a child by blood, or of a stepchild or of a child adopted during infancy, $5,000;

(d) All persons of Class B, under KRS 140.070, $1,000; and

(e) All persons of Class C, under KRS 140.070, $500.

(2) If the decedent was not a resident of this state, the exemption shall be the same proportion of the allowable exemption in the case of residents that the property taxable by this state bears to the whole property transferred by the decedent.

Section 62. KRS 141.300 is amended to read as follows:

(1) Every individual shall, at the time prescribed in subsection (3), make a declaration of his estimated tax for the taxable year if his gross income from sources other than wages upon which Kentucky income tax will be withheld can reasonably be expected to exceed two thousand dollars ($2,000) for the taxable year and his gross income or adjusted gross income can reasonably be expected to be an amount not less than the amount for which a return is required under KRS 141.180.

(2) In the declaration required under subsection (1) the individual shall state:

(a) The amount which he estimates as the amount of tax under KRS 141.020 for the taxable year;

(b) The amount which he estimates as the credits for the taxable year under KRS 141.310 and 141.315;

(c) The excess of the amount estimated under paragraph (a) over the amount estimated under paragraph (b), which excess for purposes of this chapter shall be considered the estimated tax for the taxable year;

(d) Such other information as may be prescribed in regulations promulgated by the department;

(e) Notwithstanding the above provisions, no declaration is required if the estimated tax can reasonably be expected to be less than forty dollars ($40).

(3) The declaration required under subsection (1) shall be filed with the department on or before April 15 of the taxable year, except that if the requirements of subsection (1) are first met:

(a) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year; or

(b) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year; or

(c) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(4) An individual may make amendments of a declaration filed during the taxable year under subsection (3), under regulations prescribed by the department.

(5) If on or before January 31 of the succeeding taxable year the taxpayer files a return for the taxable year for which the declaration is required and pays in full the amount computed on the return as payable then, under regulations prescribed by the department:

(a) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before such January 15, such return shall, for the purposes of this section, be considered as such declaration; and

(b) If the tax shown on the return, reduced by the credits under KRS 141.350, is greater than the estimated tax shown in a declaration previously made or, in the last amendment thereof, such return shall, for the purposes of this section, be considered as the amendment of the declaration permitted by subsection (4) to be filed on or before such January 15.

(6) The department shall promulgate regulations governing reasonable extensions of time for filing declarations and paying the estimated tax. Except in the case of taxpayers who are abroad, no such extension shall be for more than six (6) months.

(7) If the taxpayer is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian, *conservator* or other person charged with the care of the person or property of such taxpayer.

(8) For the purposes of KRS 131.190, a declaration of estimated tax shall be held and considered a return of income under this chapter.

Section 63. KRS 184.170 is amended to read as follows:

If any property against which an assessment has been levied is owned by an infant, by a person *adjudged mentally disabled* [~~of unsound mind~~] or a life tenant, the agreement herein provided for may be executed by the statutory guardian of such infant or the *guardian, conservator* [~~committee~~] or curator of such *mentally disabled* [~~insane~~] person, with the same effect as if executed by a person free from disability, or by the life tenant, whose agreement shall be binding upon the owner of the fee.

Section 64. KRS 190.047 is amended to read as follows:

(1) Unless a franchise specifically states to the contrary, no franchise or any interest therein may be sold, transferred, or assigned without the approval of the manufacturer or distributor.

(2) A dealer desiring to sell, transfer or assign all or any portion of his franchise shall submit a written proposal of such sale, transfer or assignment to the manufacturer or distributor, and approval of such proposal shall not be arbitrarily or unreasonably withheld.

(3) The refusal of the manufacturer or the distributor to approve a proposed sale, transfer or assignment shall be subject to review by the bureau, provided a written application for review is filed with the bureau, with notice to the manufacturer or distributor, within thirty days of the date of such refusal and such refusal shall not be final until the bureau, after a hearing has been held in accordance with the provisions of KRS 190.057, has determined that the approval was not arbitrarily or unreasonably withheld. The bureau shall make such determination within ninety days after the application for review has been filed with the bureau.

(4) The burden of proof shall be on the dealer to show that the approval of the sale, transfer or assignment of any interest in the franchise was arbitrarily or unreasonably withheld. Factors to be considered in determining whether the manufacturer or distributor acted arbitrarily or unreasonably shall include whether the basic financial and facility requirements of the franchise will be met by the proposed transfer, sale or assignment and that the proposed purchaser, transferee or assignee is capable of operating, managing and supervising the operation of the business in question.

(5) Failure of the manufacturer or distributor to abide by the final order of the department or to continue the franchise in effect pending the final determination of the issue by the bureau shall be cause for the bureau to refuse to issue a subsequent license in the same county or franchise area to an applicant who will be selling the same motor vehicles as the former dealer for the same manufacturer or distributor.

(6) Notwithstanding the provisions of KRS 190.010(2)(a), the provisions of this section shall apply to the personal representative, executor or administrator of the estate of an individual who had an interest in a franchise, or to the *guardian or conservator* [~~committee~~] of an individual who has been declared *mentally disabled* [~~incompetent~~] and who has such an interest for one year following appointment.

Section 65. KRS 199.500 is amended to read as follows:

(1) No adoption shall be granted without the sworn consent of the living parent or parents of a legitimate child or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that such consent of the living parent or parents shall not be required if:

(a) Such parent or parents have been adjudged *mentally disabled* [~~incompetent~~] and such judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;

(b) The parental rights of such parents have been terminated under KRS 199.601 to 199.617; or

(c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS 199.603 and consent has been given by the parent having custody and control of the child.

(2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for such parent shall be appointed.

(3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court, provided that the court in its discretion may waive this requirement.

(4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the natural living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of subsections (1) or (4) of KRS 199.603 exist with respect to such child.

(5) In no case shall an adoption be granted or a consent for adoption be held valid if such consent for adoption is given prior to the fifth day after the birth of the child.

Section 66. KRS 209.110 is amended to read as follows:

(1) A petition by the department for emergency protective services shall be verified by an authorized representative of the department and shall set forth the name, age, and address of the adult in need of protective services; the nature of the disability of the adult, if determinable; the proposed protective services the petitioner's reasonable belief, together with the facts supportive thereof, as to the existence of the facts, and the facts showing the petitioner's attempts to obtain the adult's consent to the services and the outcomes of such attempts. The petition and all subsequent court documents shall be entitled: "In the interest of________________an adult in need of protective services." The petition shall be filed in the court of the

adult's residence, or if filed pursuant to KRS 209.120, the court of the county in which the adult is physically located.

(2) When a petition for emergency protective services is filed, the court or the clerk shall immediately appoint a guardian ad litem to represent the interest of the adult. The duties of a guardian ad litem representing an adult for whom a petition for emergency protective services has been filed shall include personally interviewing the adult, counseling with the adult with respect to this chapter, his rights and providing competent representation at all proceedings, and such other duties as the court may order.

(3) Following the filing of a petition, a summons shall be issued and served with a copy of the petition, and notice of the time, date and location of the hearing to be held on the petition. Service shall be made upon the adult and his *guardian* [~~committee~~] or, if none, his caretaker. Should the adult have no *guardian* [~~committee~~] or caretaker, service shall be made upon the adult's guardian ad litem. Notice of the hearing shall be given to the adult's spouse, or, if none, to his adult children or next of kin, unless the court is satisfied that notification would be impractical. Service of the petition shall be made at least three (3) calendar days prior to the hearing for emergency protective services.

(4) The hearing on the petition for an emergency order for protective services shall be heard under the following conditions:

(a) The hearing on the petition, in the interests of expedition, may be held in any county within the judicial district or circuit served by the court. The court shall give priority to the holdings of the hearings pursuant to petitions filed under this chapter;

(b) The adult or his representative may present evidence and cross-examine witnesses; and

(c) The adult or his representative may petition the court to have any order which is entered pursuant to this chapter, set aside or modified for good cause.

(5) Where protective services are rendered on the basis of an order pursuant to this section, the department shall submit a report to the court describing the circumstances including the name, place, date, and nature of the services. Such report shall be made at least once or on a monthly basis if protective services are provided the adult for a period of longer than one (1) month.

(6) The fee of the guardian ad litem shall be paid by the department not to exceed three hundred dollars ($300). This fee is not to be paid to attorneys employed by government funded legal services programs.

Section 67. KRS 209.120 is amended to read as follows:

(1) Upon petition by the department a court may issue an order authorizing the provision of emergency protective services to an adult after a hearing and upon a finding based on a preponderance of the evidence that:

(a) The adult is in a state of abuse or neglect and is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;

(b) The adult is in need of protective services;

(c) The adult lacks the capacity to consent to such services; and

(d) No person authorized by law or court order to give consent for the adult is available to consent to protective services or such person refuses to give consent.

(2) In issuing an emergency order the court shall adhere to the following limitations:

(a) Only such protective services, including medical and surgical care and protective placement, as are necessary to remove the conditions creating the emergency shall be covered, and the court shall specifically designate the approved services in its order. Such designation of approved services shall be deemed to be the consent of the court authorizing the provision of such services.

(b) Protective services authorized by the court shall not include hospitalization or protective placement unless the court specifically finds such action is necessary and gives specific approval for such action in its order.

(c) The issuance of an emergency order shall not deprive the adult of any rights except to the extent validly provided for in the order.

(d) To implement an order, the court may authorize forcible entry of the premises of the adult for the purpose of rendering protective services or transporting the adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the department.

(3) If the court finds, pursuant to a hearing, that the adult is in need of protective services, and should that adult have a *guardian* [~~committee~~] who has been derelict in providing for the welfare of the adult, the court shall have the discretion to remove the *guardian* [~~committee~~] and appoint another *guardian* [~~committee~~], if an individual is available, willing, and able to function as *guardian* [~~committee~~]; such removal and appointment shall be in compliance with the provisions of KRS Chapter 387. It is not necessary for the court to find a *guardian* [~~committee~~] has been derelict as a requirement for the issuance of an order for protective services.

(4) If the court finds that protective services are no longer needed by the adult, the court shall order the emergency protective services to terminate.

Section 68. KRS 209.130 is amended to read as follows:

(1) When from an affidavit or sworn testimony of an authorized representative of the department, it appears probable that an adult will suffer immediate and irreparable physical injury or death if protective services are not immediately provided, and it appears that the adult is incapable of giving consent, the court may assume jurisdiction and issue an ex parte order providing that certain specific protective services be provided the adult. The court shall not authorize such protective services except those specifically designed to remove the adult from conditions of immediate and irreparable physical injury or death. A copy of the order shall be served upon the adult and his *guardian* [~~committee~~], or if none, his caretaker.

(2) To implement an ex parte order, the court may authorize forcible entry of the premises of the adult for the purpose of rendering protective services or transporting the adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the department.

(3) Upon the issuance of an ex parte order, the department must file a petition as soon as possible. A hearing must be held within seventy-two (72) hours, exclusive of Saturdays and Sundays, from the issuance of an ex parte order.

Section 69. KRS 210.270 is amended to read as follows:

(1) The secretary for human resources is authorized to designate such private homes, private nursing homes and private institutions as he shall deem, after a thorough investigation of the personal and financial qualifications of the owners and tenants, the facilities and management, and the desirability of the location of such homes, to be suitable for the placement of patients, including the mentally ill and mentally handicapped and retarded of all ages, outside of the state mental hospitals. The secretary for human resources is authorized to prescribe, from time to time by regulation, standards for the selection and operation of private homes, private nursing homes and private institutions designated for the placement of patients. No home of an officer or employe of the department for human resources or of a member of his immediate family shall be designated for the placement of patients.

(2) Whenever the staff of a state mental hospital has determined that a patient who is not being held on an order arising out of a criminal offense has sufficiently improved and is not dangerous to himself or other persons, and that it would be in the patient's best interest to be placed outside of the hospital in a private home or private nursing home, the hospital shall so certify to the secretary for human resources, who may then authorize the patient to be transferred to a designated private home or private nursing home for care and custody for such length of time as the secretary deems advisable.

(3) No mentally retarded patient lodged in a state institution may have his level of care reclassified nor may he be transferred to a private nursing home or other private institution without first providing ten (10) days notice by certified mail return receipt requested to the patient's parents or guardian [~~or committee~~] that a reclassification of the patient's level of care or a transfer in the place of residence is being considered.

(4) Any parent or guardian [~~or committee~~] of any mentally retarded patient lodged in a state institution may participate in any evaluation procedure which may result in a reclassification of such patient's level of care or in a transfer in the place of residence of such patient. Such participation may include the submission by the parents or guardian [~~or committee~~] of medical evidence or any other evidence deemed relevant by the parents or guardian [~~or committee~~] to the possible reclassification or transfer of such patient.

(5) If the decision to reclassify or transfer any mentally retarded patient is adverse to the best interests of such patient as expressed by the parents or guardian [~~or committee~~], they shall be given notice by certified mail return receipt requested that they are entitled to a thirty (30) day period from the receipt of such notice to file with the secretary for human resources a notice of appeal and application for a hearing.

(6) The appeal shall be heard by a three (3) member panel composed of a designated representative of the department for human resources, a designated representative of the state institution where the mentally retarded patient is presently lodged, and a designated neutral representative appointed by the county judge/executive wherein the institution in question is located.

(7) Decisions made by the panel may be appealed, within thirty (30) days from the date of decision, to the circuit court of the county wherein the state institution in question is located, to the circuit court of the county wherein either of the parents or guardians or committee of the patient in question is domiciled at the time of the decision, or to Franklin Circuit Court.

(8) All parents or guardians or committee of a mentally retarded patient lodged in a state institution shall be fully apprised by the department for human resources of their rights and duties under the provisions of subsections (3), (4), (5), (6), and (7) of this section.

(9) The provisions of KRS 210.700 to 210.760 shall apply to patients transferred to designated private homes and private nursing homes as though such patients were residing in a state mental hospital.

Section 70. KRS 210.290 is amended to read as follows:

(1) The department for human resources may be appointed and act as executor, administrator, guardian, *limited guardian, conservator or limited conservator* [~~committee, or special committee~~] as provided in this section. In this capacity the department may transact business in the same manner as any individual

and for this purpose may sue and be sued in any of the courts of the state. Bond shall not be required of the department.

(2) *Whenever a resident of the state is adjudged partially disabled or disabled and no other suitable person or entity is available and willing to act as limited guardian,guardian, limited conservator, or conservator, the department, acting through its designated officer, may apply to the district court of the county in which the adjudication is made for appointment as limited guardian, guardian, limited conservator, or conservator for such partially disabled or disabled person* [~~Whenever a person who has been adjudged incompetent and committed to the department for placement in a state mental hospital or institution for the mentally defective, or any non-institutionalized person who has been adjudged incompetent, has no committee, the department, acting through its designated officer, may apply to the district court of the county in which the adjudication was made for its appointment as committee for such incompetent person~~].

(3) Upon the death of a person for whom the department has been appointed *guardian or conservator* [~~committee~~], or upon the death of a person who has been committed to the department leaving an estate and having no relatives at the time residing within the state, the department may apply for appointment as administrator and upon appointment shall close the administration of the estate.

(4) The department may invest funds held as fiduciary in bonds or other securities guaranteed by the United States, and may sell or exchange such securities in its discretion.

(5) The department shall receive such fees for its fiduciary services as provided by law. These fees shall be placed in a trust and agency account, from which may be drawn expenses for filing fees, court costs and other expenses incurred in the administration of estates. Claims of the department against the estates shall be considered in the same manner as any other claim.

(6) An officer designated by the secretary may act as legal counsel for any patient in a state mental hospital or institution against whom a suit of any nature has been filed, without being appointed as *guardian, limited guardian, conservator or limited conservator* [~~committee~~].

(7) Patients hospitalized pursuant to KRS Chapters 202A and 202B who are not adjudged *disabled or partially disabled* [~~mentally incompetent~~] may authorize the department for human resources to handle personal funds received by them at the hospital in the same manner as prescribed in subsections (4) and (5) of this section.

Section 71. KRS 210.405 is amended to read as follows:

(1) Any regional community mental health-mental retardation board established pursuant to KRS 210.380 and recognized by the secretary for human resources may be appointed and act as executor, administrator, guardian, *limited guardian, conservator or limited conservator* [~~or committee~~], as provided in this section. In this capacity, the board may transact business in the same manner as any individual and for this purpose may sue and be sued in any of the courts of the state. Bond shall not be required of the board.

(2) Whenever a person who has been adjudged *mentally disabled* [~~incompetent~~] and requires mental health services has no *guardian or conservator* [~~committee~~], the board, acting through its designated officer, may apply to the district court of the county in which the adjudication was made for its appointment as *guardian or conservator* [~~committee~~] for such *mentally disabled* [~~incompetent~~] person. The board may also apply to be substituted as *guardian or conservator* [~~committee~~] for *a mentally disabled person* [~~an incompetent~~] whose *guardian or conservator* [~~committee~~] is the department for human resources and who has been discharged or whose discharge is imminent from a department for human resources facility.

(3) Upon the death of a person for whom the board has been appointed *guardian or conservator* [~~committee~~] leaving an estate and having no relatives at the time residing within the state, the board may apply for appointment as administrator and upon appointment shall close the administration of the estate.

(4) The board may invest funds held as fiduciary in bonds or other securities guaranteed by the United States, and may sell or exchange such securities in its discretion.

(5) The board shall receive such fees for its fiduciary services as provided by law. These fees shall be placed in a trust and agency account, from which may be drawn expenses for filing fees, court costs and other expenses incurred in the administration of estates. Claims of the board against the estates shall be considered in the same manner as any other claim.

Section 72. KRS 211.900 is amended to read as follows:

As used in KRS 211.900 to 211.905 and 211.994, unless the context otherwise requires:

(1) "Department" shall mean the department for human resources;

(2) "Secretary" shall mean the secretary for human resources or his authorized representative;

(3) "Lead based substance" shall mean any substance containing more than 0.06% lead by weight of nonvolatile content as provided in KRS 217.801;

(4) "Dwelling" shall mean any structure, all or a part of which is designed for human habitation;

(5) "Dwelling unit" shall mean any room or group of rooms or other interior areas of a dwelling designed or used for human habitation;

(6) "Owner" shall mean any person who, alone, jointly, or severally with others, has legal title to, charge, care, or control of any dwelling or dwelling unit as owner, agent of the owner, or as executor, administrator, trustee, *conservator* or guardian of the estate of the owner;

(7) "At risk persons" shall mean those persons who reside in dwellings or dwelling units which were constructed and originally painted prior to 1945 or other dwellings in geographic areas in which a high content of lead in paint was used and a high incidence of lead poisoning may be reasonably expected or has been reported; and

(8) "Outreach programs" shall mean those efforts to locate, screen, and diagnose for elevated lead blood levels, those at risk persons who are not utilizing existing screening and diagnostic programs or those programs which may be established after June 21, 1974.

Section 73. KRS 212.345 is amended to read as follows:

Before any person in the commonwealth may have a nontherapeutic sterilization performed upon himself, he shall give written informed consent to the performance of the sterilization. To be valid such consent document shall be endorsed by the following persons in the following instances:

(1) By the consenting individual in all cases; *or*

(2) By the adult parent or guardian of the consenting individual if such be a minor child and unmarried[~~;~~

~~(3) By the committee of the consenting individual if such be an incompetent person~~].

Section 74. KRS 216.515 is amended to read as follows:

Every resident in a long-term care facility shall have at least the following rights:

(1) Before admission to a long-term care facility, the resident and his responsible family member or his guardian [~~or his committee~~] shall be fully informed in writing as evidenced by the resident's written acknowledgment and that of his responsible family member or his guardian [~~or his committee~~] of all services available at the long-term care facility. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(2) Before admission to a long-term care facility, the resident and his responsible family member or his guardian [~~or his committee~~] shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of his responsible family member or his guardian [~~or his committee~~] of all resident's responsibilities and rights as defined in KRS 216.515 to 216.530. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(3) The resident and his responsible family member or his guardian [~~or his committee~~] shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of his responsible family member, or his guardian [~~or his committee~~] prior to or at the time of admission and quarterly during the resident's stay at the facility of all service charges for which the resident and his responsible family member or his guardian [~~or his committee~~] are responsible for paying. The resident and his responsible family member or his guardian [~~or his committee~~] shall have the right to file complaints concerning charges which they deem unjustified to appropriate local and state consumer protection agencies. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for nonpayment, except where prohibited by law or regulation. Reasonable notice of such action shall be given to the resident and his responsible family member or his guardian [~~or his committee~~].

(5) All residents shall be encouraged and assisted throughout their periods of stay in long-term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination or reprisal.

(6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies or except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in the resident's medical record.

(7) All residents shall have confidential treatment of their medical and personal records. Each resident and his responsible family member or his guardian [~~or his committee~~] shall approve or refuse the release of such records to any individuals outside the facility, except as otherwise specified by statute or regulation.

(8) Each resident may manage the use of his personal funds. If the facility accepts the responsibility for managing the resident's personal funds as evidenced by the facility's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include each facility giving quarterly itemized statements to the resident and his responsible family member or his guardian [~~or his committee~~] which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The facility shall return to the resident his valuables, personal possessions and any unused balance of monies from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged the resident's valuables, personal possessions and funds that the facility is not liable for shall be promptly returned to the resident's responsible family member, or his guardian, [~~or his committee,~~] or his executor.

(9) If a resident is married, privacy shall be assured for spouse's visits and if they are both residents in the facility, they may share the same room unless they are in different levels of care or unless medically contraindicated and documented by a physician in the resident's medical record.

(10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.

(11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened.

(12) Residents may retain the use of their personal clothing unless it would infringe upon the rights of others.

(13) No responsible resident shall be detained against his will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless a legitimate reason can be shown and documented for refusing such activity.

(14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(15) Residents shall be assured of at least visual privacy in multi-bed rooms and in tub, shower, and toilet rooms.

(16) The resident and his responsible family member or his guardian [~~or his committee~~] shall be permitted the choice of a physician.

(17) If the resident is adjudicated *mentally disabled* [~~incompetent~~] in accordance with state law, the resident's guardian [~~or committee~~] shall act on the resident's behalf in order that his rights be implemented.

(18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.

(19) Every resident and his responsible family member or his guardian [~~or his committee~~] has the right to be fully informed of the resident's medical condition unless medically contraindicated and documented by a physician in the resident's medical record.

(20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.

(21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.

(22) The resident's responsible family member or his guardian [~~or his committee~~] shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.

(23) Residents have the right to have private meetings with the appropriate long-term care facility inspectors from the department for human resources.

(24) Each resident and his responsible family member or his guardian [~~or his committee~~] has the right to have access to all inspection reports on the facility.

(25) The above-stated rights shall apply in all cases unless medically contraindicated and documented by a physician in writing in the resident's medical record.

Section 75. KRS 216.520 is amended to read as follows:

For the purpose of supplementing the rights of residents in long-term care facilities, such facilities shall take the following actions:

(1) Every long-term care facility shall conspicuously post throughout the facility a listing of the resident's rights and responsibilities as defined in KRS 216.515 to 216.525.

(2) Every long-term care facility shall develop and implement a mechanism which will allow each resident and his responsible family member or his guardian [~~or his committee~~] to participate in the planning of the resident's care. Each resident shall be encouraged and provided assistance in the planning of his care.

(3) All long-term care facilities shall establish written procedures for the submission and resolution of complaints and recommendations by the resident and his responsible family member or his guardian [~~or his committee~~]. Such policies shall be conspicuously displayed throughout the facility pending approval of their adequacy by the department.

(4) Every long-term care facility shall prepare a written plan and provide appropriate staff training to implement each of the resident's rights as defined in KRS 216.515 to 216.525.

(5) All long-term care facilities shall maintain in their facilities one copy of the most recent inspection report as prepared by the department for human resources. The department shall provide all long-term care facilities with one copy of the most recent inspection report.

Section 76. KRS 216.525 is amended to read as follows:

For the purpose of supplementing, monitoring and enforcing the rights of residents in long-term care facilities, the department shall take the following actions:

(1) The department shall design and distribute posters to all long-term care facilities which clearly detail how the resident and his responsible family member or his guardian [~~or his committee~~] or a visitor may make a written or oral complaint, anonymously if they so choose, to the department in regard to the quality of care given by a particular facility. These posters shall be conspicuously displayed throughout each long-term care facility.

(2) The department shall take appropriate and necessary actions to insure that all of the rights of residents in long-term care facilities as defined by KRS 216.515 to 216.525 are upheld.

Section 77. KRS 243.640 is amended to read as follows:

(1) If a corporation or partnership that holds a license under KRS 243.020 to 243.670 is dissolved, or if a receiver, assignee for the benefit of creditors or a *guardian or conservator* [~~committee~~] for the property of a licensee under those sections is appointed during the time for which a license was granted, or if a licensee under those sections dies during the time for which the license was issued and a personal representative is appointed for his estate, that corporation, partnership, receiver or assignee, or the deceased or individual adjudged to be *mentally disabled* [~~incompetent~~], may be permitted to continue the business upon the licensed premises for the balance of the term for which the license was effective, with the same rights and subject to the same restrictions and liabilities as if he had been the original licensee.

(2) Before continuing the business the receiver, assignee, personal representative or committee shall file a statement setting forth in such form as the board prescribes the facts and circumstances by which he has succeeded to the rights of the original licensee. The state administrator of the unit that issued the original license may, in the exercise of his sound discretion, permit or refuse to permit the continuance of the business.

(3) If the administrator permits the continuance of the business the license shall be submitted to him, and he shall write or stamp across the face of the license the words: ".... is permitted to exercise the rights and privileges of the original licensee as (assignee, receiver, personal representative or committee, as the case may be) of the original licensee for the unexpired term of this license." The indorsement on the face of the license shall be dated and signed by the person making it.

(4) The applicant shall pay a fee of five dollars ($5.00) for the indorsement.

Section 78. KRS 262.010 is amended to read as follows:

(1) "Board" means the board of supervisors of a conservation district;

(2) "Commission" means the Conservation Commission;

(3) "District" means a Conservation District whenever used in KRS 262.010 through 262.660 or a Watershed Conservancy District whenever used in KRS 262.700 through 262.795;

(4) "Due notice" means notice published in accordance with the legal notice provisions of KRS Chapter 424.

(5) "Land occupier" or "occupier of land" includes any person other than the land owner who is in possession of any lands lying within the district, whether as lessee or otherwise;

(6) "Land owner" or "owner of land" includes any person who holds legal or equitable title to the land within the district determined as follows:

(a) By his, her, or their names appearing on the recorded deed to the land;

(b) By title derived through a probated will or by the laws of descent and distribution under KRS Chapter 391;

(c) Where a minor or *person adjudged mentally disabled* [~~legally incompetent person~~] is the owner of land within the district, the guardian *or conservator* or whoever has the power of attorney shall have the right to vote for such land owner under the provisions of KRS Chapter 262;

(d) Where the will has not been probated by the date of the referendum or election as provided in KRS Chapter 262, the executor of the deceased land owner shall have the right to vote for the devisee or devisees;

(e) Where the land within the districts is held in trust, the trustee shall have the right to vote for the land owner under the provisions of KRS Chapter 262;

(f) A land owner shall be entitled to but one vote whenever he is given the right to vote under KRS Chapter 262 regardless of the number of tracts or parcels of land which he owns either wholly or in part, within the district;

(g) Where a trustee, executor, guardian, *conservator* or other person with authority to vote for a land owner exercises such duty in relation to two or more estates or tracts of land, within a district, such person shall have the right to vote separately for each such land owner which he represents within the district;

(h) In the case of a dispute as to whether or not a person has the right to vote in an election or referendum under the provisions of KRS Chapter 262, the person seeking such right must provide to the satisfaction of the polling superintendent that he has the right to vote under this section.

(7) "Supervisor" means one of the members of the governing body of a Conservation District.

Section 79. KRS 266.040 is amended to read as follows:

The commissioners shall:

(1) Proceed at the time set in the order, with a surveyor who is a civil engineer, to view out and make an accurate survey of the line of the proposed levee from its starting point to its terminus, marking and platting its route by courses and distances, and ascertain the amount of land required to erect the levee at the various points along its line, not exceeding one thousand (1,000) feet in width at any point.

(2) Ascertain the names and residences of the owners and tenants of the land, and those who are infants, or [~~incompetent~~] persons *adjudged mentally disabled.*

(3) Assess a just compensation to each owner and tenant for the land required and sought to be appropriated for the establishment of the levee, and the damages to the residue of the tracts beyond the consequential benefits which will be derived to such residue from the levee. If a person has only an estate for

life or years in the land and the remainder in fee belongs to another, the commissioners shall apportion the damages between them.

(4) Make a signed written report to the court, setting forth the information obtained under subsections (1), (2) and (3) of this section, with a map or diagram of the proposed route of the levee, and stating whether or not the proposed levee will be conducive to the public health, convenience or welfare, or whether it will be of public benefit or utility. If the commissioners find that the proposed levee is not of public benefit or utility, their report need only state that finding.

Section 80. KRS 268.070 is amended to read as follows:

(1) The viewers shall examine the property in the territory described in the petition, and any other property that may be affected by the establishment of the district or that may be necessary to locate any of the work that in their judgment may become necessary. They may make any survey necessary to determine the boundaries and elevations of parts of the district, and the course of all drains and levees therein.

(2) They shall file with the clerk of the court in which the proceedings are pending, within thirty (30) days from the date of their qualification unless the time is extended by order of the court, a written report and two (2) copies thereof, covering the following matters:

(a) Whether the proposed improvement will result in public benefit or utility, or whether the public health, convenience or welfare will be promoted.

(b) Whether the proposed improvement will benefit the cities or property sought to be benefited.

(c) Whether all of the property that will be benefited is included in the proposed district, as described in the petition.

(3) If the viewers find that any of the property described in the petition will not be benefited, they shall specifically describe that property, giving the name of the owner if known, so that the court may know definitely what property will not be benefited. If the viewers find any property not included in the petition that will be benefited or affected by the proposed improvement they shall so report, giving the name of the owner, and the description of the property. If any city will, in their opinion, be affected they shall so state in their report.

(4) Their report shall describe with accuracy the property which shall, in their opinion, be embraced in the proposed district by giving a boundary description thereof by metes and bounds, courses and distances. This report shall be accompanied by a map, showing in the same way the property proposed by them to be embraced in the district. They shall also state the names of all persons and cities owning property in the proposed district, giving the post office address of each person if known, if not, the last known post office address, or if this fact cannot be ascertained they shall so state. They shall also state the approximate quantity of property each owns.

(5) They shall state in their report whether the owner of any property that will be affected by the establishment of the district is an infant or whether he is under any other disability except coverture, and if an infant, whether he is under or over the age of fourteen (14) years. They shall also state the name of the guardian, curator or *conservator* [~~committee~~] of each such person, the place where both the person and his guardian, curator or *conservator* [~~committee~~] resides, and whether either of his parents are living, and who has custody.

(6) They shall recommend in their report whether or not the proposed district should be established. The report shall be signed and sworn to by at least two (2) of the viewers. Each of the three (3) copies of the report shall be received and kept by the clerk of the court in which the proceeding is pending. This report may be amended by viewers any time before final hearing.

Section 81. KRS 271A.165 is amended to read as follows:

(1) Each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except as may be otherwise provided in the articles of incorporation. If the articles of incorporation provide for more or less than one vote for any share, on any matter, every reference in this chapter to a majority or other proportion of shares shall refer to such a majority or other proportion of votes entitled to be cast.

(2) Neither treasury shares, nor shares held by another corporation if a majority of the shares entitled to vote for the election of directors of such other corporation is held by the corporation, shall be voted at any meeting or counted in determining the total number of outstanding shares at any given time.

(3) A shareholder may vote either in person or by proxy executed in writing by the shareholder or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy, but in no event shall a proxy, unless coupled with an interest, be voted on after three years from the date of its execution. The revocation of a proxy shall not be effective until the secretary of the corporation has received written notice of the revocation.

(4) At each election for directors each shareholder entitled to vote at such election shall have the right to cast, in person or by proxy, as many votes in the aggregate as he shall be entitled to vote under the corporation's articles of incorporation, multiplied by the number of directors to be elected at such election; and each shareholder may cast the whole number of votes for one candidate, or distribute such votes among two or more candidates. Such directors shall not be elected in any other manner.

(5) Shares standing in the name of another corporation, domestic or foreign, may be voted by either the president of such corporation or by proxy appointed by him unless some other person produces a certified copy of a resolution of the board of directors of such other corporation authorizing such other person to vote such shares.

(6) Shares held by an administrator, executor, guardian, *or* conservator [~~or committee~~] may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name.

(7) Where shares are held jointly by three or more fiduciaries acting under an instrument becoming effective after June 30, 1946, the will of the majority of such fiduciaries shall control the manner of voting or the giving of a proxy unless the instrument or order appointing the fiduciaries otherwise directs. Where, in any case, fiduciaries are equally divided upon the manner of voting shares jointly held by them, any court of competent jurisdiction may, upon petition filed by any of the fiduciaries, or by any beneficiary, appoint an additional person to act with the fiduciaries in determining the manner in which the shares shall be voted upon the particular questions as to which the fiduciaries are divided.

(8) Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

(9) A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

(10) On and after the date on which written notice of redemption of redeemable shares has been mailed to the holders thereof and a sum sufficient to redeem such shares has been deposited with a bank or trust company with irrevocable instruction and authority to pay the redemption price to the holders thereof upon surrender of certificates therefor, such shares shall not be entitled to vote on any matter and shall not be deemed to be outstanding shares.

Section 82. KRS 287.210 is amended to read as follows:

Any trust company organized under the laws of this state may:

(1) Be appointed and act as guardian of infants, executors, administrator or curator of estates of decedents, *guardian or conservators* [~~committee~~] of persons *adjudged mentally disabled* [~~of unsound mind~~], receiver or trustee for persons or estates;

(2) Act as agent for the transaction of any business or the management of estates, the collection of rents, accounts, interest, dividends, notes, bonds, securities for money and debts, and demands of every character;

(3) Receive on deposit and for safekeeping, gold, silver, jewelry, money and other personal property of every kind, and shall have a lien upon all personal property deposited with it for its charge.

Section 83. KRS 287.212 is amended to read as follows:

(1) Notwithstanding any other provision of law, any bank or trust company, when acting as a fiduciary or when holding securities as custodian for a fiduciary, is authorized to deposit, or arrange for the deposit, with the federal reserve bank in its district of any securities, the principal and interest of which the United States or any department, agency or instrumentality thereof has agreed to pay, or has guaranteed payment, to be credited to one or more accounts on the books of said federal reserve bank in the name of such bank or trust company, to be designated fiduciary or safekeeping accounts, to which account other similar securities may be credited. A bank or trust company so depositing securities with a federal reserve bank shall be subject to such rules and regulations with respect to the making and maintenance of such deposit as, in the case of a bank or trust company organized under the laws of this state, the commissioner of banking and securities, and, in the case of the national banking associations, the comptroller of the currency, may from time to time issue. The records of such bank or trust company shall at all times show the ownership of the securities held in such account. Ownership of, and other interests in, the securities credited to such account may be transferred by entries on the books of said federal reserve bank without physical delivery of any securities. A bank or trust company acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such bank or trust company with such federal reserve bank for the account of such fiduciary. A fiduciary shall, on demand by any party, to its accounting or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary with such federal reserve bank for its account as such fiduciary.

(2) This section shall apply to any fiduciary, and any custodian for fiduciaries, acting on June 21, 1974, or who thereafter may act regardless of the date of the agreement, instrument or court order by which it is appointed.

(3) As used in this section, "fiduciary" includes an executor, administrator, trustee under any trust, express, implied, resulting or constructive, guardian, conservator, [~~committee,~~] receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer or any other person acting in a fiduciary capacity for any person, trust or estate.

Section 84. KRS 287.225 is amended to read as follows:

(1) Any bank or trust company when acting as executor, administrator, guardian, *conservator* [~~committee~~], agent, or trustee, whether alone or jointly with an individual or individuals, may with the consent of the individual fiduciary or fiduciaries, if any (who are hereby authorized to give such consent), cause any stock or other securities held in any such capacity to be registered and held in the name of a nominee or nominees of such bank or trust company, or in its own name.

(2) Any such bank or trust company shall be absolutely liable for any loss occasioned by the acts of any nominees of such bank or trust company with respect to such stock or other securities so registered. But no liability for any loss occasioned by the acts of any such bank or trust company, or the nominee of either of them with respect to such stock or securities so registered, shall be imposed upon the corporation, its transfer agent or registrar, which registers its stock or other securities in the name of such bank or trust company, or the nominee of either of them, in accordance with the provisions of this section.

(3) The records of such bank or trust company shall at all times show the ownership of any such stock or other securities. Such stock or other securities shall at all times be kept separate and apart from the assets of such bank or trust company.

Section 85. KRS 292.330 is amended to read as follows:

(1) It is unlawful for any person to transact business in this state as a broker-dealer or agent, unless he is registered under this chapter. It is unlawful for any broker-dealer or issuer to employ an agent unless the agent is registered. It is unlawful for any person to transact business in this state as an investment adviser unless:

(a) he is so registered under this chapter, or

(b) he is registered as a broker-dealer under this chapter, or

(c) his only clients in this state are investment companies as defined in the Investment Company Act of 1940 or insurance companies.

(2) A broker-dealer, agent, or investment adviser may apply for registration by filing with the director an application together with a consent to service of process pursuant to KRS 292.430 and payment of the fee prescribed in subsection (10). Registration of a broker-dealer automatically constitutes registration of any agent who is a partner, officer or director or a person occupying a similar status or performing similar functions (except any partner, officer or director or other such person whose registration as an agent is denied, suspended or revoked under subsection (12)) without the filing of applications for registration as agents or the payment of fees for registration as agents. The application shall contain whatever information the director requires concerning such matters as:

(a) The applicant's form and place of organization;

(b) The applicant's proposed method of doing business;

(c) The qualifications and business history of the applicant and in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser; and in the case of an investment adviser, the qualifications and business history of an employe;

(d) Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; and

(e) The applicant's financial condition and history.

(3) If no denial order is in effect and no proceeding is pending under subsection (12), registration becomes effective at noon of the thirtieth day after an application is filed. The director may specify an earlier effective date and he may by order defer the effective date until noon of the thirtieth day after the filing of any amendment.

(4) The director may require as a condition of registration that the applicant (and, in the case of a corporation or partnership, the officers, directors or partners) pass a written examination as evidence of knowledge of the securities business.

(5) The director may by rule require the existence and maintenance of a minimum liquid net capital for registered broker-dealers and investment advisers and a minimum ratio between net capital and aggregate indebtedness, or both.

(6) The director may by rule require registered broker-dealers, agents and investment advisers to post surety bonds in an amount up to $25,000, and may determine their conditions, except under this subsection that no such bond may be required of any registrant whose net capital exceeds $100,000. An appropriate deposit of cash or securities shall be accepted in lieu of any required surety bond. Every surety bond shall provide for suit thereon by any person who has a cause of action under KRS 292.480, and every such bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within two (2) years after the sale or other act upon which it is based.

(7) The director may by rule require registered broker-dealers to carry fidelity bonds, covering its agents, general partners, and officers, in such form, covering such risks, and in such amounts (not exceeding $250,000) as he deems necessary for the protection of the public; and he may by rule require registered broker-dealers to furnish satisfactory evidence that they have such bonds.

(8) Every registration of a broker-dealer, agent or investment adviser shall be effective until March 1 of the following year and may be renewed as hereinafter provided. The registration of an agent is not effective during any period when he is not associated with an issuer or a registered broker-dealer specified in his application or a notice filed with the director. When an agent begins or terminates a connection with an issuer or registered broker-dealer, the agent and the issuer or broker-dealer shall promptly notify the director.

(9) Registration of a broker-dealer, agent or investment adviser may be renewed by filing with the director prior to the expiration thereof an application containing such information as the director may require to indicate any material change in the information contained in the original application or any renewal application for registration as a broker-dealer, agent or investment adviser filed with the director by the applicant, payment of the prescribed fee and, in the case of a broker-dealer, a financial statement showing the financial condition of such broker-dealer as of a date within ninety (90) days. A registered broker-dealer or investment adviser may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the year without payment of any fee.

(10) The fee for initial or renewal registration shall be one hundred dollars ($100) for a broker-dealer, fifty dollars ($50.00) for an investment adviser, fifteen dollars ($15.00) for an agent, and five dollars ($5.00) for transfer of an agent, none of which fees shall be refundable.

(11) (a) Every registered broker-dealer and investment adviser shall make and keep all accounts, correspondence, memoranda, papers, books, and other records which the director by rule prescribes. All records required shall be preserved for three (3) years unless the director by rule prescribes otherwise for particular types of records. All required records shall be kept within this state or shall, at the request of the director, be made available at any time for examination by him either in the principal office of the registrant or by production of exact copies thereof in this state.

(b) Every registered broker-dealer and investment adviser shall file such reports as the director by rule prescribes.

(c) If the information contained in any document filed with the director is or becomes inaccurate or incomplete in any material respect, the broker-dealer shall promptly file a correcting amendment.

(d) The director may make periodic examinations, within or without this state, of each broker-dealer and investment adviser at such times and in such scope as he determines. These examinations may be made without prior notice to the broker-dealer or investment adviser. The expense reasonably attributable to any such examination shall be paid by the broker-dealer or investment adviser whose business is examined but the expense so payable shall not exceed an amount which the director by rule prescribes. For the purpose of avoiding unnecessary duplication of examinations, the director, insofar as he deems it practicable in administering this subsection, may cooperate with securities administrators of other states, the securities and exchange commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934.

(e) The director may by rule prohibit unreasonable charges, profits, commissions or other compensation of broker-dealers and investment advisers.

(f) The director may prescribe rules for the conduct of business by broker-dealers and investment advisers which he finds appropriate in the public interest and for the protection of investors.

(12) (a) The director may by order deny, suspend or revoke registration of any broker-dealer, agent or investment adviser if he finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer, or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

1. Has filed an application for registration under this section which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

2. Has wilfully violated or wilfully failed to comply with any provision of this chapter or a predecessor law or any rule or order under this chapter or a predecessor law;

3. Has been convicted, within the past ten (10) years, of any misdemeanor involving a security or any aspect of the securities business, or any felony;

4. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

5. Is the subject of an order of the director denying, suspending, or revoking registration as a broker-dealer, agent, or investment adviser;

6. Is the subject of an order entered within the past five (5) years by the securities administrator of any other state or by the securities and exchange commission denying or revoking registration as a broker-dealer or agent, or the substantial equivalent of those terms as defined in this chapter, or is the subject of an order of the securities and exchange commission suspending or expelling him from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or is the

subject of a United States post-office fraud order; but a. the director may not institute a revocation or suspension proceeding under this paragraph more than one (1) year from the date of the order relied on, and b. he may not enter any order under this paragraph on the basis of an order unless that order was based on facts which would currently constitute a ground for an order under this section;

7. Has engaged in dishonest or unethical practices in the securities business;

8. Is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature; but the director may not enter an order against a broker-dealer or investment adviser under this paragraph without a finding of insolvency as to the broker-dealer or investment adviser; or

9. Is not qualified on the basis of such factors as training, experience, or knowledge of the securities business, except as provided in paragraph (b) below; or the director may by order, deny, suspend or revoke any registration if he finds that the order is in the public interest and that the applicant or registrant:

a. Has failed reasonably to supervise his agents if he is a broker-dealer or his employes if he is an investment adviser; or

b. Has failed to pay the proper filing fee; but the director may enter only a denial order under this clause, and he shall vacate any such order when the deficiency has been corrected. The director may not institute a suspension or revocation proceeding on the basis of a fact or transaction known to him when registration became effective unless the proceeding is instituted within the next thirty (30) days.

(b) The following provisions govern the application of subparagraph 9 of paragraph (a) of this subsection:

1. The director may not enter an order against a broker-dealer on the basis of the lack of qualification of any person other than the broker-dealer himself if he is an individual or an agent of the broker-dealer;

2. The director may not enter an order against an investment adviser on the basis of the lack of qualification of any person other than the investment adviser himself if he is an individual or any other person who represents the investment adviser in doing any of the acts which make him an investment adviser;

3. The director may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both;

4. The director shall consider that an agent who will work under the supervision of a registered broker-dealer need not have the same qualifications as a broker-dealer;

5. The director shall consider that an investment adviser is not necessarily qualified solely on the basis of experience as a broker-dealer or agent. When he finds that an applicant for initial or renewal registration as a broker-dealer is not qualified as an investment adviser, he may by order condition the applicant's registration as a broker-dealer upon his not transacting business in this state as an investment adviser;

6. The director may by rule provide for an examination, which may be written or oral or both, to be taken by any class of or all applicants, as well as persons who represent or will represent an investment adviser in doing any of the acts which make him an investment adviser.

(c) The director may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. Upon the entry of the order, the director shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent, that it has been entered and of the reasons therefor and that within fifteen (15) days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.

(d) If the director finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, agent, or investment adviser, or is subject to an adjudication of mental *disability* [~~incompetence~~] or to the control of a [~~committee~~] conservator[~~,~~] or guardian, or cannot be located after reasonable search, the director may by order cancel the registration or application.

(e) Withdrawal from registration as a broker-dealer, agent, or investment adviser becomes effective thirty (30) days after receipt of an application to withdraw or within such shorter period of time as the director may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within thirty (30) days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the director by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the director may nevertheless institute a revocation or suspension proceeding under subparagraph 2. of paragraph (a) of this subsection within one (1) year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

(f) No order may be entered under any part of this section except the first sentence of paragraph (c) of this subsection without appropriate prior notice to the applicant or registrant (as well as the employer or prospective employer if the applicant or registrant is an agent), opportunity for hearing, and written findings of fact and conclusions of law.

Section 86. KRS 304.18-090 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, all benefits under any blanket health policy or contract shall be payable to the person insured, or to his designated beneficiary or beneficiaries, or to his estate, except that if the person insured is a minor or otherwise not competent to give a valid release, such benefits may be made payable to his parent, guardian, *conservator* or other person actually supporting him.

(2) The policy may provide that all or a portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services may, at the option of the insurer and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the obligation of the insurer with respect to the amount of insurance so paid.

Section 87. KRS 322.050 is amended to read as follows:

No person shall be eligible for a license unless he is of good character and reputation, nor shall any person be eligible if he has been convicted of any felony involving moral turpitude or is adjudged by a court of competent jurisdiction mentally *disabled* [~~incompetent~~].

Section 88. KRS 327.070 is amended to read as follows:

The board, after due notice and hearing may refuse to license any applicant, and may refuse to renew the license of any licensed person, and may suspend or revoke the license of any licensed person:

(1) Who indulges in excessive use of alcoholic beverages or who is addicted to the use of narcotic drugs;

(2) Who has been convicted of violating any state or federal narcotic law;

(3) Who is, in the judgment of the board, guilty of immoral or unprofessional conduct;

(4) Who has been convicted of a felony or any crime involving moral turpitude;

(5) Who has obtained or attempted to obtain a license by fraud or material misrepresentation or who has made any other false statement to the board.

(6) Who is guilty, in the judgment of the board, of gross negligence in his practice of physical therapy;

(7) Who has been declared mentally *disabled* [~~incompetent~~] by a court of competent jurisdiction and has not thereafter *had his rights restored* [~~been declared lawfully sane~~];

(8) Who has treated or undertaken to treat human ailments otherwise than by physical therapy as defined in this chapter, or who has undertaken to practice independent of the prescription, direction or supervision of a licensed medical doctor or dentist.

(9) Who has failed or refused to obey any lawful order or regulation of the board.

Section 89. KRS 353.270 is amended to read as follows:

A *guardian or conservator* [~~committee~~] of a *mentally disabled* person [~~of unsound mind~~] may enter into a consolidation agreement, as defined in KRS 353.280, subject to approval by the circuit judge as provided in KRS 353.290. The detailed provisions of such agreement may be such as the court approves, consistently with the provisions of KRS 353.280.

Section 90. KRS 353.290 is amended to read as follows:

(1) Upon the execution of such a consolidation agreement, the *guardian or conservator* [~~committee~~] shall file with the clerk of the circuit court in the county in which the land covered by the lease to be consolidated hereunder, or the greater portion thereof, lies, a petition for an order approving such consolidation agreement setting forth a copy of the consolidation agreement and a statement of facts constituting the grounds relied upon to secure the approval of such agreement, and shall submit with the petition the affidavits of not less than three (3) disinterested owners of real estate in the county wherein the proceedings hereunder are brought, as to whether such agreement will be advantageous or beneficial to the *mentally disabled* person or persons [~~of unsound mind~~] for whom such *guardian or conservator* [~~committee~~] is acting, which affidavits shall be filed and preserved as records of the circuit court.

(2) No agreement permitted by KRS 353.270 to 353.290 shall be valid or effective until the judge of said court appoints a guardian ad litem to represent the *mentally disabled* person or persons [~~of unsound mind~~] whose interests are sought to be consolidated hereunder. The guardian ad litem shall file an answer and the affidavits of at least three (3) witnesses, proving the advantages or disadvantages of such agreement, and shall make such recommendation to the judge relating to the agreement as he believes to be most beneficial to the persons on whose behalf he is acting. He shall receive for his services a reasonable compensation, to be allowed by the judge and taxed as costs.

(3) The judge shall proceed in a summary manner to approve or disapprove the consolidation agreement, and if he approves it he shall indorse his approval thereon. The order of the judge approving such agreement shall be entered on the civil order book of the circuit clerk's office of the county in which the proceedings hereunder are brought.

Section 91. KRS 342.160 is amended to read as follows:

(1) The benefits in case of death shall be paid to such one or more dependents of the deceased employe for the benefit of all the dependents entitled thereto, as are determined by the board. The dependents to whom

payments are made shall apply the same to the use of the persons entitled thereto under this chapter, according to their respective claims on the deceased for support. The compensation of *a mentally disabled* [~~an insane~~] person shall be paid to his *guardian or conservator* [~~committee~~].

(2) If the dependents are a widow, widower or other head of a family of minor children and one or more minor children, it shall be sufficient for the widow, widower or head of the family to make application for compensation on behalf of all. Where the dependents are mentally incapacitated or are minors the head of whose family is not a dependent, the application may be made by the [~~committee,~~] guardian, *conservator* or next friend of such dependents.

Section 92. KRS 353.330 is amended to read as follows:

All of the persons in being who have any present or contingent interest in the lands or estate or interest sought to be leased shall be made parties to the proceedings authorized in KRS 353.300 to 353.380, with any infant or infants being represented either by next friend or statutory guardian or guardian ad litem, or in the case of constructive service of summons by a warning order attorney appointed as in other cases. Any person *adjudged mentally disabled* [~~of unsound mind~~] shall be represented by his *guardian or conservator* [~~committee~~] or by guardian ad litem, or, in the case of constructive service of summons as in civil actions generally, by a warning order attorney appointed as in other cases. If the court specifically finds that the welfare or interest of any person or persons not in being requires special representation, the court may appoint a trustee ad litem to represent such unknown parties not in being or each separate class thereof, and such trustee ad litem shall file such pleadings or answer and take such steps as he deems proper, and such unknown persons will be fully bound by the proceedings hereunder. Otherwise, and in the absence of such finding by the court, it shall not be necessary to make parties any persons not in being, either as "unknown defendants" or otherwise, but the persons in being who are parties shall stand for and represent the full title and whole interest in said lands or estate or interest therein, and all parties not in being who might have some contingent or future interest therein, and all persons, whether in being or not in being, having any interest, present, future or contingent, in the property sought to be leased, will be fully bound by the proceedings hereunder. It shall be permissible, however, to make defendants any unknown persons who might have any interest in the land sought to be leased, under the style of "unknown defendants."

Section 93. KRS 353.370 is amended to read as follows:

If a trustee's lease is granted hereunder, even though one (1) of the parties who has an interest or possible interest in the property covered by such lease is a minor or a person *adjudged mentally disabled* [~~of unsound mind~~], no separate guardian's lease or *conservator's* [~~committee's~~] lease shall be necessary.

Section 94. KRS 362.305 is amended to read as follows:

(1) On application by or for a partner the court shall decree a dissolution whenever:

(a) A partner has been adjudged *mentally disabled* [~~incompetent~~] by a court of competent jurisdiction in any judicial proceeding or is shown to be of unsound mind,

(b) A partner becomes in any other way incapable of performing his part of the partnership contract,

(c) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business,

(d) A partner wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him,

(e) The business of the partnership can only be carried on at a loss,

(f) Other circumstances render a dissolution equitable.

(2) On the application of the purchaser of a partner's interest under KRS 362.280 or 362.285:

(a) After the termination of the specified term or particular undertaking,

(b) At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.

Section 95. KRS 379.010 is amended to read as follows:

(1) Every voluntary assignment made by a debtor to any person in trust for his creditors shall be for the benefit of all his creditors, except as provided in subsections (2) and (3) of this section, in proportion to their respective claims after the payment of the expenses of the trust.

(2) Any property conveyed by the deed of assignment upon which there is a valid lien shall be first applied to the discharge of the lien debt, and if the property is not sufficient to satisfy the lien debt, the lien creditor may present the unsatisfied remainder as a claim against the estate and receive thereon his pro rata share of the assets in the same manner as general creditors.

(3) Debts due by the assignor as guardian, *conservator* [~~committee~~], trustee of an express trust created by deed or will or as personal representative shall be paid in full before the general creditors receive anything.

Section 96. KRS 381.135 is amended to read as follows:

(1) A person desiring a division of land held jointly with others, or an allotment of dower or curtesy, may file in the circuit court of the county in which the land or the greater part thereof lies a petition containing a description of the land, a statement of the names of those having an interest in it, and the amount

of such interest, with a prayer for the division or allotment; and, thereupon, all persons interested in the property who have not united in the petition shall be summoned to answer not more than twenty (20) days after service of the summons. The written evidences of the title to the land, or copies thereof, if there be any, must be filed with the petition.

(2) The statutory guardian of an infant, or *guardian or conservator* [~~committee~~] of *a* [~~an incompetent~~] person *adjudged mentally disabled* may file or unite in the petition, in the names of, and in conjunction with such infant, or *mentally disabled* [~~incompetent~~] person; and, if the petition be against an infant, or *mentally disabled* [~~incompetent~~] person the guardian, or *conservator* [~~committee~~] may appear and defend for them; if they fail to do so, the court shall appoint a discreet person for that purpose.

(3) Upon such a petition by all interested in the property, or upon the expiration of twenty (20) days after the service of a summons on all who have an interest in the property and have not united in the petition, the court may order the division, or allotment of dower or curtesy, according to the rights of the parties.

(4) The court shall appoint three competent persons to make the partition, or allotment of dower or curtesy, or both, having a due regard to the rights of all parties interested. Before proceeding to act, the commissioners shall take an oath to discharge their duty impartially.

(5) The order of appointment shall fix a time and place for the meeting of the commissioners who shall meet accordingly; but, if prevented from meeting at the time and place so fixed, they may meet as soon thereafter as convenient, and may adjourn to such other time and place as they may agree upon, until their duty shall be performed.

(6) They shall survey and allot to the parties their respective interests in the land, and make report thereof to the court, which may either confirm, set aside or remand the report to the commissioners for correction.

(7) If the report be confirmed, a commissioner to be appointed for the purpose shall, by deed, convey to each party the land allotted to him.

(8) If the report be confirmed by the circuit court, it and the deed shall be certified by the clerk of that court to the county clerk, for record.

(9) Two of the commissioners may act, if one refuse or fail to do so.

(10) A party summoned may, by answer, controvert the allegations of the petition or contest the rights claimed therein; and, thereupon, the case shall be tried and decided as an ordinary action, but without the intervention of a jury.

(11) The costs of the action shall be apportioned among the parties in the ratio of their interests, except that the costs arising from a contest of fact or law shall be adjudged against the unsuccessful party.

(12) No verification of the pleadings shall be required.

(13) The commissioners shall be paid a reasonable compensation, to be taxed as costs.

(14) This section does not affect the jurisdiction of courts of equity to make partition or allot dower or curtesy.

Section 97. KRS 384.060 is amended to read as follows:

The court shall have full discretionary authority to appoint any suitable person as such conservator and may require such conservator to post an adequate surety bond and to make such reports as the court may deem necessary. The conservator shall have the same powers and authority as the guardian of the property of an infant or the *guardian or conservator* [~~committee~~] of *a mentally disabled person* [~~an incompetent~~], and shall be considered as an officer or arm of the court.

Section 98. KRS 385.011 is amended to read as follows:

In KRS 385.011 to 385.101, unless the context otherwise requires:

(1) An "adult" is a person who has attained the age of eighteen (18) years.

(2) A "bank" includes every corporation authorized by law to do a banking business.

(3) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(4) "Court" means the chancery division of the circuit court.

(5) The "custodial property" includes:

(a) All securities, life insurance policies, annuity contracts and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in KRS 385.011 to 385.101;

(b) The income from the custodial property; and

(c) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender or other disposition of such securities, money, life insurance policies, annuity contracts and income.

(6) A "custodian" is a person so designated in a manner prescribed in KRS 385.011 to 385.101; the term includes a successor custodian.

(7) A "financial institution" means a bank, trust company or savings and loan association authorized by law to do business in this state.

(8) A "guardian" of a minor means the general guardian, guardian, tutor or curator of his property or estate appointed or qualified by a court of this state or another state.

(9) An "issuer" is a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(10) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, [~~committee,~~] conservator, tutor or curator of his property or estate.

(11) A "life insurance policy or annuity contract" means a life insurance policy or annuity contract, issued by an insurance company authorized to do business in this state on the life of a minor to whom a gift of the policy or contract is made in the manner prescribed in KRS 385.011 to 385.101 or on the life of a member of the minor's family.

(12) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(13) A "minor" is a person who has not attained the age of eighteen (18) years.

(14) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(15) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(16) A "trust company" is a bank, or corporation authorized to exercise trust powers.

Section 99. KRS 386.010 is amended to read as follows:

As used in KRS 386.010 to 386.180, unless the context requires otherwise:

(1) "Fiduciary" means any trustee, guardian, executor, administrator, *conservator* [~~committee~~] or other individual or corporation holding funds or otherwise acting in a fiduciary capacity.

(2) "Principal" means any person to whom a fiduciary, as such, owes an obligation.

Section 100. KRS 386.165 is amended to read as follows:

(1) Notwithstanding any other provision of law, any fiduciary holding securities in its fiduciary capacity, any bank or trust company holding securities as a custodian or managing agent, any bank or trust company holding securities as custodian for a fiduciary, is authorized to deposit or arrange for the deposit of such securities in a clearing corporation as defined in KRS 355.8-102. When such securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other such securities deposited in such clearing corporation by any person regardless of the ownership of such securities, and certificates of small denomination may be merged into one of more certificates of larger denomination. The records of such fiduciary and the records of such bank or trust company acting as custodian, as managing agent or as custodian for a fiduciary shall at all times show the name of the party for whose account the securities are so deposited. Title to such securities may be transferred by bookkeeping entry on the books of such clearing corporation without physical delivery or certificates representing such securities. A bank or trust company depositing securities pursuant to this section shall be subject to such rules and regulations with respect to the making and maintenance of such deposit as, in the case of a bank or trust company organized under the laws of this state, the commissioner of banking and securities and, in the case of national banking associations, the comptroller of the currency may from time to time issue. A bank or trust company acting as custodian for a fiduciary shall, on demand of the fiduciary, certify in writing to the fiduciary the securities so deposited by such bank or trust company in such clearing corporation for the account of such fiduciary. A fiduciary shall, on demand by any party to its accounting or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary in such clearing corporation for its account as such fiduciary.

(2) This section shall apply to any fiduciary holding securities in a fiduciary capacity, and to any bank or trust company holding securities as a custodian, managing agent or custodian for a fiduciary, acting on June 21, 1974, or who thereafter may act regardless of the date of the agreement, instrument or court order by which it is appointed and regardless of whether or not such fiduciary, custodian, managing agent or custodian for a fiduciary owns capital stock of such clearing corporation.

(3) As used in this section, "fiduciary" includes an executor, administrator, trustee under any trust, express, implied, resulting or constructive, guardian, conservator, [~~committee,~~] receiver, trustee in bankruptcy,

assignee for the benefit of creditors, partner, agent, officer or a corporation, public or private, public officer or any other person acting in a fiduciary capacity for any person, trust or estate.

Section 101. KRS 387.025 is amended to read as follows:

Any interested person may petition the court for the appointment of a guardian [~~or committee~~] but before an appointment is made, the petitioner shall make and file in duplicate a written application under oath, which must state the name, age and residence of the ward, the ward's husband or wife and each of the ward's parents, or if there be no spouse or parents, the names, ages and residence of the next of kin, the name of the person having custody of the ward, a brief description of the ward's estate and its probable value, and the estimated annual income therefrom. A duplicate copy of said application shall be mailed by the clerk to the commissioner of revenue of the state of Kentucky. The court shall thereupon appoint a time for hearing such application. Notice thereof shall be given to the minor if more than fourteen years of age; to the person having custody of the ward; to the husband or wife and each parent of the ward, or if none, to the next of kin residing in the state in the manner provided in KRS 395.016.

Section 102. KRS 392.130 is amended to read as follows:

The spouse of an infant spouse, or of a spouse judicially declared *mentally disabled* [~~incompetent~~], if the spouse not under disability is of the age of eighteen years, or if not, with the approval of the circuit court, on such terms as it may deem equitable, may unite with his guardian or *conservator* [~~committee~~], or with the commissioner of the court, in the conveyance of the real estate of the spouse under disability, so as to release the inchoate right of dower or curtesy of the spouse not under disability, when a sale and conveyance of the real estate are ordered to be made by the guardian or *conservator* [~~committee~~], or by the commissioner or other officer of the court. An infant spouse may also be permitted by the circuit court to unite with his adult spouse in the conveyance of the adult spouse's real estate without terms, or on such terms as may be deemed equitable, so as to release the inchoate right of dower or curtesy of the infant spouse. If, in judicial proceedings to sell the real estate of an infant spouse, or of a spouse judicially declared *mentally disabled* [~~incompetent~~], his spouse is made a party defendant, and by answer, and on privy examination in open court or by a judge of a court in which such proceedings are pending, or by a commissioner appointed by the court to take the case, the spouse not under disability consents to a sale of the property, free from the inchoate right of dower or curtesy of the spouse not under disability, either without terms or on terms designated by the spouse not under disability, the court may, if it deems the terms of such consent equitable, order the sale of such property, free from the inchoate right of dower or curtesy, upon the terms of consent proposed by that spouse.

Section 103. KRS 392.140 is amended to read as follows:

Whenever a married person has become a confirmed *mentally disabled* [~~incompetent~~] person, the circuit court of the county in which is situated land belonging to the spouse of such *disabled* [~~incompetent~~] person may, upon the petition of the spouse of the *mentally disabled* [~~incompetent~~] person, adjudge the sale and conveyance, or the mortgage, of the inchoate right of dower or curtesy of the person under disability. The *mentally disabled* [~~incompetent~~] person and his *guardian or conservator* [~~committee~~], if he has one, shall be made defendants to the action; if he has no *guardian or conservator* [~~committee~~], the court shall appoint an attorney to defend for him, to whom the court shall make a reasonable allowance to be paid by the spouse of the *mentally disabled* [~~incompetent~~] person. A description of the land shall be given in the petition and the evidence of title of the spouse of the *mentally disabled* [~~incompetent~~] person filed therewith. If the court is satisfied by the proof that the *mentally disabled* [~~incompetent~~] spouse is a confirmed *mentally disabled* [~~incompetent~~] person, it may adjudge the sale and conveyance, or mortgage, of her inchoate right of dower or his inchoate right to curtesy in said land, and if the *mentally disabled* [~~incompetent~~] spouse has a *guardian or conservator* [~~committee~~], the court may direct that he unite with the spouse of the *mentally disabled* [~~incompetent~~] person in the deed or mortgage; if the *mentally disabled* [~~incompetent~~] spouse has no *guardian or conservator* [~~committee~~], the court shall appoint a commissioner who shall unite with the spouse of the *mentally disabled* [~~incompetent~~] person in the deed or mortgage. Before any judgment pursuant to this section shall be rendered, the spouse of the *mentally disabled* [~~incompetent~~] person, with at least two good sureties, shall execute before the court a covenant to the commonwealth for the benefit of the *mentally disabled* [~~incompetent~~] spouse, to be approved by the court, that the *mentally disabled* [~~incompetent~~] spouse will be paid the value of his right of dower or curtesy in the land should such right thereafter become complete.

Section 104. KRS 394.190 is amended to read as follows:

Any person interested in such probate may be summoned, or proceeded against by warning order, and if an infant or *mentally disabled* person [~~of unsound mind~~], a guardian ad litem shall be appointed.

Section 105. KRS 395.001 is amended to read as follows:

The term "fiduciary" as used in this chapter means any person, association, or corporation (other than assignee or trustee for an insolvent debtor or a guardian under the Uniform Veterans' Guardianship Act) appointed by, or under the control of, or accountable to, the district court, including executors, administrators, administrators with the will annexed, testamentary trustees, curators, guardians and *conservators* [~~committees~~].

Section 106. KRS 395.016 is amended to read as follows:

When notice of hearing of an application for the appointment of an administrator, administrator with will annexed *or* [~~,~~] guardian[~~, or committee~~] is required hereunder, it shall be given by mailing written notice of the time, place and purpose of such hearing at least five (5) days before said hearing. Proof of such notice shall be by certified mail, return receipt requested or by registered mail receipt or by applicant's affidavit that the same was mailed to each of the parties entitled thereto in a sealed envelope, postage prepaid, and the date when posted, which proof shall be filed at the time of hearing. If all parties entitled to notice are under no disability and waive notice in writing, the court may hear such application as if notice had been given. A minor over fourteen years of age may waive notice if present in person at the time of hearing of application for appointment of his guardian; provided, however in any estate where the gross amount involved is less than one thousand dollars the court in its discretion may dispense with the requirements of this section relating to notice.

Section 107. KRS 395.130 is amended to read as follows:

(1) Every fiduciary, except as provided in KRS 287.220, shall provide surety on his bond unless, on the petition of any interested party, the court upon being satisfied that all interests are adequately protected excuses the requirement of a surety, or unless, by the terms of the will or trust, surety is not required. Subsequent to the qualification of a fiduciary and on motion of any interested party the court may reduce the amount of the bond, release the surety, or permit the substitution of another bond with the same or different sureties. If an executor does not give bond when required to do so, he shall not be permitted to qualify, and, if he has already qualified, he shall be removed.

(2) Whenever any personal representative, guardian, *conservator* [~~committee~~] or other trustee or fiduciary who is required by law to execute a bond for the faithful discharge of his duties or fulfillment of his trust, procures as surety on his bond an incorporated surety company authorized to do business in this state, the necessary and reasonable cost incident to the bond shall be a lawful charge against the estate in the hands of the fiduciary, as other expenses of administration, and in his settlement the fiduciary shall be entitled to credit by the amount actually paid by him for that purpose, subject to the approval of the court which has approved the bond.

Section 108. KRS 395.155 is amended to read as follows:

For the purpose of computing commissions whenever any portion of the dividends, interests, rents or other amounts payable to an executor, administrator, trustee, guardian, *conservator* [~~committee~~], curator or other personal representative or fiduciary is required by any law of the United States or other governmental unit to be withheld for income tax purposes by the person, corporation, organization or governmental unit paying the same, the amount so withheld shall be deemed to have been collected.

Section 109. KRS 395.325 is amended to read as follows:

(1) If any fiduciary resigns or is removed, he shall upon the appointment of his successor settle his accounts.

(2) If any fiduciary becomes *mentally disabled* [~~incompetent~~] or dies, the personal representative of his estate shall upon the appointment of a successor fiduciary for the *mentally disabled fiduciary* [~~incompetent~~] or decedent settle for his decedent the accounts of the first decedent.

(3) In appointing a successor trustee of a trust created by will, the court shall give preference to that person, or those persons, designated in the will as successor trustee. If there be no such designation or if the court finds the person or persons so designated are not best qualified to protect the interests of the beneficiaries, then the court shall give preference to the persons who apply for appointment, preferring the surviving husband or wife, and then such others as are next entitled to distribution or one or more of them whom the court deems best qualified.

Section 110. KRS 395.480 is amended to read as follows:

If any person beneficially interested in an estate is not sui juris, consent for that person to the written agreement provided by subsection (1) of KRS 395.470 may be given by his guardian, curator or *conservator* [~~committee~~]. In the case of a prisoner otherwise sui juris, consent may be given by him personally instead of by his curator if it is acknowledged before the superintendent or keeper of the prison and the superintendent or keeper certifies that, in his opinion, the prisoner gave his consent freely. If any person not sui juris is beneficially interested, a trustee appointed under subsection (2) of KRS 395.470 to collect claims and demands shall not act until he has given bond to account for the share of that person and the bond has been approved by the district court.

Section 111. KRS 395.600 is amended to read as follows:

The district court shall make settlements with personal representatives, trustees, assignees, *conservators* [~~committees~~], curators and guardians in his county.

Section 112. KRS 395.610 is amended to read as follows:

(1) Two (2) years after appointment and annually thereafter, unless otherwise provided by law, every fiduciary as defined in KRS 395.001, other than a testamentary trustee *or a guardian or conservator of a mentally disabled person*, must render an account of the execution of his trust to the court by which he was

appointed, including in such account an itemized statement of receipts and disbursements supported by vouchers accompanying the same and a statement of all investments on hand and changes in investments since the filing of his last account. Provided, however, that guardians [~~and committees~~], after their first accounting, shall render their accounts thereafter biennially, or at shorter intervals if the court shall require it. Such settlements, when approved and confirmed by the court, shall be recorded and indexed by the clerk, and the original and the vouchers carefully kept by him in his office. An account shall be rendered by the fiduciary at any other time upon order of the court upon its own motion or that of any person interested in the trust, for good cause shown on affidavit. At the expiration of his trust such fiduciary must fully account for and pay over the trust estate to the person or persons entitled thereto. Every such account shall list all unpaid creditors whose claims have been allowed and all creditors whose claims have been disallowed. No account of a fiduciary except of corporate fiduciaries under the supervision of state or federal banking authorities shall be approved until there are exhibited to the court, for its examination, the security or securities shown in said account as being in the hands of the fiduciary, or the certificate of a bank having possession thereof or in which they have been deposited for safekeeping, and a certified bank statement showing the funds to the credit of the trust.

(2) Testamentary trustees *and guardians and conservators of mentally disabled persons* shall not be required to render accountings to the court under the provisions of this section. However, trustees may be required to file accounts pursuant to judicial proceedings under KRS 386.675. *Guardians and conservators of mentally disabled persons shall comply with the reporting requirements of KRS Chapter 387.*

Section 113. KRS 402.020 is amended to read as follows:

Marriage is prohibited and void:

(1) With a person who has been adjudged *mentally disabled* [~~incompetent~~] by a court of competent jurisdiction;

(2) Where there is a husband or wife living, from whom the person marrying has not been divorced;

(3) When not solemnized or contracted in the presence of an authorized person or society;

(4) When at the time of marriage, the person is under eighteen (18) years of age, if the marriage is without the consent of the father, mother, guardian, or other person lawfully having charge of his or her person, provided, however, that in case of pregnancy the male and female, or either of them, under the ages herein specified may apply to a district court judge for permission to marry, which application may be granted, in the discretion of the judge. There shall be a fee of five dollars ($5.00) for hearing each such application.

Section 114. KRS 402.990 is amended to read as follows:

(1) Any party to a marriage prohibited by KRS 402.010 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000). If the parties continue after conviction to cohabit as man and wife, either or both of them shall be imprisoned in the penitentiary for not less than three (3) nor more than twelve (12) months.

(2) Any person who aids or abets the marriage of any person who has been adjudged *mentally disabled* [~~incompetent~~], or attempts to marry, or aids or abets any attempted marriage with any such person shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(3) Any authorized person, with or without a license, who knowingly solemnizes a marriage prohibited by this chapter shall be fined not more than one thousand dollars ($1,000) or imprisoned not less than one (1) month nor more than twelve (12) months, or both.

(4) Any minister or priest who breaches the covenant required by KRS 402.060 shall be fined not more than two thousand dollars ($2,000).

(5) Any person who attempts to solemnize a marriage without a marriage license or without being authorized by the county judge/executive to solemnize marriages shall be fined not more than one thousand dollars ($1,000) or imprisoned for not less than one (1) month nor more than twelve (12) months, or both.

(6) Any unauthorized person who solemnizes a marriage under pretense of having authority, and any person who falsely personates the father, mother or guardian of an applicant in obtaining a license shall be imprisoned in the penitentiary for not more than three (3) years.

(7) Any person who falsely and fraudulently represents or personates another, and in such assumed character marries that person, shall be imprisoned in the penitentiary for not less than one (1) nor more than five (5) years. Indictment under this subsection shall be found only upon complaint of the injured party and within two (2) years after the commission of the offense.

(8) Any clerk who knowingly issues a marriage license to any persons prohibited by this chapter from marrying shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), and removed from office by the judgment of the court in which he is convicted.

(9) Any clerk who knowingly issues a marriage license in violation of his duty under this chapter shall be fined not more than one thousand dollars ($1,000).

(10) If any deputy clerk or any person other than a county clerk knowingly issues a marriage license in violation of this chapter, but not for a prohibited marriage, he shall be fined not more than one thousand

dollars ($1,000), and if he knowingly issues a license for a marriage prohibited by this chapter he shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than one (1) year, or both.

(11) Any person who violates any of the provisions of KRS 402.090 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) for each offense.

(12) Any county clerk who violates any of the provisions of KRS 402.110 or 402.230 shall be fined not less than twenty dollars ($20.00) nor more than fifty dollars ($50.00).

(13) Any person who violates any of the provisions of KRS 402.120 to 402.200 by disclosing any matter of confidential nature shall be fined one thousand dollars ($1,000), which shall be paid to the applicant for a marriage license in lieu of damages. Upon failure to pay the fine, the defendant shall be imprisoned as for failure to pay any other fine.

(14) Any physician, laboratory representative, county clerk or applicant for a marriage license who violates any of the provisions of KRS 402.120 to 402.200, or makes any false representation of fact or identity, shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100), and imprisoned in the county jail for a term fixed by the jury.

(15) Any person failing to make the return required of him by KRS 402.220 shall be fined fifty dollars ($50.00).

Section 115. KRS 388.190 is amended to read as follows:

As used in this chapter:

(1) The term "person" includes a partnership, corporation or an association.

(2) The term "Veterans Administration" means the Veterans Administration, its predecessors or successors.

(3) The terms "estate" and "income" shall include only moneys received by the guardian or *conservator* [~~committee~~] from the Veterans Administration, all earnings, interest and profits derived therefrom and all property acquired therewith.

(4) The term "benefits" shall mean all moneys paid or payable by the United States through the Veterans Administration.

(5) The term "Administrator" means the Administrator of Veterans Affairs or his successor.

(6) The term "ward" means a beneficiary of the Veterans Administration.

(7) The term "guardian" as used herein shall mean any person acting as a fiduciary for *a* [~~an incompetent~~] person *adjudged mentally disabled.*

(8) The term "court" means the district court of the county of the beneficiary's residence.

Section 116. KRS 388.200 is amended to read as follows:

The administrator of veterans affairs, or his successor, is and shall be a party in interest in any proceeding brought under any law of this state for the appointment of a guardian or *conservator* [~~committee~~] for any *beneficiary who is a* minor or *who has been adjudged* mentally *disabled* [~~incompetent beneficiary~~] or the veterans administration on whose account benefits have been paid or are payable by said veterans administration, and the said administrator or his successor is and shall be an interested party in any court proceeding pertaining to or effecting in any manner the administration of the estate of any such beneficiary on whose account such benefits are payable or whose estate includes assets derived from benefits paid by the veterans administration, its predecessor or successor. Written notice shall be given by certified mail, return receipt requested or by registered mail, unless waived in writing, to the office of the veterans administration having jurisdiction over the area in which the court is located, of the time and place for hearing on any petition or pleading or in connection with any proceeding pertaining to or affecting in any manner the administration of the estate of any such beneficiary of the veterans administration. Said notice shall be deposited in the mails not less than fifteen days prior to the date of such hearing or other proceedings.

Section 117. KRS 388.210 is amended to read as follows:

Whenever, pursuant to any law of the United States or regulation of the Veterans Administration, it is necessary, prior to payment of benefits, that a guardian or *conservator* [~~committee~~] be appointed for a minor or *a* mentally *disabled* [~~incompetent~~] beneficiary of the Veterans Administration such appointment shall be made in the manner hereinafter provided.

Section 118. KRS 388.220 is amended to read as follows:

(1) Except as hereinafter provided, it shall be unlawful for any person to accept appointment as guardian or *conservator* [~~committee~~] of any minor or mentally *disabled* [~~incompetent~~] beneficiary of the Veterans Administration if such proposed guardian or *conservator* [~~committee~~] shall at that time be acting as guardian or *conservator* [~~committee~~] for five (5) wards. In any case, upon presentation of a petition by an attorney of the Veterans Administration under this section alleging that a guardian or *conservator* [~~committee~~] is acting in a fiduciary capacity for more than five (5) wards and requesting his discharge for that reason, the court, upon proof substantiating the petition, shall require a final accounting forthwith from such guardian or *conservator* [~~committee~~] and shall discharge such guardian or *conservator* [~~committee~~] in said case.

(2) The limitations of this section shall not apply where the guardian or *conservator* [~~committee~~] is a bank or trust company. An individual may be guardian or *conservator* [~~committee~~] of more than five (5) wards if they are all members of the same family.

Section 119. KRS 388.230 is amended to read as follows:

(1) A petition for the appointment of a guardian or *conservator* [~~committee~~] for any minor or mentally *disabled* [~~incompetent~~] beneficiary of the Veterans Administration may be filed in the court having jurisdiction by or on behalf of any person who under existing law is entitled to priority of appointment. If there be no person so entitled or if the person so entitled shall neglect or refuse to file such a petition within thirty (30) days after mailing of notice by the Veterans Administration to the last known address of such person indicating the necessity for the same, a petition for such appointment may be filed by or on behalf of any responsible person residing in this state.

(2) The petition for appointment shall set forth the name, age, place of residence of such beneficiary, the name and place of residence of the nearest relative, if known, and the fact that such beneficiary is entitled to receive benefits payable by or through the Veterans Administration and shall set forth the amount of moneys then due and the amount of probable future payments.

(3) The petition shall also set forth the name and address of the person or institution, if any, having actual custody of such beneficiary, and the name, age, relationship, if any, occupation and address of the person proposed for appointment as guardian or *conservator* [~~committee~~]. Notwithstanding any provision of existing law as to priority, the court may appoint a capable individual, bank or trust company, as guardian or *conservator* [~~committee~~], if the person entitled to priority fails to apply, or if after hearing the court determines it is for the best interest of such beneficiary to appoint another.

(4) In the case of a mentally *disabled* [~~incompetent~~] beneficiary, the petition shall show that such beneficiary has been rated incompetent by the Veterans Administration on examination in accordance with the laws and regulations governing the Veterans Administration.

Section 120. KRS 388.250 is amended to read as follows:

Notwithstanding the provisions of existing law for adjudication of *mental disability* [~~incompetency~~] and appointment of a *guardian or conservator* [~~committee~~] upon the inquest of a jury, where a petition is filed for the appointment of a *guardian or conservator* [~~committee~~] for a mentally *disabled* [~~incompetent~~] beneficiary of the Veterans Administration under the provisions of this Act, who is found within this state, whether or not a resident thereof, a certificate of the Administrator of Veterans Affairs or his duly authorized representative, accompanying such petition setting forth the fact that such beneficiary has been rated incompetent by the Veterans Administration on examination in accordance with the laws and regulations governing such Veterans Administration, and that the appointment of a *guardian or conservator* [~~committee~~] is a condition precedent to the payment of any moneys due each beneficiary by the Veterans Administration, shall be prima facie evidence of the necessity for such appointment. Provided, however, that some member of the bar shall be appointed by the court to represent and protect the interests and rights of such *mentally disabled* [~~incompetent~~] beneficiary as provided under existing law, and further that the right of any such *mentally disabled* [~~incompetent~~] beneficiary or any person interested in such beneficiary to demand a trial by jury shall not be denied.

Section 121. KRS 388.270 is amended to read as follows:

(1) Before making an appointment under the provisions of this Act, the court shall be satisfied that the person whose appointment is sought is a fit and proper person to be appointed. Upon the appointment being made, the guardian or *conservator* [~~committee~~] shall execute and file a bond to be approved by the court in an amount not less than the estimated value of the personal estate and anticipated income during the ensuing year. The said bond shall be in the form and be conditioned as required of guardians and *conservators* [~~committees~~] appointed under the general guardianship laws of this state. The court shall have power from time to time to require the guardian or *conservator* [~~committee~~] to file an additional bond.

(2) Where a bond is tendered by a guardian or *conservator* [~~committee~~] with personal sureties, there shall be at least two such sureties and they shall file with the court a certificate under oath which shall describe the property owned, both real and personal, and shall state that they are each worth the sum named in the bond as the penalty thereof over and above all their debts and liabilities and exclusive of property exempt from execution. Notwithstanding such tender, the court may require additional security or may require a corporate surety bond, the premium thereon to be paid from the ward's estate.

Section 122. KRS 388.280 is amended to read as follows:

(1) Every guardian or *conservator* [~~committee~~] who shall receive on account of his ward any moneys from the Veterans Administration, shall file with the court annually, on the anniversary date of the appointment, in addition to such other accounts as may be required by the court, a full, true and accurate account under oath of all moneys so received by him, of all disbursements thereof, and showing the balance thereof in his hands at the date of such account and how invested. The guardian or *conservator* [~~committee~~], at the time of filing his account shall exhibit all securities or investments described therein to an officer of the bank or other depository wherein said securities are held for safekeeping, or to an authorized representative of the corporation which is surety on his bond, or to the clerk or deputy clerk of a court of record in this state or to any other reputable person designated by the court upon request of the guardian or *conservator* [~~committee~~] or other interested party, who shall certify in writing that he has examined such securities or investments

and identified them with those described in the account; provided, that if such depository is the guardian or *conservator* [~~committee~~], such certifying officer shall be an officer other than the officer verifying the account, or the guardian or *conservator* [~~committee~~] may exhibit such securities or investments to the Judge of the Court who shall endorse on the account and copy thereof a statement that the securities or investments shown therein as on hand were in fact exhibited to him and that those exhibited to him were the same as those shown in the account. Such certificate, and the certificate of an official of the bank in which is deposited any cash balance showing the amount on deposit shall be filed by the guardian or *conservator* [~~committee~~] with his account. A certified copy of each such accounts and a signed duplicate of such certificates filed with the court shall be sent by the guardian or *conservator* [~~committee~~] to the office of the Veterans Administration having jurisdiction over the area in which such court is located. A duplicate signed copy, or certified copy of any petition, motion or other pleading which is filed in the guardianship proceedings, or in any proceedings for the purpose of removing the disability or minority or of mental incompetency, shall be furnished by the person filing the same, to the office of the Veterans Administration concerned. The court, unless hearing be waived in writing by the Chief Attorney of the Veterans Administration, shall fix a time and place for the hearing on such account, petition, or other pleading, not less than fifteen (15) days nor more than thirty (30) days from the date of filing same unless a different available date be stipulated in writing and written notice of the time and place of such hearing shall be given by the court to the aforesaid Veterans Administration office not less than fifteen (15) days prior to the date fixed for the hearing. Notice of such hearing shall in like manner be given to the guardian or *conservator* [~~committee~~] and to any others entitled to notice.

(2) The clerk shall mail said Veterans Administration office a copy of each order entered in any guardianship proceeding wherein the Veterans Administration is an interested party.

Section 123. KRS 388.290 is amended to read as follows:

If any guardian or *conservator* [~~committee~~] shall fail to file with the court or the Veterans Administration, as required by this Act, any account of the benefits received by him from the Veterans Administration on account of his ward within thirty (30) days after such account is due, or shall fail to furnish the Veterans Administration a true copy of any account or of any petition or pleading as required by this chapter, such failure shall be grounds for removal.

Section 124. KRS 388.300 is amended to read as follows:

Compensation payable to guardians or *conservators* [~~committees~~] shall not exceed five percent (5%) of the income of the ward during any year, but in no event shall the amount of such compensation be less than fifty dollars ($50.00) for each year. In the event of extraordinary services rendered by any guardian or *conservator* [~~committee~~], the court may, upon petition and after notice to the Veterans Administration and hearing thereon, authorize reasonable additional compensation therefor payable from the estate of the ward. Notice of such petition and hearing shall be given to the proper office of the Veterans Administration in the manner provided in KRS 388.280. No commission or compensation shall be allowed on the estate received from a preceding guardian.

Section 125. KRS 388.310 is amended to read as follows:

All funds in possession of such guardian or *conservator* [~~committee~~] shall be invested in such securities or other property in which the guardian or *conservator* [~~committee~~] has no interest, as allowed by law which investment shall be first approved by the court; except that investments in direct interest-bearing obligations of the United States Government or of this state shall be permissible without an order of the court.

Section 126. KRS 388.320 is amended to read as follows:

A guardian or *conservator* [~~committee~~] shall not apply any portion of the estate of his ward for the support and maintenance of any person other than said ward, his minor children and his spouse (if the spouse and the ward be living together) except upon petition to and prior order of the court after a hearing, notice of which has been given the proper office of the Veterans Administration in the manner and within the time provided in KRS 388.280.

Section 127. KRS 388.340 is amended to read as follows:

Upon filing a petition, or certificate, showing that a minor ward has attained majority, or that *a mentally disabled* [~~an incompetent~~] ward has been rated competent upon examination in accordance with the law, the court may order the guardian or *conservator* [~~committee~~] to file a final account; and, upon hearing, after notice to the former minor or *mentally disabled person* [~~incompetent~~] and to the Veterans Administration in the manner and within the time provided by KRS 388.280, and upon approval of the final account, the court may so adjudge and discharge the guardian or *conservator* [~~committee~~] and release the sureties from liability upon delivery to the former ward of the assets due him by the former guardian or *conservator* [~~committee~~], and may make such further order as may be lawful.

Section 128. KRS 404.050 is amended to read as follows:

When a husband has been adjudged mentally *disabled* [~~incompetent~~] by a court of competent jurisdiction, the wife, by judgment of a court of equity, may be empowered to sell and convey by her own deed, or to mortgage by appropriate instrument, any of her real estate freed as to it and its proceeds from any claim of her husband.

Section 129. KRS 404.060 is amended to read as follows:

(1) A married woman may sue, and be sued, as a single woman.

(2) She may defend an action against her and her husband for herself, and for him also if he fail to defend.

(3) If a husband desert his wife, she may bring or defend for him any action which he might bring or defend, and shall have the powers and rights with reference thereto which he would have had but for such desertion.

(4) If a female party to an action marry, her husband may be made a party by a motion, causing the fact to be stated upon the record; and the action shall not be delayed by reason of the marriage.

(5) But if a wife be *adjudged mentally disabled* [~~of unsound mind~~], or imprisoned, the actions mentioned in subsections (1), (2) and (3), of this section must be prosecuted or defended by her *guardian, conservator,* [~~committee~~] or curator, if she have one, and if she have none, must be prosecuted by her next friend, or defended by her guardian ad litem.

Section 130. KRS 413.090 is amended to read as follows:

Except as provided in KRS 413.110, 413.200, 413.210, 413.220, 413.230 and 413.240, the following actions shall be commenced within fifteen years after the cause of action first accrued:

(1) An action upon a judgment or decree of any court of this state or of the United States, or of any state or territory thereof, the period to be computed from the date of the last execution thereon.

(2) An action upon a recognizance, bond or written contract.

(3) An action upon the official bond of a sheriff, marshal, clerk, constable or any other public officer, or any commissioner, receiver, curator, personal representative, guardian, *conservator* [~~committee~~], or trustee appointed by a court or authority of law.

(4) An action upon an appeal bond or bond given on a supersedeas, attachment, injunction, order of arrest or for the delivery of property or for the forthcoming of property, or to obey or perform an order or judgment of court in an action, or upon a bond for costs, or any other bond taken by a court or judge or by an officer pursuant to the directions of a court or judge, in an action or after judgment or decree, or upon a replevin, sale or delivery bond taken under execution or decree, upon an indemnifying bond taken under a statute, or upon a bond to suspend a proceeding, or upon a bond or obligation for the payment of money or property or for the performance of any undertaking.

Section 131. KRS 417.014 is amended to read as follows:

The personal representative of a decedent, the guardian, *conservator* [~~committee~~] or curator of a person under disability, or any trustee, may agree to such submission. Upon such a submission, made in good faith, the award shall be binding, and be entered as the judgment of the court. No such fiduciary shall be responsible for any loss resulting from an award adverse to the interest he represents, unless caused by his fault or neglect.

Section 132. KRS 453.140 is amended to read as follows:

A personal representative, guardian, assignee, curator, *conservator* [~~committee~~] or trustee in an action shall, if unsuccessful, be adjudged to pay costs as other litigants, but the judgment for costs in such cases shall only be against the assets that have, or may, come into the hands of the fiduciary.

Section 133. KRS 453.235 is amended to read as follows:

A guardian, curator, *conservator* [~~committee~~] or next friend, suing for a person under disability; and every plaintiff suing as an assignee, except an indorsee of a bill of exchange or a promissory note placed upon the footing of a bill of exchange, when insolvent, may be required to give security for costs; and on failure to do so in a reasonable time after it is directed by the court, upon the motion of the defendant, his action shall be dismissed.

Section 134. KRS 509.070 is amended to read as follows:

(1) A person is guilty of custodial interference when, knowing that he has no legal right to do so, he takes, entices or keeps from lawful custody any *mentally disabled* [~~incompetent~~] or other person entrusted by authority of law to the custody of another person or to an institution.

(2) It is a defense to custodial interference that the person taken from lawful custody was returned by the defendant voluntarily and before arrest or the issuance of a warrant for arrest.

(3) Custodial interference is a Class D felony unless the person taken from lawful custody is returned voluntarily by the defendant or unless the defendant is a relative of the victim in which case it is a Class A misdemeanor.

Section 135. KRS 503.110 is amended to read as follows:

(1) The use of physical force by a defendant upon another person is justifiable when the defendant is a parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person or when the defendant is a teacher or other person entrusted with the care and supervision of a minor, for a special purpose, and:

(a) The defendant believes that the force used is necessary to promote the welfare of a minor or *mentally disabled* [~~incompetent~~] person or, if the defendant's responsibility for the minor or *mentally disabled* [~~incompetent~~] person is for a special purpose, to further that special purpose or maintain reasonable discipline in a school, class or other group; and

(b) The force that is used is not designed to cause or known to create a substantial risk of causing death, serious physical injury, disfigurement, extreme pain, or extreme mental distress.

(2) The use of physical force by a defendant upon another person is justifiable when the defendant is a warden or other authorized official of a correctional institution, and:

(a) The defendant believes that the force used is necessary for the purpose of enforcing the lawful rules of the institution;

(b) The degree of force used is not forbidden by any statute governing the administration of the institution; and

(c) If deadly force is used, its use is otherwise justifiable under this code.

(3) The use of physical force by a defendant upon another person is justifiable when the defendant is a person responsible for the operation of or the maintenance of order in a vehicle or other carrier of passengers and the defendant believes that such force is necessary to prevent interference with its operation or to maintain order in the vehicle or other carrier, except that deadly physical force may be used only when the defendant believes it necessary to prevent death or serious physical injury.

(4) The use of physical force by a defendant upon another person is justifiable when the defendant is a doctor or other therapist or a person assisting him at his direction, and:

(a) The force is used for the purpose of administering a recognized form of treatment which the defendant believes to be adapted to promoting the physical or mental health of the patient; and

(b) The treatment is administered with the consent of the patient or, if the patient is a minor or *a* [~~an~~] *mentally disabled* [~~incompetent~~] person, with the consent of the parent, guardian, or other person legally competent to consent in his behalf, or the treatment is administered in an emergency when the defendant believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

Section 136. KRS 530.050 is amended to read as follows:

(1) A person is guilty of nonsupport when he persistently fails to provide support which he can reasonably provide and which he knows he has a duty to provide to a minor or *adjudged mentally disabled* [~~incompetent~~] child, indigent spouse or indigent parent.

(2) A person is guilty of flagrant nonsupport when he persistently fails to provide support which he can reasonably provide and which he knows he has a duty to provide by virtue of a court order to a minor or [~~incompetent~~] child *adjudged mentally disabled*, indigent spouse or indigent parent thereby leaving said dependent in destitute circumstances.

(3) A person has a duty to provide support for an indigent spouse and for a minor or [~~incompetent~~] child *adjudged mentally disabled* and, for purposes of this section, is presumed to know of that duty.

(4) Any person who is eighteen (18) years of age or over, residing in this state and having in this state a parent who is destitute of means of subsistence and unable because of old age, infirmity, or illness to support himself or herself, has a duty to provide support for such parent and, for purposes of this section, is presumed to know of that duty.

(5) Nonsupport is a Class A misdemeanor.

(6) Flagrant nonsupport is a Class D felony.

Section 137. KRS 24A.170 is amended to read as follows:

(1) The filing fee for a civil case in district court shall be paid to the clerk at the time the case is filed and shall be twenty-five dollars ($25.00), except as provided below:

(a) Where the amount in controversy is five hundred dollars ($500) or less, the fee shall be ten dollars ($10.00).

(b) Where the case involves the probate of an estate, the fee shall be ten dollars ($10.00).

(c) Where the case involves the appointment of guardians, *conservators* [~~committees~~], and curators and is not related to a pending probate proceeding, the fee shall be ten dollars ($10.00) for each appointment.

(d) Where the matter involves a name change for a natural person, the fee shall be ten dollars ($10.00).

(e) Where the case involves a paternity determination under KRS Chapter 406, the fee shall be ten dollars ($10.00).

(f) Where the case involves mental health proceedings under KRS Chapter 202A, 202B or 387, there shall be no fee except as provided in paragraph (c) of this subsection.

(g) Filing forcible detainer actions - - $10.00.

(2) Additional fees shall be charged in district court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	1.00
(c) Providing a copy of a document (per page)	.15
(d) Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e) Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) The jury fee shall be assessed as costs and shall be paid to the clerk by the party against whom the costs have been assessed as follows:

For a jury of six (6) persons 12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request:

(a) Service of process (per process) 3.00

(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes.

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

(8) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

Section 138. KRS 387.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) [~~"Person of unsound mind" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person or to manage his estate.~~

~~(2)~~] "Infant" or "minor" means any person who has not reached the age of eighteen (18).

(2)[~~(3)~~] "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a minor [~~or person of unsound mind~~]. It also includes persons having priority for appointment as fiduciaries.

[~~(4) "Visitor" is an officer, employe or special appointee of the court with no personal interest in the proceedings who is trained in law, nursing, social work or possessing other appropriate skills deemed necessary by the court to conduct an investigation in proceedings under this chapter.~~]

Section 139. KRS 387.270 is amended to read as follows:

(1) If from any source a balance is owing by a guardian [~~or committee~~] at the end of any year, counting from the time of his appointment, which should have been invested for the benefit of the ward in reasonable time but which remains in his hands, he shall be charged with interest from the end of the year in which the balance arose, and thereafter he shall be charged with interest compounded every two (2) years.

(2) Guardians *and* [~~,~~] curators [~~and committees~~] appointed and qualifying after June 24, 1906, shall be charged with the following rates of interest, to-wit: Where the amount received and held in trust does not exceed five thousand dollars ($5,000), five percent (5%); where the amount received and held in trust exceeds five thousand dollars ($5,000), four percent (4%). However, in lieu of the foregoing those appointed and qualifying after July 15, 1980 shall be charged with the legal interest rate.

(3) However, nothing in this section shall prohibit or prevent these fiduciaries from accounting for or being chargeable with sums in excess of the rates herein fixed realized upon any investment of trust funds made by the fiduciary.

Section 140. KRS 387.280 is amended to read as follows:

Whenever a person under disability, having no guardian [~~or committee~~], is entitled to receive a sum not exceeding ten thousand dollars ($10,000), exclusive of interest, in any action wherein real estate has been sold or in the settlement of any estate or from any other source, the court in which the action is pending, or, if the sum does not derive from such action, the district court, may order the sum to be paid to the persons having custody of such ward. Before entering the order, the court shall be satisfied by affidavit or oral testimony that the ward is in the custody of the person to whom it is proposed to pay the money, and the latter, upon withdrawal of the money, shall be under obligation as trustee to expend it, for the support, maintenance or education of the ward. When the order is made no bond shall be required of the person having custody of the ward and the purchaser of the real property may pay the share into court, and no lien shall remain on the property therefor and the money may be withdrawn by the person mentioned in the order without his giving bond. A release executed by the person to whom the court has ordered the sum paid shall have the same effect as a release by a duly appointed guardian [~~or committee~~].

Section 141. KRS 387.300 is amended to read as follows:

(1) No person shall sue as next friend unless he reside in this state and be free from disability, nor unless he file his own affidavit showing his right to sue as next friend according to the provisions of this chapter.

(2) A guardian, curator, *conservator* [~~committee~~] or next friend who brings or prosecutes an action for a person who is under disability is liable for the costs which accrue during his conduct of the action, unless he be allowed to sue in forma pauperis or by an order of the court.

Section 142. KRS 387.305 is amended to read as follows:

(1) No appointment of a guardian ad litem shall be made until the defendant is summoned, or until a person is summoned for him, as is authorized by law; nor until an affidavit of the plaintiff, or of his attorney, be filed in court, or with the clerk, showing that the defendant has no guardian, curator, nor *conservator* [~~committee~~], residing in this state, known to the affiant.

(2) A guardian ad litem must be a regular, practicing attorney of the court and may be appointed by the court, whether a guardian, curator, or *conservator* [~~committee~~] appear for the defendant or not. The guardian ad litem may be appointed upon the motion of the plaintiff or of any friend of the defendant; but neither the plaintiff nor his attorney shall be appointed, nor be permitted to suggest the name of the proposed guardian ad litem; and the court may change the guardian so appointed whenever the interest of the infant may appear to require such change.

(3) It shall be the duty of the guardian ad litem to attend properly to the preparation of the case; and in an ordinary action he may cause as many witnesses to be subpoenaed as he may think proper, subject to the control of the court; and in an equitable action he may take depositions, not, however, exceeding three, without leave of the court.

(4) The court shall allow to the guardian ad litem a reasonable fee for his services, to be paid by the plaintiff and taxed in the costs. The affidavit of such guardian, or of another person, or other competent evidence, is admissible to prove the services rendered, but not to prove their value. The court must decide concerning such value, without reference to the opinions of parties or other witnesses.

Section 143. KRS 388.260 is amended to read as follows:

Upon the filing of a petition for the appointment of a guardian or *conservator* [~~committee~~] under the provisions of this Act, notice shall be given in like manner as is provided under existing law.

Section 144. KRS 388.350 is amended to read as follows:

(1) Whenever in a proceeding for the trial and commitment of any person who appears to be *mentally disabled* [~~of unsound mind~~] it is determined that such person is either mentally retarded, an epileptic, or *a mentally ill* [~~insane~~] person and ought to be committed for safekeeping or treatment and it appears that such person is eligible for care or treatment by the veterans administration or other agency of the United States government, the court of the county in which such person is found, having jurisdiction in such matters, upon receipt of a certificate from the veterans administration or such other agency showing that facilities are available and that such person is eligible for care or treatment therein, may commit such person to the veterans administration or other agency of the United States government for care or treatment. Thereafter, such person, upon admission to any such facility, shall be subject to the rules and regulations of the veterans administration or other agency of the United States government. The chief officer of any such facility or institution to which such person is committed under the provisions of this section shall be vested with the same powers as are exercised by superintendents of state hospitals for mental diseases within this state with respect to the retention, transfer, parole or discharge of the person so committed. Notice of such pending commitment proceedings shall be furnished the person whose commitment is sought and his right to appear and defend shall not be denied. The judgment or order of commitment by a court of competent jurisdiction of another state committing a person to the veterans administration or other agency of the United States government, for care or treatment, shall have the same force and effect as to such person while in this state as in the state in which is situated the court entering such judgment or making such order.

(2) Upon receipt of a certificate of the veterans administration or such other agency of the United States government that facilities are available for the care or treatment of any person heretofore committed to any hospital for the *mentally ill* [~~insane~~] or other institution in this state for the care of persons similarly *disabled* [~~afflicted~~] and that such person is eligible for such care or treatment, the superintendent of any such hospital or institution in this state is hereby authorized to cause the transfer of any such person to the veterans administration or other agency of the United States government for care or treatment. Upon effecting any such transfer, the committing court shall be notified thereof by the transferring agency; provided, however, that no person shall be transferred if he be confined pursuant to conviction of any crime or misdemeanor, or if he shall have been acquitted of any such charge solely on the ground of insanity, unless prior to such transfer the court originally committing such person shall enter an order for such transfer after appropriate motion and hearing.

(3) Any person transferred as provided in this section shall be deemed to be committed to the veterans administration or other agency of the United States government pursuant to the original commitment the same as if he had been originally so committed.

Section 145. KRS 389A.010 is amended to read as follows:

(1) Notwithstanding any other statutory limitation of the jurisdiction of the district court:

(a) Any fiduciary as defined by KRS 386.010, not otherwise possessing a power of sale, may move the district court of the county in which the fiduciary has qualified for an order granting the fiduciary the power to sell or mortgage any real estate or any interest therein possessed by his ward, [~~incompetent,~~] decedent, or trust; and

(b) The district court may enter an order granting the fiduciary the power to sell or mortgage any real estate or any interest therein possessed by the ward, [~~incompetent,~~] decedent or trust.

(2) The motion shall include an adequate description of the property, a summary of the grounds for the motion, and a request that the bond of the fiduciary be increased in an adequate amount in accordance with KRS 395.130.

(3) Unless waived in writing, written notice of the hearing with a copy of the motion shall be given in a manner authorized by the rules of civil procedure to all persons in being who, but for the sale of the property, have a vested or contingent interest therein.

(4) An aggrieved party may institute an adversary proceeding in circuit court pursuant to KRS 24A.120(1)(b) in respect to any order affecting the right of the fiduciary to sell or mortgage. Pending the entry of a final order that has become unappealable, neither the fiduciary nor the owner of any vested interest shall make any conveyance or mortgage of the real estate and any attempt to do so shall be null and void.

(5) No proceedings under this section shall be conducted by or before a commissioner of the district court.

Section 146. The following KRS Sections are repealed:

KRS Chapter 203. Incompetency Proceedings.

387.035 Order of precedence for appointment of a committee.

387.210 Jurisdiction of district courts over incompetent persons and their committees — Bond of committee — Waiver of Bond.

387.220 Inquest required for appointment of committee — Oath to jury — Functions of "visitor".

387.230 Powers and duties of committee — Personal charge may be given to another person — Compensation.

387.250 Leasing of mineral rights by committee.

387.260 Verification of claims against estate.

387.281 Jurisdiction to appoint special committee to receive funds from governmental agency for support of indigents.

387.282 Petition for appointment of special committee.

387.283 Bond of special committee.

387.284 Powers of special committee — Accounts.

387.285 Compensation of special committee — Costs of settlement.

387.286 Application of other statutes.

387.287 Limited committee for mentally retarded person — Functions — Report.

387.288 Petition to change or modify committee.

Acts 1980, Chapter 396 — An Act relating to guardians, *conservators and mentally* disabled persons.

Section 147. WHEREAS, Acts 1980, Chapter 396 becomes effective 7-1-82, an emergency is declared to exist and the provisions of this Act will become effective immediately upon passage and approval by the Governor.

Committee Amendment No. 1 to **SB 35** is as follows:

Amend printed copy of **SB 35**, page 207, line 1, delete "immediately upon passage and approval by the Governor.", insert in lieu thereof "July 1, 1982."

Calendar

HB 172, HB 311, HB 585, HB 589, HB 595, HB 325, HB 498, HB 500, SB 161, SB 163, HB 231, HB 532, HB 501, HB 196, and **HB 369** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

SB 53, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clapp moved the adoption of the Floor Amendment No. 3 to **SB 53.** Agreed.

Representative Clapp moved that **SB 53,** as amended, be passed.

On the roll call the vote was yeas 80-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Craddock, Crupper Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Gray, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Layman, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Worthington. Nays 0.

SB 53, as amended, was passed and the title agreed to.

Representative Clapp moved that the vote by which **SB 53,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 505, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved the adoption of the Floor Amendment No. 2 to **HB 505.** Agreed.

Representative Holloway moved that **HB 505,** as amended, be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 2-Barrows, Moberly.

HB 505, as amended, was passed and the title agreed to.

Representative Holloway moved that the vote by which **HB 505,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HR 26 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkley moved the adoption of **HR 26.**

HR 26 was adopted by voice vote.

HB 379, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Committee Substitute to **HB 379.** Agreed.

Representative Farrow moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 379.**

Representative Williams moved that **HB 379,** by way of Committee Substitute, be recommitted to the Committee on Judiciary-Criminal, stating his belief that the bill should have been referred to the Committee on Judiciary-Criminal previously.

Representative Williams moved that his motion be withdrawn. Agreed.

Representative Williams asked that the Chair rule on the above matter.

The Chair ruled that the jurisdictions of the Committee on Counties and Special Districts and Committee on Judiciary-Criminal overlap.

Representative Farrow moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 379.** Agreed.

Representative Farrow moved that **HB 379,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 84-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Boswell,Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clarke, Cline, Cowan, Crupper, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Haering, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, Layman, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, White, Worthington. Nays 6-Bennett, Clark, Cyrus, Deskins, Gray, Van Horn.

HB 379, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 379,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 171, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Committee Amendment No. 1 to **SB 171.** Agreed.

Representative Mann moved that **SB 171,** as amended, be passed.

On the roll call the vote was yeas 80-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Harper, Head, Hines, Holbrook, Holloway, R. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Nett, Noland, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 7-Bruce, Craddock, Endicott, Johnson, McNutt, Pearman, Rattliff.

SB 171, as amended, was passed and the title agreed to.

Representative Mann moved that the vote by which **SB 171,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 492, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Harper moved the adoption of the Floor Amendment No. 1 to **HB 492.** Rejected.

Representative Mann moved that **HB 492** be passed.

On the roll call the vote was yeas 54-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Cyrus, Donnermeyer, Dunn, Freibert, Gray, Guenthner, Handy, Harper, Hines, Holbrook, Holloway, Kenton, Kidd, Layman, LeMaster, List, Long, Lundergan, Mann, McBee, Nett, Noe, O'Brien, Overstreet, Perkins, Petty, Priddy, Richards, B. Richardson, Schmidt, B. Smith, Stone, Stumbo, Thomas, Thomason, Williams. Nays 34-Allen, Burnette, Crupper, Dawahare, Deskins, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Haering, Heleringer, Johnson, Lile, Little, Maggard, McNutt, Meyer, Moore, Morris, Noland, Pearman, Rapier, Rattliff, P. Richardson, Riner, F. Smith, Tobin, Todd, Turner, Van Horn, White, Worthington.

HB 492 was passed and the title agreed to.

Representative Harper moved that the vote on **HB 492** be reconsidered.

On the roll call the vote was yeas 40-Allen, Blevins, Caldwell, Clapp, Craddock, Crupper, Donnermeyer, Dunn, Ellington, Endicott, Ford, Foster, Fryman, Gray, Guenthner, Haering, Harper, Heleringer, Lile, Maggard, Mann, McNutt, Meyer, Moore, Morris, Noland, Patrick, Petty, Priddy, B. Richardson, Riner, Robinson, Schmidt, Seum, F. Smith, Tobin, Todd, Turner, White, Williams. Nays 43-Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Burch, Burnette, Clarke, Cline, Curd, Cyrus, Deskins, Farrows, Freibert, Hancock, Handy, Johnson, R. Jones, Kenton, Layman, LeMaster, List, Long, Lundergan, McBee, Moberly, Noe, Overstreet, Pearman, Perkins, Rapier, Rattliff, Richards, P. Richardson, B. Smith, Stone, Stumbo, Thomason, Van Horn.

The motion that the vote on **HB 492** be reconsidered was rejected.

Representative Mann moved that the vote by which **HB 492** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 360, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 360** be passed.

On the roll call the vote was yeas 87-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Layman, LeMaster, Lile, Little, Long, Maggard, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 0.

HB 360 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 360** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 398, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomason moved the adoption of the Committee Substitute to **HB 398.**

On the roll call the vote was yeas 51-Arnold, Barrows, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Clapp, Clarke, Cowan, Curd, Cyrus, Donnermeyer, Dunn, Foster, Freibert, Gray, Hancock, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, LeMaster, List, Long, Lundergan, McBee, Meyer, Moberly, Nett, Noe, O'Brien, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, B. Smith, F. Smith, Stone, Stumbo, Thomason, Turner, Williams. Nays 36-Allen, Bendl, Brown, Burnette, Caldwell, Cline, Crupper, Dawahare, Deskins, Ellington, Endicott, Farrow, Ford, Fryman, Guenthner, Haering, Handy, Harper, Head, Layman, Lile, Little, Maggard, McNutt, Moore, Morris, Noland, Patrick, Pearman, Perkins, Riner, Robinson, Schmidt, Tobin, Todd, Van Horn.

The Committee Substitute to **HB 398** was adopted.

Representative Tobin moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 398.** Agreed.

Representative Tobin moved the adoption of the Floor Amendment No. 2 to the Committee Substitute to **HB 398.** Agreed.

Representative Foster moved that **HB 398,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Johnson, R. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 4-Bennett, Holbrook, Holloway, Robinson.

HB 398, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Foster moved that the vote by which **HB 398,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 377 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Speaker Pro Tempore Thomason presiding.

Representative Worthington moved that **HB 377** be passed.

On the roll call the vote was yeas 85-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 0.

HB 377 was passed and the title agreed to.

Representative Worthington moved that the vote by which **HB 377** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 413, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Boswell moved the adoption of the Floor Amendment No. 1 to **HB 413.** Agreed.

Representative Boswell moved that **HB 413,** as amended, be passed.

On the roll call the vote was yeas 80-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Heleringer, Hines, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, LeMaster, List, Little, Long, Lundergan, Mann, McBee, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 4-Allen, Haering, Lile, Noland.

HB 413, as amended, was passed and the title agreed to.

Representative Boswell moved that the vote by which **HB 413,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 11 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Caldwell moved that **SB 11** be passed.

On the roll call the vote was yeas 72-Allen, Bendl, Bennett, Blevins, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Dawahare, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Layman, Lile, List, Long, Lundergan, Maggard, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Schmidt, Seum, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 13-Blandford, Boswell, Bronger, Cyrus, Deskins, Dunn, Gray, Guenthner, Haering, Little, McBee, Overstreet, Pearman.

SB 11 was passed and the title agreed to.

Representative Caldwell moved that the vote by which **SB 11** was passed be reconsidered and said motion be placed on the table. Agreed.

HR 48 taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of **HR 48.**

HR 48 was adopted by voice vote.

HB 187, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative LeMaster moved that the House concur in the following Senate Amendment No. 1 to **HB 187:**

Amend printed copy of **HB 187** as follows: on page 1, line 20 after "age" add "*and residents of the Commonwealth of Kentucky.*"

The motion that the House concur in the Senate Amendment No. 1 to **HB 187** was adopted by voice vote.

Representative LeMaster moved that **HB 187,** as amended by the Senate, be passed.

On the roll call the vote was yeas 78-Allen, Bennett, Blevins, Boswell, Brinkley,Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Layman, Lile, List, Little, Long, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Priddy,Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 2-Mann, Perkins.

HB 187, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved tht the vote by which **HB 187,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 26, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative LeMaster moved that the House concur in the following Senate Amendment No. 1 to **HB 26:**

Amend printed copy of **HB 26** as follows: on page 3, line 26 after "*sale.*" insert:

"*(c) The provisions of subsections (5)(a) and (5)(b) of this section shall not apply to an owner, occupant, or person having control or management of land upon which marijuana has been planted, cultivated or harvested unless it is proven by the commonwealth that the owner, occupant or person having control or management of the land in question knew of the planting, cultivation or harvesting.*"

On the roll call the vote was yeas 39-Arnold, Bendl, Blevins, Burnette, Clapp, Clark, Cline, Curd, Dunn,Ellington, Endicott, Farrow,Ford, Fryman, Gray, Haering, Hancock, Harper, Heleringer, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Layman, LeMaster, Lile, Lundergan, Mann, Meyer, Noe, Noland, Priddy, Rattliff, B. Richardson, Riner, Robinson, Schmidt, White. Nays 49-Allen, Blandford, Boswell, Brinkley, Bronger, Burch, Caldwell, Clarke, Cowan, Craddock, Crupper, Dawahare, Deskins, Donnermeyer, Foster, Freibert, Guenthner, Handy, Head, Hines, Holloway, Kidd, List, Little, Long, McNutt, Moberly, Moore, Morris, Nett, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Richards, P. Richardson, Seum, F. Smith, Stone, Stumbo, Thomason, Tobin, Turner, Van Horn, Williams, Worthington.

The motion that the House concur in the Senate Amendment No. 1 to **HB 26** was rejected.

HB 69, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative LeMaster moved that the House concur in the Following Senate Amendment No. 1 to **HB 69:**

Amend printed copy of **HB 69** as follows: on page 1, line 6 and 7 delete the following: "*the provisions of KRS 337.020 not withstanding*" and delete the brackets and strike throughs

On page 1, line 7 after the word "year" and before the period add the following: "*or during the fiscal year for twelve (12) month employes, the provisions of KRS 337.020 not withstanding*"

The motion that the House concur in the Senate Amendment No. 1 to **HB 69** was adopted by voice vote.

Representative LeMaster moved that **HB 69,** as amended by the Senate, be passed.

On the roll call the vote was yeas 73-Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Guenthner, Hancock, Handy, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Perkins, Priddy, Richards, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Van Horn, White, Williams, Worthington. Nays 9-Crupper, Endicott, Haering, Layman, Noland, Rapier, P. Richardson, Todd, Turner.

HB 69, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 69,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 39, with Senate Amendments attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Represntative LeMaster moved that the House concur in the following Senate Amendment No. 1 to **HB 39:**

Amend printed copy of **HB 39** as follows: on page 3, line 26, after the "(4)" by placing brackets around "(b)"

on page 4, line 1, after the word "provisions" by inserting the words "*, except on interstate highways,*"

Agreed.

Representative LeMaster moved that the House concur in the following Senate Amendment No. 2 to **HB 39:**

Amend printed copy of **HB 39** as follows: On page 4, line 3, after "(4)", by adding the following language: "*Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050 (3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.*"

"*(5)*"

and on page 4, line 10, by deleting "(5)" and placing brackets

Agreed.

Representative LeMaster moved that the House concur in the following Senate Amendment No. 3 to **HB 39:**

Amend printed copy of **HB 39** as follows: on page 3, line 25, after the word "farm" by inserting the words "*or primary forestry*"

and on page 3, line 26, after "(b)" by inserting the words "*or KRS 186.050(9)*"

Agreed.

Representative LeMaster moved that **HB 39,** as amended by the Senate, be passed.

On the roll call the vote was yeas 74-Arnold, Barrows, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Handy, Harper, Head, Hines, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lungergan, Maggard, Mann, McBee, Meyer, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, White. Worthington. Nays 12-Burch, Clarke, Dawahare, Endicott, Holbrook, R. Jones, McNutt, Moberly, Morris, perkins, Tobin, Van Horn.

HB 39, as amended by the Senate, was passed and the title agreed to.

HB 65, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative LeMaster moved that the House concur in the following Senate Amendment No. 1 to **HB 65:**

Amend printed copy of **HB 65** as follows: after line 3, on page 2, add the following:

"Section 2. KRS 160.627 is amended to read as follows:

(1) The department of revenue shall, *where that department is not acting as such,* make available to the tax collector, *or to the school district, where the department of revenue is acting as tax collector under subsection (2) of this section,* by October 1 of each year, such information as *the tax collector or the school district* [~~he~~] may request concerning the state income tax liability of county residents. Such information shall be made available on a confidential basis as provided in KRS 131.190.

(2) The department of revenue, upon request, shall act as tax collector for the school tax authorized by KRS 160.621, and the department of revenue, where so acting, KRS 160.625 notwithstanding, may incorporate its tax collecting duties with those relative to collection of state individual income taxes under KRS chapter 141, thereby making an individual's tax payment hereinder due along with his individual income tax payment and subject to law applicable to such as to time and manner of payment. The department of revenue, when so acting, KRS 160.500 notwithstanding, shall remit school excise taxes so collected to the school districts for which it is acting as tax collector in a reasonably timely and expeditious manner.

Section 3. KRS 160.633 is amended to read as follows:

The proceeds of the tax authorized by KRS 160.621 shall, *except when collected pursuant to KRS 160.627(2),* be deposited in a special fund until they have been distributed as provided in KRS 160.644.

Section 4. KRS 160.637 is amended to read as follows:

Reasonable expenses *not to exceed the actual costs of collection*incurred by any tax collector, *including the department of revenue,* for the administration or collection of the school taxes authorized by KRS

160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be reimbursed by the school district boards of education on a monthly basis or on such basis as may be agreed upon by the boards of education and the tax collector. Such expenses shall be borne by the school districts on a basis proportionate to the revenue received by such districts.

Agreed.

Representative LeMaster moved that **HB 65,** as amended by the Senate, be passed.

On the roll call the vote was yeas 75-Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, Little, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Richards, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Williams, Worthington. Nays 3-Clapp, Haering, Van Horn.

HB 65, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 65,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

Representative O'Brien moved that **SB 271** be reassinged to the Committee on Counties and Special Districts. Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsors requests be approved. Agreed.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Arnold, **HB 622;** Representative Blevins, **HB 450;** Representative Cline, **HB 525;** Representative Handy, **HB 149, HB 208, HB 419, HB 622;** Representative Heleringer, **HB 525;** Representative Kenton, **HB 622;** Representative Moore, **HB 493;** Representative Patrick, **HB 379;** Representative Pearman, **HB 450;** Representative Perkins, **HB 622.**

Representative Stumbo requested that his name be withdrawn from **HR 32.**

The following meetings were announced:

Committee on Rules: On adjournment, Room 316.

Appropriations and Revenue: Thursday, 10:00 a.m., Room 109.

State Government: Thursday, noon.

Judiciary-Civil: Thursday, 10:00 a.m., Room 327.

Cities: Special meeting, Thursday, 9:00 a.m., Room 109.

Labor and Industry: On adjournment, Room 104.

Agriculture and Small Business: Cancelled Thursday.

Education: Special meeting, Thursday on adjournment.

Representative Mann moved that **HB 312** be taken from the Clerk's desk and placed in Orders of the Day for March 4. Agreed.

Representative Barrows moved that **HB 80** be taken from the Clerk's desk and placed in Orders of the Day for March 4. Agreed.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Title Amendment to **HB 280,** by Representative Little:

Amend printed copy of **HB 280,** page 1, title, by amending the title to read as follows: "AN ACT relating to roots."

Floor Amendment No. 7 to **HB 280,** by Representative Little:

Amend printed copy of **HB 280,** on page 3, after line 9, by adding the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall apply to five (5) pounds or more of sweet potatoes and five (5) pounds or more of potatoes."

and on page 3, line 10, by renumbering "SECTION 5" to "SECTION 6"

and on page 3, line 20, by renumbering "Section 6" to "Section 7"

Floor Amendment No. 2 to **HB 383,** by Representative Holbrook:

Amend printed copy of **HB 383,** on page 1, line 8, by inserting after the word "*causes*" the following: "*or attempts to cause*"

Floor Amendment No. 1 to **SB 35,** by Representative Heleringer:

Amend printed copy of **SB 35,** on page 34, line 10, by adding the following: "*However, the provision of surety may be waived by the court when the limited conservator or conservator is a member of the ward's family.*"

Floor Amendment No. 1 to **SB 44,** by Representative Deskins:

Amend printed copy of **SB 44,** page 17, by adding a section as follows:

Section 18. KRS 149.010 is amended to read as follows:

(1) *There is hereby created and there shall be maintained in* [~~The~~] *the* department for natural resources and environmental protection [~~shall~~] *a division of forestry to* supervise all forestry property and advance forest interests of the state through development of such property and interests. [~~It~~] *The division's four administrative sections for forest resource education, forest products utilization, forest fire control and timber management* shall initiate such projects as will promote public appreciation of forest protection and of reforestation; encourage tree planting in general and on the public highways in particular; grow, collect and distribute seedlings; form and foster junior forestry clubs; cooperate with local civic organizations in the care of trees and planting of more trees; provide for organized forest fire protection; cooperate with the federal government, state departments and landowners in the perpetuation of forests, the promotion of tree growth and the redemption of wasteland for agricultural purposes; and encourage an interest in forestry by correspondence, press, pamphlets, reports, moving pictures and organizations.

(2) The *director of the division of forestry with the approval of the* secretary for natural resources and environmental protection shall adopt and enforce such rules and regulations as may be necessary to carry out the functions assigned the department by law.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HJR 58, by Representative Curd: A JOINT RESOLUTION relating to higher education teaching faculty salaries and making an appropriation therefor.

HJR 59, by Representatives Brinkley and Stone: A JOINT RESOLUTION directing the department for natural resources and environmental protection to insure that any regulations relating to the mining of oil shale or tar sands be promulgated so as to be no more stringent than those governing surface coal mining.

HR 60, by Representatives Stone, White, Endicott, Brown, Head, Cyrus, and Brinkley: A RESOLUTION recommending that the present rate of the coal severance tax be retained and that the present formula for distributing coal severance tax funds to the counties be retained.

HCR 61, by Representatives Harper, Kenton, List, Lundergan, Van Horn, and LeMaster: A CONCURRENT RESOLUTION requesting the Kentucky Horse Park Board and staff to study the feasibility of establishing, at the Kentucky Horse Park, a Hall of Fame relating to all aspects of the horse industry.

HJR 62, by Representatives List, Head, Hancock, P. Richardson, Barrows, LeMaster, Freibert, Perkins, and Moberly: A JOINT RESOLUTION establishing the Kentucky Water Management Task Force.

HCR 63, by Representatives Arnold, LeMaster, Allen, Farrow, Richards, Crupper, Craddock, Tobin, Foster, Clapp, Blandford, T. Jones, Lundergan, Turner, Worthington, and Burnette: A CONCURRENT RESOLUTION authorizing and directing a comprehensive study of the loss of farmland in Kentucky and the programs needed to prevent such loss.

HJR 64, by Representatives Haering, Burnette, Arnold, and Thomas: A JOINT RESOLUTION directing that those taxpayers qualifying for the homestead exemption as prescribed by the Constitutional Amendment ratified in November, 1981, be allowed to file applications for the exemption for the 1981 tax year until July 1, 1982.

HR 65, by Representatives F. Smith, LeMaster, and Rapier: A RESOLUTION honoring Jeff Van Note.

HCR 66, by Representatives Moberly, Johnson, Rapier, Barrows, and Richards: A CONCURRENT RESOLUTION requesting passage of H.R. 10533, repeal of the government pension offset, by the United States Congress.

HCR 67, by Representative Williams: A RESOLUTION directing the Legislative Research Commission to study determinate sentencing.

HB 730, by Representative LeMaster: AN ACT relating to insurance.

HB 731, by Representatives Moberly, Richards, Holbrook, and Layman: AN ACT relating to bankruptcy.

HB 732, by Representative Rapier: AN ACT relating to school district finances.

HB 733, by Representatives Holbrook, Clark, Bronger, Rapier, Burch, Thomas, Donnermeyer, Blandford, Boswell, Perkins, and Handy: AN ACT relating to the licensing of optometrists.

HB 734, by Representatives Van Horn and Bennett: AN ACT relating to public contracts.

HB 735, by Representative Hancock: AN ACT relating to the budget of the office of the auditor of public accounts.

HB 736, by Representative Curd: AN ACT relating to higher education teaching faculty salaries and making an appropriation therefor.

HB 737, by Representative Lile: An ACT relating to elections.

HB 738, by Representatives Brinkley and Stone: AN ACT relating to hazardous waste and declaring an emergency.

HB 739, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 740, by Representative Clapp: AN ACT relating to federal block grants.

HB 741, by Representative Nett: AN ACT relating to licenses and fees.

HB 742, by Representative Donnermeyer: AN ACT relating to elimination of extra service for school administrators.

HB 743, by Representative Clarke: AN ACT relating to financial administration.

HB 744, by Representatives Arnold, T. Jones, Lundergan, Turner, Allen, and Burnette: AN ACT providing for the establishment of agricultural districts.

HB 745, by Representatives Arnold and Farrow: AN ACT relating to the county officials' compensation board.

HB 746, by Representatives Gray, F. Smith, Turner, R. Jones, Craddock, and Guenthner: AN ACT relating to unemployment insurance.

HB 747, by Representatives Bennett, Clarke, Van Horn, and T. Jones: AN ACT relating to wages.

HB 748, by Representative T. Jones: AN ACT relating to conveyances of real property.

HB 749, by Representative T. Jones: AN ACT relating to local school district finance.

HB 750, by Representative Mann: AN ACT relating to revenue and taxation.

HB 751, by Representative Richards: AN ACT relating to public school attendance.

HB 752, by Representative Mann: AN ACT relating to public utilities.

HB 753, by Representatives B. Richardson, Thomason, LeMaster, Donnermeyer, and Dunn: AN ACT relating to the duties and powers of the council on higher education and declaring an emergency.

HB 754, by Representative Donnermeyer: AN ACT relating to local school district finance.

HB 755, by Representative Kenton and Bendl: AN ACT relating to discrimination in housing.

HB 756, by Representative Kenton: AN ACT relating to the state board of elections.

HB 757, by Representative Tobin: AN ACT relating to county employes.

HB 758, by Representative Thomason: AN ACT relating to the employes of the department of fish and wildlife resources.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 673, HB 1.**

Judiciary-Criminal: **HB 669.**

Transportation: **HB 465.**

Banking and Insurance: **HB 718, HB 663.**

Natural Resources and Environment: **HB 351.**

Report of Committees

The Committee on Judiciary-Criminal reported **HB 450** with Committee Substitute and Committee Amendment attached thereto, **HB 281,** and **HB 581** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 450, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) In lieu of a sentence to a fine or imprisonment or both for a misdemeanor or a violation, a court, with the consent of the victim of the crime (or all victims of the crime, if there is more than one (1)) may sentence the person convicted of the crime to:

(a) Working for or on behalf of the victim of the crime for a time specified by the court, which shall be determined by the total amount of monetary damage caused by or incidental to the commission of the crime and applying thereto the number of hours necessary to satisfy that amount at the then prevailing federal minimum wage; or

(b) Payment of the amount of money damage caused by or incidental to the commission of the crime to the victim in specified installments or in a lump sum; or

(c) Working upon a public project for a public agency of the Commonwealth, the county, or a city for a period of time equal to that specified in paragraph (a) of this subsection; or

(d) Any combination of the above.

(2) Any work ordered pursuant to this section shall not be deemed employment for any purpose nor shall the person performing the work be deemed an employe for any purpose.

(3) Any sentence pursuant to this section shall specify in detail the type and nature of the work, the hours to be worked, moneys to be paid and the method of payment, and such other terms and conditions, including reporting to the court on the progress of work, as the court may deem necessary.

(4) Should a person sentenced pursuant to this section fail to perform any condition required of his sentence, the court shall order the person to a hearing at which he shall show cause why the alternative sentence imposed pursuant to this section should not be revoked and a normal sentence of fine or imprisonment, or both, be inflicted.

(5) A person sentenced pursuant to this section who cannot show good cause for his failure to comply with a sentence imposed pursuant to this section shall be sentenced to a fine or imprisonment, or both, as may be authorized by the statute he was convicted of violating. Probation or other form of conditional release shall not be permitted in such instances.

Committee Substitute to **HB 450** is as follows:

HB 450, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

[~~(d) Make reparation or restitution, in an amount to be determined by the court, to an aggrieved party for damage or loss caused by his offense;~~]

(d)[~~(e)~~] Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e)[~~(f)~~] Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f)[~~(g)~~] Support his dependents and meet other family responsibilities;

(g)[~~(h)~~] Pay the cost of the proceeding as set by the court;

(h)[~~(i)~~] Remain within a specified area;

(i)[~~(j)~~] Report to the probation officer as directed;

(j)[~~(k)~~] Permit the probation officer to visit him at his home or elsewhere; and

(k)[~~(l)~~] Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.

(3) *When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out of pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the department for human resources, the crime victim compensation board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two amounts shall be awarded. The court may order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may order the defendant to work for a public agency of the Commonwealth, a county, or a city for a period of time equal to that determined in the case of working for a victim. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employe for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:*

(a) Restitution by payment may be ordered in a lump sum or in specified payments;

(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the monies as ordered by the court;

(c) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(d) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;

(e) The circuit clerk shall assess an additional fee of two percent (2%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to the general fund of the state treasury;

(f) When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation;

(g) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out of pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(5)[~~(4)~~] When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement pursuant to this provision shall not exceed six months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in custody under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment.

Committee Amendment No. 1 to the Committee Substitute to **HB 450** is as follows:

Amend printed copy of Committee Substitute to **HB 450**, page 3, line 13, following the word "*may*" to add "*, in lieu of ordering monetary restitution,*"

and on page 3, line 18, following the word "*may*" to add "*, with the consent of the agency,*"

HB 281, AN ACT relating to appearance bonds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

A judge, trial commissioner, or other officer issuing an arrest warrant based upon the testimony or allegations of a prosecuting witness may require the witness to post a bond in favor of the Commonwealth to secure the attendance of that witness in court in all matters relating to that particular arrest warrant. The amount of the bond shall be twenty-five dollars ($25.00). In the event that the prosecuting witness fails to appear and does not present valid reason therefor, the trial court shall order the forfeiture of the bond. This section shall not apply to any appeal or post-conviction proceeding.

HB 581, AN ACT relating to unlawful taking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

(1) A peace officer, security agent, librarian, archivist, curator, or other person in the employ of a library, archives, museum or repository of public records of the Commonwealth of Kentucky or any county or municipality thereof, who has probable cause for believing that materials retained, preserved or exhibited for their historic or artistic value or used for research purposes by libraries, archives, museums, or repositories of public records, such materials including but not limited to any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microfilm, sound recording, audio visual material in any format, magnetic or other tape, electronic data processing record, artifact, or other documentary, written or printed material regardless of any physical form or characteristics, belonging to, on loan to, or otherwise in the custody of such libraries, archives, museums, or repositories of public records, have been unlawfully taken by a person may take the person into custody and detain him in a reasonable manner for a reasonable length of time, on the premises of the library, archives, museum, or repository of public records or in the immediate vicinity thereof, if the persons enumerated in this section are in fresh pursuit, for any or all of the following purposes:

(a) To request identification;

(b) To verify such identification;

(c) To conduct an investigation in a reasonable manner and within a reasonable length of time to determine whether such a person has unlawfully taken materials preserved or exhibited for their historic value or used for research purposes by libraries, archives, museums, or repositories of public records, and to make reasonable investigation of the ownership of such materials;

(d) To recover or attempt to recover materials unlawfully taken from a library, archives, museum or repository of public records by such person, or others accompanying him;

(e) To inform a peace officer or law enforcement agency of the detention of the person and to surrender the person to the custody of a peace officer.

(2) The recovery of materials unlawfully taken from a library, archives, museum, or repository of public records by the person detained or by others shall not limit the right of persons named in subsection (1) of this section to detain such person for peace officers or otherwise accomplish the purposes of subsection (1).

(3) Persons in the employ of any library, archives, museum or repository of public records who cause the detention or arrest of persons suspected of unlawfully taking materials preserved or exhibited for their historic or artistic value or used by libraries, archives, museums, or repositories of public records for research purposes, shall not be held civilly or criminally liable provided that the employe has probable cause to believe that the crime of theft by unlawful taking has been committed by the person detained or arrested.

(4) Any peace officer may arrest without a warrant any person he has probable cause for believing has committed the crime of theft by unlawful taking in a library, archives, museum or repository of public records.

The Committee on Natural Resources reported **HB 611,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 611, AN ACT relating to Kentucky educational television.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 168 IS CREATED TO READ AS FOLLOWS:

Any cable television system franchised in Kentucky shall provide subscribers with access to Kentucky educational television as part of its channel offering; and in addition, cable television systems with more than one hundred (100) subscribers shall offer at least one (1) Kentucky commercial station.

Committee Substitute to **HB 611** is as follows:

HB 611, AN ACT relating to Kentucky educational television.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 168 IS CREATED TO READ AS FOLLOWS:

(1) Any community antenna television system (CATV) or master antenna television system (MATV) doing business in Kentucky shall provide subscribers with access to Kentucky educational television as part of its channel offerings; and in addition, such cable television systems with more than two hundred and fifty (250) subscribers shall by October 1, 1982, offer at least one (1) Kentucky commercial station.

(2) Any community antenna television system (CATV) or master antenna television system (MATV) not in compliance with subsection (1) of this section shall be fined one hundred dollars ($100) for each day it is in noncompliance.

The Committee on Banking and Insurance reported **HB 468, HB 469** with Committee Amendment attached thereto, **HB 508, HB 512** with Committee Amendment attached thereto, **HB 545** with Committee Amendment attached thereto, **SB 28** with Committee Amendment attached thereto, and **SB 82** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 468, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.3-230 is amended to read as follows:

(1) Upon issuance of a certificate of authority to do business in this state, the following shall be deemed to have appointed the *secretary of state* [~~commissioner~~] as its attorney to receive service of lawful process issued against it in this state:

(a) Foreign or alien insurers;
(b) Domestic reciprocal insurers;
(c) Domestic Lloyd's insurers;
(d) Qualified self-insurers.

(2) Such appointment shall be irrevocable, shall bind any successor in interest or to the assets or liabilities of the insurer, and shall remain in effect as long as there is in force in this state or elsewhere a contract that would give rise to a cause of action in this state, made by the insurer, or liabilities or duties arising therefrom.

(3) Service of lawful process against unauthorized insurers, except in contracts issued by insurers or underwriters to industrial insureds as defined in KRS 304.11-020, shall be made upon [~~the commissioner, or upon~~] the secretary of state, as provided in KRS 304.11-040.

(4) Service of lawful process against authorized domestic insurers shall be had pursuant to KRS 271A.070.

(5) *Whenever the secretary of state is by law the lawful attorney for service of process, the clerk of the court in which action is brought shall issue a summons against the defendant named in the complaint and direct it to the sheriff of Franklin County. The sheriff shall execute the summons by delivering a true copy to the secretary of state and shall also deliver with the summons an attested copy of plaintiff's complaint. The secretary of state shall immediately mail the copy of the summons and complaint to the defendant; if an authorized insurer, to the person designated pursuant to subsection (7) of KRS 304.3-150, and if an unauthorized insurer to the last known principal place of business. The letter shall be posted by prepaid certified mail, return receipt requested and shall bear the return address of the secretary of state. The sheriff shall make the usual return to the court and in addition the secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the secretary of state and the action shall proceed as provided in the Kentucky Rules of Civil Procedure* [~~Wherever the commissioner is by law the attorney for service of lawful process, duplicate copies of such process against an insurer shall be made by delivering to and leaving with the commissioner or some person in apparent charge of his office two copies thereof and the payment to him of such fees as provided for in subtitle 4. The commissioner shall forthwith forward by certified mail one of the copies of such process to the defendant, if an authorized insurer, to the person designated pursuant to subsection (7) of KRS 304.3-150, and if an unauthorized insurer, in the manner prescribed by KRS 304.11-040. The commissioner shall return the other copy to the plaintiff, or if represented by counsel, then to the counsel shown thereon, with his acknowledgment of service~~].

(6) The *secretary of state* [~~commissioner~~] shall keep a record of the date and hour of receipt of such lawful process, as well as the date it is forwarded to the defendant.

(7) For the purpose of this section, "lawful process" shall include only the summons which initiates and commences a cause of action, and such other initial notices, rules, or orders which would be required by the Kentucky Rules of Civil Procedure to be by personal service.

(8) The sheriff serving the summons upon the secretary of state shall pay to him at the time of service a fee in the amount set forth in KRS 454.210, which shall be taxed as costs in the action.

Section 2. KRS 304.4-010 is amended to read as follows:

The commissioner shall collect in advance, and persons so served shall pay in advance to the commissioner, fees, licenses and miscellaneous charges as follows:

(1) Annual statement of insurer:	
(a) Filing each year	$ 50.00
(b) Filing additional or supplemental statement in same year	50.00
(2) For filing charter documents:	
(a) Original charter document, bylaws and records of organization of insurer, or certified copies thereof, required to be filed	50.00
(b) Amended charter documents, or certified copy thereof	10.00
(3) Certificate of authority:	
(a) Issuance of original certificate	200.00
(b) Amending, to add a line	10.00
(c) Renewal, each year	100.00
(4) Organization of domestic mutual insurers:	
Filing application for solicitation permit and issuance of such permit	100.00
(5) Agent's licenses, foreign and alien insurers:	
(a) License for life insurer, whether or not health insurance is included, each year	20.00
(b) License for industrial life insurer, only, each year	20.00
(c) License for other insurance, each insurer represented, each year	20.00
(d) Limited license as travel insurance agent, each year	20.00
(e) Temporary license as property and casualty agent	20.00
(f) Temporary license as life and health agent	20.00
(g) Nonresident agent, each year	25.00
(6) Surplus lines broker, each year	50.00
(7) Solicitor's license, each year	15.00
(8) Adjuster's license, each year	25.00

(9) Consultant's license, each year	25.00
(10) Examination, for or in connection with licensing of agents, solicitors and adjusters:	
(a) Each examination first line	50.00
(b) Each additional line	20.00
(c) Re-examination of each line	20.00
(11) Miscellaneous services:	
(a) Filing other documents, each	2.00
(b) Commissioner's certificate under seal, other than certificates, licenses, and other documents above provided for, each	2.00
(c) For copies of any document on file with the commissioner, per page	.50
(d) Copy of annual statements, per page	1.00
[~~(e) Service of process on commissioner~~	~~5.00~~]

Section 3. KRS 304.9-120 is amended to read as follows:

(1) Each applicant for license as agent, who is an independent contractor agent compensated on a commission basis, and each applicant for license as a solicitor, must be a bona fide resident of this state at the date of application for the license, and must continue to be a resident of this state while so licensed.

(2) In determining the good faith of an applicant's claim to such residence, the commissioner may give due consideration to the following:

(a) The amount of time actually spent by the applicant within this state during the claimed residence period;

(b) The circumstances of such residence, that is, whether in a single or multiple family-type dwelling, or leased apartment, or permanent residential type; or in hotel, resort, motel, mobile home or other temporary or transient type of dwelling or accommodation;

(c) The circumstances of the applicant, his past history and activities, and the probability that he will continue as a resident of this state indefinitely into the future if the license were to be issued;

(d) All other pertinent factors.

(3) The requirements of subsection (1) of this section shall not apply as to:

(a) One employed to manage the insurance agency of a deceased licensed resident agent;

(b) An applicant or agent residing in any part of a city located partly within this state, if the other state in which the city is located in part has established a like exception to any residency requirement;

(c) Life or health insurance agents;

(d) Agents who are employes of the insurer or an affiliate of the insurer.

(4) The commissioner shall license as life insurance agent any person, firm or corporation who is otherwise qualified therefor under this code, but who is not a resident of this state if by the laws of the state or province of the residence of such person, firm or corporation, residents of this state may be licensed in such state or province as nonresident life insurance agents and the commissioner may negotiate and enter into reciprocal arrangements with the insurance supervisory official of any other state or province under which the residence requirements of this subsection (4) will be waived in favor of residents of such other state or province if like privileges in such other state or province are granted to residents of this state. [~~As part of any such arrangement the commissioner shall be constituted as the attorney in fact of any such nonresident for acceptance of service of process in any action or proceeding in this state arising out of or related to the transactions of the licensee in this state, with the same effect as though served upon the licensee personally in this state, and any license to any such nonresident shall be subject to this condition.~~]

(5) If, under the laws of any other state or province, greater restrictions regarding residents and personal qualifications are imposed upon the licensing of residents of this state as agents than those imposed upon the licensing of nonresidents of this state under the laws of this state, then the commissioner may, when he considers such action necessary for the protection of domestic insurers or resident agents, impose such greater restrictions upon the licensing of residents of such state or province.

Section 4. KRS 304.9-370 is amended to read as follows:

(1) Application for and acceptance of a license as a consultant, *agent, adjuster or solicitor* by a nonresident of Kentucky shall thereby be deemed to constitute irrevocable appointment of the *secretary of state* [~~commissioner~~] as the attorney of the licensee for the acceptance of service of process issued in this state in any action or proceeding against the licensee arising out of such licensing or out of transactions under the license.

(2) *Service of process against any nonresident licensee may be made in any action by service upon the secretary of state as provided in KRS 304.3-230* [~~Duplicate copies of process shall be served upon the commissioner or other person in apparent charge of his office during his absence, accompanied by payment to the commissioner of $5.00 as a process fee. Upon receiving such service the commissioner shall promptly forward a copy thereof by certified mail (with return receipt requested) to the nonresident licensee at his business address last of record with the commissioner.~~

~~(3) Process served upon the commissioner and copy thereof forwarded as in this section provided shall for all purposes constitute personal service thereof upon the licensee~~].

Section 5. KRS 304.10-200 is amended to read as follows:

(1) An unauthorized insurer shall be sued, upon any cause of action arising in the state under any contract issued by it as a surplus lines contract pursuant to this subtitle, in the circuit court of the county in which the cause of action arose.

(2) Service of legal process against the insurer may be made in any such action by service upon the *secretary of state* [~~commissioner~~] as provided in KRS 304.3-320. [~~The commissioner shall forthwith mail a copy of the process served to the person designated by the insurer in the policy for the purpose, by prepaid certified mail with return receipt requested. Process served upon the commissioner and copy thereof forwarded as provided in this section shall for all purposes constitute personal service upon the insurer.~~]

(3) An unauthorized insurer issuing such policy shall be deemed thereby to have authorized service of process against it in the manner and to the effect as provided in this section. Any such policy shall contain a provision stating the substance of this section, and designating the person to whom the *secretary of state* [~~commissioner~~] shall mail process as provided in subsection (2) of this section.

Section 6. KRS 304.11-020 is amended to read as follows:

(1) Other than KRS 304.11-050, the provision of KRS 304.11-020 to 304.11-050, shall not apply to any insurance company or underwriter issuing contracts of insurance to industrial insureds, nor to any contract of insurance issued to any one or more industrial insureds. For the purpose of this section, an "industrial insured" is:

(a) An insured who procures the insurance of any risk or risks other than life and annuity contracts by use of the services of a full-time employe acting as an insurance manager or buyer or the services of a regularly and continuously retained qualified insurance consultant; and

(b) An insured whose aggregate annual premiums for insurance on all risks total at least $25,000; and

(c) An insured having at least twenty-five (25) full-time employes.

(2) KRS 304.11-020 to 304.11-050, inclusive, shall not apply to any life insurance company organized and operated, without profit to any private shareholder or individual, exclusively for the purpose of aiding educational or scientific institutions organized and operated without profit to any private shareholder or individual by issuing insurance and annuity contracts directly from the home office of the company and without agents or representatives in this state only to or for the benefit of such institutions and to individuals engaged in the services of such institutions, nor to any policy or contract which it issues; but this exemption shall be conditioned upon any such company complying with the following requirements:

(a) Payment of an annual registration fee of $500;

(b) Filing a copy of any policy or contract issued to Kentucky residents with the commissioner;

(c) Filing a copy of its annual statement prepared pursuant to the laws of its state of domicile, as well as such other financial material as may be requested, with the commissioner; and

(d) Providing, in such form as may be acceptable [~~to the commissioner,~~] for the appointment of the *secretary of state* [~~commissioner~~] as its true and lawful attorney upon whom may be served all lawful process in any action or proceeding against such company arising out of any policy or contract it has issued to, or which is currently held by, a Kentucky citizen and process so served against such company shall have the same force and validity as if served upon the company.

Section 7. KRS 304.11-040 is amended to read as follows:

(1) No person or insurer shall directly or indirectly perform any of the acts of doing an insurance business as defined in KRS 304.11-020 to 304.11-050, inclusive, except as provided by and in accordance with the specific authorization by statute. However, should any unauthorized person or insurer perform any act of doing an insurance business as set forth in KRS 304.11-020 to 304.11-050, inclusive, it shall be equivalent to and shall constitute an irrevocable appointment by such person or insurer, binding upon him, his executor or administrator, or successor in interest if a corporation, of the *secretary of state* [~~commissioner~~] or his successor in office to be the true and lawful attorney upon whom may be served all lawful process in any action, suit, *administrative hearing* or proceeding in any court arising out of doing an insurance business in this state or instituted by or on behalf of an insured or beneficiary arising out of any such acts of doing an insurance business[~~, except in an action, suit or proceeding by the commissioner or by the state~~]. Any act of doing an insurance business by any unauthorized person or insurer shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such person or insurer.

(2) Service of process *in any action may be made by service upon the secretary of state as provided in KRS 304.3-230* [~~shall be made by delivering to and leaving with the commissioner or some person in apparent charge of his office two (2) copies thereof and the payment to him of such fees as provided in KRS 304.4-010. The commissioner shall forthwith forward by certified mail one of the copies of such process to the defendant at the last known principal place of business and shall keep a record of all process so served. Such service of process shall be sufficient to provide notice if:~~]

~~(a) A copy of the process is sent within ten (10) days thereafter by certified mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business.~~

~~(b) The defendant's receipt or receipt issued by the post office showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed and an affidavit by the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear or within such further time as the court may allow~~].

(3) Service of process in any such action, suit, or proceeding shall in addition to the manner as provided in KRS 304.11-020 to 304.11-050, inclusive, be valid if served upon any person within this state who, in this state on behalf of such insurer, is soliciting insurance, making, issuing, or delivering any contract of insurance, or collecting or receiving any premium, membership fee, assessment, or other consideration for insurance, and if:

(a) A copy of such process is sent within ten (10) days thereafter by certified mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant.

(b) The defendant's receipt, or the receipt issued by the post office showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and an affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear or within such further time as the court may allow.

(4) No plaintiff shall be entitled to a judgment by default under KRS 304.11-020 to 304.11-050, inclusive, until the expiration of thirty (30) days from the date of the filing of the adffidavit of compliance.

(5) Nothing in subsections (1) to (5), inclusive, of this section shall limit or abridge the right to serve any process, notice, or demand upon any insurer in any other manner now or hereafter permitted by law.

(6) [~~Any act of doing an insurance business as set forth in KRS 304.11-020 to 304.11-050, inclusive, by an unauthorized person or insurer is equivalent to and shall constitute an irrevocable appointment by such person and insurer, binding upon him, his executor or administrator, or successor in interest if a corporation, of the secretary of state or his successor in office to be the true and lawful attorney of such person or insurer upon whom may be served all legal process in any action, suit, or proceeding in any court by the commissioner or by the state and upon whom may be served any notice, order, pleading or process in any proceeding before the commissioner and which arises out of doing an insurance business in this state by such person or insurer. Any act of doing an insurance business in this state by any unauthorized person or insurer shall be signification of its agreement that any such legal process in such court action, suit, or proceeding and any such notice, order, pleading, or process in such administrative proceeding before the commissioner so served shall be of the same legal force and validity as personal service of process in this state upon such person or insurer.~~

~~(7) Service of process in such action shall be made by delivering to and leaving with the secretary of state or some person in apparent charge of his office two (2) copies thereof. Service upon the secretary of state as such attorney shall be service upon the principal.~~

~~(8) The secretary of state shall forthwith forward by certified mail one (1) of the copies of such process or such notice, order, pleading, or process in proceedings before the commissioner to the defendant in such court proceeding or to whom the notice, order, pleading, or process in such administrative proceeding is addressed or directed at the last known principal place of business and shall keep a record of all process so served on him which shall show the day and hour of service. Such service is sufficient, provided:~~

~~(a) Notice of such service and a copy of the court process or the notice, order, pleading, or process in such administrative proceeding is sent within ten (10) days thereafter by certified mail by the plaintiff or the plaintiff's attorney in the court proceeding or by the commissioner in the administrative proceeding to the defendant in the court proceeding or to whom the notice, order, pleading, or process in such administrative proceeding is addressed or directed at last known principal place of business of the defendant in the court or administrative proceeding.~~

~~(b) The defendant's receipt or receipts issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person or insurer to whom the letter is addressed, and an affidavit of the plaintiff or the plaintiff's attorney in court proceedings or of the commissioner in administrative proceedings, showing compliance therewith are filed with the clerk of the court in which such action, suit, or proceeding is pending or with the commissioner in administrative proceedings, on or before the date the defendant in the court or administrative proceeding is required to appear or respond thereto, or within such further time as the court or commissioner may allow.~~

~~(9) No plaintiff shall be entitled to a judgment or a determination by default in any court or administrative proceeding in which court process or notice, order, pleading, or process in proceedings before the commissioner is served under subsections (6) to (11), inclusive, of this section until the expiration of forty-five (45) days from the date of filing of the affidavit of compliance.~~

~~(10) Nothing in subsections (6) to (11), inclusive, of this section shall limit or abridge the right to serve any process, notice, order, or demand upon any person or insurer in any other manner now or hereafter permitted by law.~~

~~(11)~~] The attorney general upon request of the commissioner may proceed in the courts of this state or any other state or in any federal court or agency to enforce an order or decision in any court proceeding or in any administrative proceeding before the commissioner.

(7)[~~(12)~~] Before any unauthorized person or insurer files or causes to be filed in any pleading in any court action, suit or proceeding or in any notice, order, pleading, or process in such administrative proceeding before the commissioner instituted against such person or insurer, by services made as provided in subsections (1) to *(5)*[~~(11)~~], inclusive, of this section such person or insurer shall either:

(a) Deposit with the clerk of the court in which such action, suit, or proceeding is pending, or with the commissioner in administrative proceedings before the commissioner, cash or securities, or file with such clerk or commissioner a bond with good and sufficient sureties, to be approved by the clerk or commissioner in an amount to be fixed by the court or commissioner sufficient to secure the payment of any final judgment which may be rendered in such action or administrative proceeding.

(b) Procure a certificate of authority to transact the business of insurance in this state.

(8)[~~(13)~~] The court in any action, suit, or proceeding in which service is made as provided in subsections (1) to (5), inclusive, [~~of this section or the commissioner in any administrative proceeding before the commissioner in which service is made as provided in subsections (6) to (11), inclusive,~~] of this section may in his or its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection *(7)*[~~(12)~~] of this section and to defend such action.

(9)[~~(14)~~] Nothing in subsection *(7)*[~~(12)~~] of this section shall be construed to prevent an unauthorized person or foreign or alien insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in subsections (1) to *(5)*[~~(11)~~], inclusive, of this section on the ground that such unauthorized person or insurer has not done any of the acts enumerated in subsections (1) to (3), inclusive, of KRS 304.11-030.

(10)[~~(15)~~] In an action against an authorized person or insurer upon a contract of insurance issued or delivered in this state to a resident thereof or to a corporation authorized to do business therein, if the person or insurer has failed for thirty (30) days after demand prior to the commencement of the action to make payment in accordance with the terms of the contract, and it appears to the court that such refusal was without reasonable cause, the court may allow to the plaintiff a reasonable attorney fee and include such fee in any judgment that may be rendered in such action. Failure of the person or insurer to defend any such action shall be deemed prima-facie evidence that its failure to make payment was without reasonable cause.

(11)[~~(16)~~] Whenever the commissioner has reason to believe that insurance has been effectuated by or for any person in this state with an unauthorized insurer the commissioner shall in writing order such person to produce for examination all insurance contracts and other documents evidencing insurance with both authorized and unauthorized insurers and to disclose to the commissioner the amount of insurance, name and address of each insurer, gross amount of premium paid or to be paid and the name and address of the person or persons assisting or aiding in the solicitation, negotiation, or effectuation of such insurance.

(12)[~~(17)~~] Every person investigating or adjusting any loss or claim on a subject of insurance in this state shall immediately report to the commissioner every insurance policy or contract which has been entered into by an insurer not authorized to transact such insurance in this state.

(13)[~~(18)~~] Every person who, for thirty (30) days after receipt of written order pursuant to subsection (16) of this section, neglects to comply with the requirements of such order or who wilfully makes a disclosure that is untrue, deceptive, or misleading shall forfeit $50.00.

Section 8. KRS 304.27-130 is amended to read as follows:

(1) Legal process shall be served upon a domestic reciprocal insurer by serving the insurer's attorney at his principal offices or by serving the *secretary of state* [~~commissioner~~] as the insurer's process agent, as provided *in KRS 304.3-230* [~~under this code~~].

(2) Any judgment based upon legal process so served shall be binding upon each of the insurer's subscribers as their respective interests may appear, but in an amount not exceeding their respective contingent liabilities, if any, the same as though personal service of process was had upon each subscriber.

Section 9. KRS 304.29-400 is amended to read as follows:

(1) Every society authorized to do business in this state shall appoint in writing the *secretary of state* [~~commissioner~~] and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in such writing that any lawful process against it which is served on said attorney, shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by *the secretary of state* [~~such commissioner~~], shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.

(2) Service *of process in any action may be made by service upon the secretary of state as provided in KRS 304.3-230* [~~shall only be made upon the commissioner, or if absent, upon the person in charge of~~

~~his office, it shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner, he shall forthwith forward one (1) of the duplicate copies by certified mail, return receipt requested directed to the secretary or corresponding officer. No such service shall require a society to file its answer, pleading or defense in less than thirty (30) days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner herein provided. At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner of insurance a fee of five dollars ($5)~~].

Section 10. KRS 304.3-150 is amended to read as follows:

To apply for an original certificate of authority an insurer shall file with the commissioner its written application therefor on forms as prescribed and furnished by the commissioner, accompanied by the applicable fees specified in subtitle 4, stating under the oath of the president or vice-president or other chief officer and the secretary of the insurer, or of the attorney in fact (if a reciprocal insurer or Lloyd's plan insurer), the insurer's name, location of its principal office, the kinds of insurance to be transacted, date of organization or incorporation, form of organization, its domicile, and such additional information as the commissioner may reasonably require, together with the following documents, as applicable:

(1) If a corporation, a copy of its charter, together with all amendments thereto, or as restated and amended under the laws of its state or country of incorporation, currently certified by the public official with whom the originals are on file in such state or country.

(2) A copy of its bylaws, certified by the insurer's secretary.

(3) If a reciprocal insurer, a copy of the power of attorney of its attorney in fact, and copy of its subscribers agreement, if any, both certified by the attorney in fact; and if a domestic reciprocal insurer, the declaration provided for in KRS 304.2-060.

(4) If a Lloyd's plan insurer, the names and addresses of all of the underwriters proposing to engage in the business, along with the number of underwriters which shall not be less than twenty-five (25), and that each underwriter is worth in his own right not less than twenty thousand dollars ($20,000) over and above all his liabilities, along with a statement showing a list of all cash and invested assets owned by the associated underwriters and their value, certified and sworn to by their duly authorized attorney in fact.

(5) A complete copy of its financial statement as of not earlier than the December 31 next preceding in form as customarily used in the United States by like insurers, sworn to by at least two (2) executive officers of the insurer or certified by the public insurance supervisory official of the insurer's state or country of domicile.

(6) A copy of the report of last examination of the insurer prior to the filing of the application, certified by the public insurance supervisory official of the insurer's state or country of domicile.

(7) If a foreign or alien insurer, the name and address of the person to whom the *secretary of state* [~~commissioner~~] shall forward lawful process served upon him. If a domestic reciprocal insurer, the name and address of the attorney designated pursuant to paragraph (e) of subsection (2) of KRS 304.27-060 shall be deemed to be the person to whom the *secretary of state* [~~commissioner~~] shall forward lawful process served upon him. Any judgment against such domestic reciprocal so served shall be binding upon each of the insurer's subscribers as their respective contingent liabilities.

(8) If a foreign or alien insurer, a certificate of the public insurance supervisory official of its state or country of domicile showing that it is authorized or qualified for authority to transact in such state or country the kinds of insurance proposed to be transacted in this state.

(9) If an alien insurer, a certificate as to deposit, if to be tendered pursuant to subsection (4) of KRS 304.3-060, and a copy of the trust deed, if any, pertaining to such deposit, certified by the trustee.

(10) If a foreign insurer, a certificate as to deposit, if to be tendered pursuant to subsection (4) of KRS 304.3-140.

(11) If a life or health insurer, a copy of the insurer's rate book and of each form of policy currently proposed to be issued in this state, and of the form of application therefor.

(12) If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records.

(13) Designation by the insurer of its officers or representatives authorized to appoint and remove its agents in this state.

(14) If to transact surety insurance, the names and addresses of all its attorneys in fact within this state together with the scope of authority of each such attorney in fact.

HB 469, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.1-010 is amended to read as follows:

This chapter constitutes the Kentucky insurance code. This chapter consists of *forty-three (43)* [~~thirty-four (34)~~] subtitles, subtitles 1 to *42* [~~33~~] and subtitle 99. The general assembly intends that each subtitle retain its separate identification within chapter 304 of the Kentucky Revised Statutes.

Section 2. KRS 304.1-120 is amended to read as follows:

No provision of this code shall apply to:

(1) Fraternal benefit societies (as identified in subtitle 29), except as stated in subtitle 29.

(2) Nonprofit hospital, medical-surgical, dental and health service corporations (as identified in subtitle 32) except as stated in subtitle 32.

(3) Burial associations (as identified in KRS Chapter 303), except as stated in subtitle 31.

(4) Assessment or cooperative insurers (as identified in KRS Chapter 299), *except as stated in KRS Chapter 299.*

(5) Insurance premium finance companies (as identified in subtitle 30), except as stated in subtitle 30.

(6) A group or association of health facility and health services institutions subject to the certificate of need and licensure provisions of KRS Chapter 216B, composed of any number of members, who join together to self insure against professional liability or comprehensive general liability risks for bodily injury or property damage, to anyone except employes for claims arising out of their employment of the members of such group, which arises out of the operation of institutions by members of the group and who comply with the following conditions:

(a) Establishment of a professional or comprehensive general liability risk management trust fund to provide adequate coverage for claims made against members of the fund for professional liability or comprehensive general liability risks;

(b) Establishment of a comprehensive loss prevention and risk management program coordinated with an effective claims management system for members of the group;

(c) Filing with the department, on a form to be provided by the department, a certification setting forth the establishment of such a trust fund, the date upon which the trust fund is to become effective, the identity of the members of the trust fund, and a copy of the programs and systems established for the members of the trust fund.

Section 3. KRS 304.2-110 is amended to read as follows:

(1) The commissioner may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of this code. No such rule or regulation shall extend, modify, or conflict with any law of this state or the reasonable implications thereof.

(2) [~~Any such rule or regulation affecting persons or matters other than the personnel or the internal affairs of the department shall be made or amended only after a hearing thereon of which notice was given as required by KRS 304.2-320. The commissioner shall set forth the proposed rule or regulation or amendment in or with the notice of hearing.~~

~~(3) No such rule or regulation as to which a hearing is required under subsection (2) of this section shall be effective until after it has been on file as a public record in the commissioner's office for at least ten (10) days.~~

~~(4) Upon request and payment of the reasonable cost thereof if required and fixed by the commissioner, the commissioner shall furnish a copy of any such rule or regulation to any person so requesting.~~

~~(5)~~] No penalty shall apply to any act done or omitted in good faith in conformity with any such rule or regulation, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

Section 4. KRS 304.2-140 is amended to read as follows:

Any person who [~~wilfully~~] violates any rule, regulation, or order of the commissioner *or any provision of this code* shall[~~, except where other penalty is expressly provided,~~] be subject to [~~such~~] suspension or revocation of certificate of authority or license, or administrative fine *or both* [~~in lieu of such suspension or revocation, as may be applicable under this code for violation of the provision to which such rule, regulation or order relates~~].

Section 5. KRS 304.2-190 is amended to read as follows:

(1) The commissioner may have the directory of authorized insurers, of licensed insurance representatives, license examination material, insurance laws and related laws and regulations under his administration published in pamphlet form from time to time, and may fix a price for each copy not to exceed one hundred twenty-five percent (125%) of [~~the actual~~] cost [~~of production~~].

(2) The commissioner shall account for and deposit all moneys so received in the manner provided under KRS 304.4-020.

Section 6. KRS 304.2-300 is amended to read as follows:

(1) There is created in the state treasury the "examination expense revolving fund" for the use of the department. The commissioner shall promptly deposit all funds received under KRS 304.2-290 with the state treasurer to the credit of such fund.

(2) Moneys for travel, per diem, compensation and other necessary and authorized expenses incurred by an examiner or other department representative in the examination of any person required to pay, and making payment of, the expense of examination pursuant to KRS 304.2-290 shall be paid out of the examination expense revolving fund, upon approval of the commissioner.

(3) *Moneys for travel, compensation and other necessary expenses of the custodian of insurance securities assessed pursuant to KRS 304.8-190 shall be paid out of the examination expense revolving fund upon approval of the commissioner.*

(4) If any amount in such revolving fund remains unexpended at the end of any fiscal year, that amount shall not lapse, but shall remain credited to the account and may be used during the succeeding year or years.

Section 7. KRS 304.2-330 is amended to read as follows:

(1) The commissioner, or any person duly authorized in writing by the commissioner, shall preside at the hearing, and shall expedite the hearing and all procedures involved therein, and shall have the same powers as the commissioner in relation to the entire matter except the order on the hearing, if not prepared by the commissioner, shall be approved by writing by the commissioner.

(2) Any party to the hearing shall have the right to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary and other evidence and to examine and cross-examine witnesses, to present evidence in support of his interest and to have subpoenas issued by the commissioner to compel attendance of witnesses and production of evidence in his behalf. Testimony may be taken orally or by deposition, and any party shall have such right of introducing evidence by interrogatories or deposition as may obtain in a circuit court.

(3) Upon good cause shown the commissioner shall permit to become a party to the hearing by intervention, if timely, only such persons, not original parties thereto, whose pecuniary interests are to be directly and immediately affected by the commissioner's order made upon the hearing.

(4) Formal rules of pleading or evidence need not be observed at any hearing so long as procedural due process is afforded all parties, and so long as said hearing is conducted in accordance with the rules and regulations of the department.

(5) The hearing shall be public, unless the commissioner, or his authorized designee, determines that a private hearing would be in the public interest, in which case and only with the consent of all parties to the hearing, the hearing shall be private.

(6) The commissioner shall cause a full stenographic record of the proceedings to be made. If transcribed, a copy of such record shall be part of the commissioner's record of the hearing; and *the cost of transcribing shall be paid by the party making the filing or other party as the commissioner may direct; except that* a copy shall be furnished to any other party to the hearing, at the request and expense of such other party. If no such record is transcribed, the commissioner shall prepare a summary record of the proceedings and evidence.

(7) The validity of any hearing held in accordance with the notice thereof, or waiver of notice, shall not be affected by the failure of any person to attend or remain in attendance.

(8) The commissioner or his authorized designee may adjourn any hearing from time to time and from place to place without other notice of the adjourned hearing than announcement thereof at the hearing.

Section 8. KRS 304.3-200 is amended to read as follows:

(1) The commissioner may, in his discretion, refuse to continue or may suspend or revoke an insurer's certificate of authority if he finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has:

(a) Wilfully violated or wilfully failed to comply with any lawful order of the commissioner; or

(b) Wilfully violated or wilfully failed to comply with any lawful regulation of the commissioner; or

(c) Wilfully violated any provision of this code other than those for violation of which suspension or revocation is mandatory; or

(d) Failed to pay taxes on its premiums as required by law.

In lieu of *or in addition to* such suspension or revocation, the commissioner may, in his discretion, levy upon the insurer, and the insurer shall pay forthwith, an administrative fine *as specified in KRS 304.99-020* [~~of not more than two thousand dollars ($2,000)~~].

(2) The commissioner shall suspend or revoke an insurer's certificate of authority on any of the following grounds, if he finds after a hearing thereon that the insurer:

(a) Is in unsound condition, or is being fraudulently conducted, or is in such condition or using such methods and practices in the conduct of its business as to render its further transaction of insurance in this state currently or prospectively hazardous or injurious to policyholders or to the public.

(b) With such frequency as to indicate its general business practice in this state:

1. Has without just cause failed to pay, or delayed payment of, claims arising under its policies, whether the claim is in favor of an insured or is in favor of a third person with respect to the liability of an insured to such third person; or

2. Without just cause compels insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims.

(c) Refuses to be examined, or if its directors, officers, employes or representatives refuse to submit to examination relative to its affairs, or to produce its accounts, records and files for examination by the commissioner when required, or refuse to perform any legal obligation relative to the examination.

(d) Has failed to pay any final judgment rendered against it in this state upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within thirty (30) days after the judgment became final or within thirty (30) days after dismissal of an appeal before final determination, whichever date is the later.

(e) Has actual knowledge by the chief executive officer or person in charge of Kentucky operations that an agent employed by the insurer has engaged or is engaging in conduct in violation of this code and the insurer has failed to report such conduct to the department.

(f) No insurer, its agents, servants, or employes shall incur any liability in connection with or as a result of any disclosure made to the commissioner of insurance pursuant to the provisions of this section.

(3) The commissioner may, in his discretion and without advance notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced in any state by the public insurance supervisory officer of such state.

Section 9. KRS 304.4-010 is amended to read as follows:

The commissioner shall collect in advance[~~, and persons so served shall pay in advance to the commissioner,~~] fees, licenses and miscellaneous charges as follows:

(1) Annual statement of insurers	
(a) Filing each year	$ *100.00*[~~50.00~~]
(b) Filing additional or supplemental statement in same year	*100.00*[~~50.00~~]
(2) For filing charter documents:	
(a) Original charter document, bylaws and records of organization of insurer, or certified copies thereof, required to be filed	*100.00*[~~50.00~~]
(b) Amended charter documents, *bylaws and records of organization of insurer,* or certified *copies* [~~copy~~] thereof	*50.00*[~~10.00~~]
(3) Certificate of authority:	
(a) Issuance of original certificate	*500.00*[~~200.00~~]
(b) Amending, to add a line	*50.00*[~~10.00~~]
(c) Renewal, each year	100.00
(4) Organization of domestic mutual insurers:	
Filing application for solicitation permit and issuance of such permit	*200.00*[~~100.00~~]
(5) Self insurer:	
(a) Application to become self-insurer under KRS 304.39	*200.00*
(b) Annual review of status under KRS 304.39	*100.00*
(c) Notification of self-insurance program under KRS 304.32 et seq	*50.00*
(6) Agent's licenses, foreign and alien insurers:	
(a) License for life insurer, whether or not health insurance is included, *biennial* [~~each year~~]	*40.00*[~~20.00~~]
(b) License for industrial life insurer, only, *biennial* [~~each year~~]	*40.00*[~~20.00~~]
(c) License for other insurance, each insurer represented, *biennial* [~~each year~~]	*40.00* [~~20.00~~]
(d) Limited license as travel insurance agent, *biennial* [~~each year~~]	*40.00* [~~20.00~~]
(e) Temporary license as property and casualty agent	20.00
(f) Temporary license as life and health agent	20.00
(g) Nonresident agent, *biennial* [~~each year~~]	*50.00*[~~25.00~~]
(7)[~~(6)~~] Surplus lines broker, *biennial* [~~each year~~]	*100.00*[~~50.00~~]
(8)[~~(7)~~] Solicitor's license, *biennial* [~~each year~~]	*20.00*[~~15.00~~]
(9)[~~(8)~~] Adjuster's license, *biennial* [~~each year~~]	*50.00*[~~25.00~~]
(10)[~~(9)~~] Consultant's license, *biennial* [~~each year~~]	*50.00*[~~25.00~~]

(11) Agent's licenses, fraternal benefit societies, biennial *40.00*

(12)[~~(10)~~] Examination, for or in connection with licensing of agents, solicitors, [~~and~~] adjusters, *and consultants* .... 50.00[~~:~~

~~(a) Each examination first line~~ .... ~~50.00~~

~~(b) Each additional line~~ .... ~~20.00~~

~~(c) Re-examination of each line~~ .... ~~20.00~~]

(13) Annual registration fee of unauthorized insurer *500.00*

(14) Rating organizations:

(a) Application for license *500.00*

(b) Annual renewal *100.00*

(15) Rate and form filings:

(a) Rate level revision filing under KRS 304.13-040 .... *100.00*

(b) Other rate and form filings *5.00*

(16) Premium finance company license issuance and annual renewal *100.00*

(17) Cost of administering KRS 304.32 per membership contract in force on December 31st of each year *10*

(18)[~~(11)~~] Miscellaneous services:

(a) Filing other documents, each .... *5.00*[~~2.00~~]

(b) Commissioner's certificate under seal, other than certificates, licenses, and other documents above provided for, each .... *5.00*[~~2.00~~]

(c) For copies of any document on file with the commissioner, per page .... .50

(d) Copy of annual statements, per page 1.00

(e) Service of process on commissioner .... *10.00* [~~5.00~~]

SECTION 10. A NEW SECTION OF SUBTITLE 4 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The biennial renewal fees specified in subparagraphs (6), (7), (8), (9), (10), and (11) of Section 8 of this Act are payable as follows:

(1) Licensees for life, health, or life and health insurers shall renew their licenses on or before March 31, 1983, and biennially thereafter;

(2) Licensees for casualty, marine and transportation, property, surety, mortgage guaranty, fraternal benefit societies, or multiple line insurers shall renew their licenses for a one (1) year period on or before March 31, 1983, and biennially thereafter.

Section 11. KRS 304.6-030 is amended to read as follows:

(1) Any member, officer, director, employe, or attorney in fact of any company, association, or exchange licensed to do an insurance business in this state, who on behalf of such company, association, or exchange, borrows, rents, hires, leases, or otherwise engages the use of stocks, bonds, debentures, notes, investment certificates, securities, or other obligations or evidences of indebtedness owned or issued by any other corporation, company, association, or individual, or of any government, political subdivision or agency thereof, with intent to injure or defraud any other company, body politic or corporation, or person, or to deceive the commissioner or other person legally authorized to examine the affairs of any such company, association, or exchange, is guilty of a felony.

(2) Any individual that aids and abets such insurance company, association or exchange in borrowing, renting, hiring, leasing, or engaging the use of such stocks, bonds, debentures, notes, investment certificates, securities, or other obligations or evidences of indebtedness, is guilty of a felony.

(3) Any individual who has been convicted under subsection (1) or (2) of this section shall be sentenced to imprisonment for a term of not *less than one (1) year nor* more than seven (7) years, or be sentenced to pay a fine not exceeding ten thousand dollars ($10,000), or both.

(4) [~~If any insurance company, association, or exchange is found by the commissioner, after a hearing, to have committed the acts set out in subsections (1) and (2) of this section, the commissioner may require such company, association, or exchange to pay a fine not exceeding $10,000.~~

~~(5)~~] If any insurance company, association, or exchange is found in possession of stocks, bonds, debentures, notes, investment certificates, securities, or other obligations or evidences of indebtedness acquired in violation of subsection (1) of this section, or if any of its officers, directors, members, or attorneys in fact have been convicted under subsection (1) of this section, such company, association, or exchange may be subject to suspension of its certificate of authority by the commissioner. Nothing in this section shall be construed to prevent the commissioner from commencing delinquency proceedings under this code.

Section 12. KRS 304.8-190 is amended to read as follows:

(1) Insurers maintaining deposits of assets in this state under this subtitle, shall pay into the *examination expense revolving fund as provided in subtitle 2 of this chapter, moneys sufficient to pay travel, compensation and other necessary expenses of the custodian of insurance securities* [~~treasury of the commonwealth~~], through the office of the commissioner of insurance[~~, $15,000 each calendar year~~].

(2) The portion of such expense fund to be paid by each such insurer shall be in the same approximate proportion as the amount such insurer had on deposit on December 31 of the preceding year bears to the total such deposits of all insurers as of December 31 of the preceding year. The commissioner shall assess each insurer for its proportionate share of such expense fund. [~~All assessments shall be deposited with the state treasurer to the credit of the general expenditure fund.~~] The minimum charge for each insurer shall be *$5.00* [~~$2.00~~].

Section 13. KRS 304.9-260 is amended to read as follows:

(1) Each solicitor, consultant, adjuster, and surplus lines broker license issued under this code shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment to the commissioner at his office in Frankfort [~~annually~~] on or before March 31 of the applicable continuation fee as stated in KRS 304.4-010, accompanied by written request for such continuation. Request for continuation shall be made as follows:

(a) As to adjuster, and surplus lines broker licenses, request made and signed by the licensee.

(b) As to solicitor licenses, request made and signed by the employer as to whom licensed.

(c) As to limited licenses issued under KRS 304.9-230, request made and signed by the insurer so represented.

(2) Any license referred to in subsection (1) of this section as to which request for continuation and fee are not so received by the commissioner shall be deemed to have expired at midnight on such March 31; except that any such request received by the commissioner after such March 31 and prior to the next following *June 30* [~~May 1~~] may be accepted and effectuated by the commissioner, in his discretion, if accompanied by *a penalty as provided in subtitle 99 of this chapter* [~~an annual continuation fee equal to one and one-half times the continuation fee otherwise required~~].

(3) The license of an agent shall continue in force as long as there is in effect as to such licensee, as shown by the commissioner's records, an appointment or appointments as agent of authorized insurers covering collectively all of the kinds of insurance or classifications thereof included in the agent's license. Upon termination of all of the licensee's agency appointments as to a particular kind of insurance or classification thereof and failure to replace such appointment within sixty (60) days thereafter, the license shall thereupon expire and terminate as to such kind or classification of insurance and the licensee shall promptly deliver his license to the commissioner for re-issuance, without fee or charge, as to the kinds of insurance or classifications thereof, if any, covered by the licensee's remaining agency appointments. Upon termination of all of the licensee's agency appointments the license shall forthwith terminate.

(4) As a condition to or in connection with the continuation of any agent, consultant, or solicitor license the commissioner may require the licensee to file with him information relative to use made of the license during the next preceding calendar year, and especially as to whether the license has been used principally for the writing of controlled business, as defined in KRS 304.9-100.

(5) As a condition to or in connection with the continuation of any agent or solicitor license the commissioner shall require continuous demonstration of financial responsibility as required by KRS 304.9-105(5) and any such license shall terminate and be surrendered to the commissioner, as provided for therein, if and when such demonstration becomes impaired whether or not valid appointments under the license are then existent.

(6) Except as to the provisions of subsection (5) hereof, this section does not apply to temporary licenses issued under KRS 304.9-300.

Section 14. KRS 304.9-270 is amended to read as follows:

(1) Each insurer appointing an agent in this state shall file with the commissioner the appointment in writing, specifying the kinds of insurance or classifications thereof to be transacted by the agent for the insurer, and pay the appointment fee, or license fee in the case of limited licenses, as specified in KRS 304.4-010.

(2) Subject to [~~annual~~] continuation by the insurer as provided in subsection (3) of this section, each appointment shall remain in effect until the agent's license is revoked or otherwise terminated, unless the insurer earlier terminates the appointment as provided in KRS 304.9-280.

(3) [~~Annually~~] On or before March 31 each insurer shall file with the commissioner an alphabetical list of the names and addresses of all its agents in this state whose appointments or licenses in the case of limited licenses, are to remain in effect as to the kinds of insurance or classifications thereof for which the respective agents are currently so appointed, accompanied by payment of the [~~annual~~] continuation of appointment fee, or license fee in the case of limited licenses, as specified in KRS 304.4-010. At the same time, the insurer shall also file with the commissioner an alphabetical list of the names and addresses of all its agents whose appointments in this state are not to remain in effect, or whose appointment as to certain

kinds or classifications of insurance are not to remain in effect as designated in such list. Any appointment or license not so continued and not otherwise expressly terminated shall be deemed to have expired at midnight on March 31, *except that any request for continuation received by the commissioner after such March 31 and prior to the next following June 30 may be accepted and effectuated by the commissioner, in his discretion, if accompanied by a penalty as provided in subtitle 99 of this chapter.*

Section 15. KRS 304.9-370 is amended to read as follows:

(1) Application for and acceptance of a license as a consultant by a nonresident of Kentucky shall thereby be deemed to constitute irrevocable appointment of the commissioner as the attorney of the licensee for the acceptance of service of process issued in this state in any action or proceeding against the licensee arising out of such licensing or out of transactions under the license.

(2) Duplicate copies of process shall be served upon the commissioner or other person in apparent charge of his office during his absence, accompanied by payment to the commissioner of [~~$5.00 as~~] a process fee. Upon receiving such service the commissioner shall promptly forward a copy thereof by certified mail (with return receipt requested) to the nonresident licensee at his business address last of record with the commissioner.

(3) Process served upon the commissioner and copy thereof forwarded as in this section provided shall for all purposes constitute personal service thereof upon the licensee.

Section 16. KRS 304.11-020 is amended to read as follows:

(1) Other than KRS 304.11-050, the provision of KRS 304.11-020 to 304.11-050, shall not apply to any insurance company or underwriter issuing contracts of insurance to industrial insureds, nor to any contract of insurance issued to any one or more industrial insureds. For the purpose of this section, an "industrial insured" is:

(a) An insured who procures the insurance of any risk or risks other than life and annuity contracts by use of the services of a full-time employe acting as an insurance manager or buyer or the services of a regularly and continuously retained qualified insurance consultant; and

(b) An insured whose aggregate annual premiums for insurance on all risks total at least $25,000; and

(c) An insured having at least twenty-five (25) full-time employes.

(2) KRS 304.11-020 to 304.11-050, inclusive, shall not apply to any life insurance company organized and operated, without profit to any private shareholder or individual, exclusively for the purpose of aiding educational or scientific institutions organized and operated without profit to any private shareholder or individual by issuing insurance and annuity contracts directly from the home office of the company and without agents or representatives in this state only to or for the benefit of such institutions and to individuals engaged in the services of such institutions, nor to any policy or contract which it issues; but this exemption shall be conditioned upon any such company complying with the following requirements:

(a) Payment of an annual registration fee [~~of $500~~];

(b) Filing a copy of any policy or contract issued to Kentucky residents with the commissioner;

(c) Filing a copy of its annual statement prepared pursuant to the laws of its state of domicile, as well as such other financial material as may be requested, with the commissioner; and

(d) Providing, in such form as may be acceptable to the commissioner, for the appointment of the commissioner as its true and lawful attorney upon whom may be served all lawful process in any action or proceeding against such company arising out of any policy or contract it has issued to, or which is currently held by, a Kentucky citizen and process so served against such company shall have the same force and validity as if served upon the company.

Section 17. KRS 304.11-040 is amended to read as follows:

(1) No person or insurer shall directly or indirectly perform any of the acts of doing an insurance business as defined in KRS 304.11-020 to 304.11-050, inclusive, except as provided by and in accordance with the specific authorization by statute. However, should any unauthorized person or insurer perform any act of doing an insurance business as set forth in KRS 304.11-020 to 304.11-050, inclusive, it shall be equivalent to and shall constitute an irrevocable appointment by such person or insurer, binding upon him, his executor or administrator, or successor in interest if a corporation, of the commissioner or his successor in office to be the true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding in any court arising out of doing an insurance business in this state or instituted by or on behalf of an insured or beneficiary arising out of any such acts of doing an insurance business, except in an action, suit or proceeding by the commissioner or by the state. Any act of doing an insurance business by any unauthorized person or insurer shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such person or insurer.

(2) Service of process shall be made by delivering to and leaving with the commissioner or some person in apparent charge of his office two (2) copies thereof and the payment to him of such fees as provided in KRS 304.4-010. The commissioner shall forthwith forward by certified mail one of the copies of such process to the defendant at the last known principal place of business and shall keep a record of all process so served. Such service of process shall be sufficient to provide notice if:

(a) A copy of the process is sent within ten (10) days thereafter by certified mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business.

(b) The defendant's receipt or receipt issued by the post office showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed and an affidavit by the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear or within such further time as the court may allow.

(3) Service of process in any such action, suit, or proceeding shall in addition to the manner as provided in KRS 304.11-020 to 304.11-050, inclusive, be valid if served upon any person within this state who, in this state on behalf of such insurer, is soliciting insurance, making, issuing, or delivering any contract of insurance, or collecting or receiving any premium, membership fee, assessment, or other consideration for insurance, and if:

(a) A copy of such process is sent within ten (10) days thereafter by certified mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant.

(b) The defendant's receipt, or the receipt issued by the post office showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and an affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear or within such further time as the court may allow.

(4) No plaintiff shall be entitled to a judgment by default under KRS 304.11-020 to 304.11-050, inclusive, until the expiration of thirty (30) days from the date of the filing of the affidavit of compliance.

(5) Nothing in subsections (1) to (5), inclusive, of this section shall limit or abridge the right to serve any process, notice, or demand upon any insurer in any other manner now or hereafter permitted by law.

(6) Any act of doing an insurance business as set forth in KRS 304.11-020 to 304.11-050, inclusive, by an unauthorized person or insurer is equivalent to and shall constitute an irrevocable appointment by such person and insurer, binding upon him, his executor or administrator, or successor in interest if a corporation, of the secretary of state or his successor in office to be the true and lawful attorney of such person or insurer upon whom may be served all legal process in any action, suit, or proceeding in any court by the commissioner or by the state and upon whom may be served any notice, order, pleading or process in any proceeding before the commissioner and which arises out of doing an insurance business in this state by such person or insurer. Any act of doing an insurance business in this state by any unauthorized person or insurer shall be signification of its agreement that any such legal process in such court action, suit, or proceeding and any such notice, order, pleading, or process in such administrative proceeding before the commissioner so served shall be of the same legal force and validity as personal service of process in this state upon such person or insurer.

(7) Service of process in such action shall be made by delivering to and leaving with the secretary of state or some person in apparent charge of his office two (2) copies thereof. Service upon the secretary of state as such attorney shall be service upon the principal.

(8) The secretary of state shall forthwith forward by certified mail one (1) of the copies of such process or such notice, order, pleading, or process in proceedings before the commissioner to the defendant in such court proceeding or to whom the notice, order, pleading, or process in such administrative proceeding is addressed or directed at the last known principal place of business and shall keep a record of all process so served on him which shall show the day and hour of service. Such service is sufficient, provided:

(a) Notice of such service and a copy of the court process or the notice, order, pleading, or process in such administrative proceeding is sent within ten (10) days thereafter by certified mail by the plaintiff or the plaintiff's attorney in the court proceeding or by the commissioner in the administrative proceeding to the defendant in the court proceeding or to whom the notice, order, pleading, or process in such administrative proceeding is addressed or directed at last known principal place of business of the defendant in the court or administrative proceeding.

(b) The defendant's receipt or receipts issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person or insurer to whom the letter is addressed, and an affidavit of the plaintiff or the plaintiff's attorney in court proceedings or of the commissioner in administrative proceedings, showing compliance therewith are filed with the clerk of the court in which such action, suit, or proceeding is pending or with the commissioner in administrative proceedings, on or before the date the defendant in the court or administrative proceeding is required to appear or respond thereto, or within such further time as the court or commissioner may allow.

(9) No plaintiff shall be entitled to a judgment or a determination by default in any court or administrative proceeding in which court process or notice, order, pleading, or process in proceedings before the commissioner is served under subsections (6) to (11), inclusive, of this section until the expiration of forty-five (45) days from the date of filing of the affidavit of compliance.

(10) Nothing in subsections (6) to (11), inclusive, of this section shall limit or abridge the right to serve any process, notice, order, or demand upon any person or insurer in any other manner now or hereafter permitted by law.

(11) The attorney general upon request of the commissioner may proceed in the courts of this state or any other state or in any federal court or agency to enforce an order or decision in any court proceeding or in any administrative proceeding before the commissioner.

(12) Before any unauthorized person or insurer files or causes to be filed in any pleading in any court action, suit or proceeding or in any notice, order, pleading, or process in such administrative proceeding before the commissioner instituted against such person or insurer, by services made as provided in subsections (1) to (11), inclusive, of this section such person or insurer shall either:

(a) Deposit with the clerk of the court in which such action, suit, or proceeding is pending, or with the commissioner in administrative proceedings before the commissioner, cash or securities, or file with such clerk or commissioner a bond with good and sufficient sureties, to be approved by the clerk or commissioner in an amount to be fixed by the court or commissioner sufficient to secure the payment of any final judgment which may be rendered in such action or administrative proceeding.

(b) Procure a certificate of authority to transact the business of insurance in this state.

(13) The court in any action, suit, or proceeding in which service is made as provided in subsections (1) to (5), inclusive, of this section or the commissioner in any administrative proceeding before the commissioner in which service is made as provided in subsections (6) to (11), inclusive, of this section may in his or its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection (12) of this section and to defend such action.

(14) Nothing in subsection (12) of this section shall be construed to prevent an unauthorized person or foreign or alien insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in subsections (1) to (11), inclusive, of this section on the ground that such unauthorized person or insurer has not done any of the acts enumerated in subsections (1) to (3), inclusive, of KRS 304.11-030.

(15) In an action against an authorized person or insurer upon a contract of insurance issued or delivered in this state to a resident thereof or to a corporation authorized to do business therein, if the person or insurer has failed for thirty (30) days after demand prior to the commencement of the action to make payment in accordance with the terms of the contract, and it appears to the court that such refusal was without reasonable cause, the court may allow to the plaintiff a reasonable attorney fee and include such fee in any judgment that may be rendered in such action. Failure of the person or insurer to defend any such action shall be deemed prima-facie evidence that its failure to make payment was without reasonable cause.

(16) Whenever the commissioner has reason to believe that insurance has been effectuated by or for any person in this state with an unauthorized insurer the commissioner shall in writing order such person to produce for examination all insurance contracts and other documents evidencing insurance with both authorized and unauthorized insurers and to disclose to the commissioner the amount of insurance, name and address of each insurer, gross amount of premium paid or to be paid and the name and address of the person or persons assisting or aiding in the solicitation, negotiation, or effectuation of such insurance.

(17) Every person investigating or adjusting any loss or claim on a subject of insurance in this state shall immediately report to the commissioner every insurance policy or contract which has been entered into by an insurer not authorized to transact such insurance in this state.

[~~(18) Every person who, for thirty (30) days after receipt of written order pursuant to subsection (16) of this section, neglects to comply with the requirements of such order or who wilfully makes a disclosure that is untrue, deceptive, or misleading shall forfeit $50.00.~~]

Section 18. KRS 304.12-140 is amended to read as follows:

(1) No person engaged in the business of financing the purchase of real or personal property or of lending money on the security of real or personal property shall require, as a condition to such financing or lending, or as a condition to the renewal or extension of any such loan or to the performance of any other act in connection with such financing or lending, that the purchaser or borrower, or his successors, shall negotiate through a particular insurer or insurers, insurance agent or agents, type of insurer or types of insurers, any policy of insurance or renewal thereof insuring such property or the life or health of the borrower.

(2) This section shall not prevent the reasonable exercise by any such vendor or lender of his right to approve or disapprove the insurer selected to underwrite the insurance, and to determine the adequacy of the insurance offered.

[~~(3) Any person violating this section shall be punished by a fine of not more than $100 or by imprisonment of not more than sixty (60) days, or by both; and if he holds a license from the commissioner, he shall forfeit the same. The Circuit Court of Franklin County, on complaint by any person that this section is being violated, may issue an injunction against such violation and may hold in contempt and punish therefor in case of disregard of such injunction.~~]

Section 19. KRS 304.13-120 is amended to read as follows:

(1) No rating organization shall conduct its operations in this state without first filing with the commissioner a written application for and securing a license to act as a rating organization: Provided, That a license issued to a rating organization prior to June 18, 1970, shall continue in effect until the expiration date of such license.

(2) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the commissioner for license as a rating organization for such kinds of insurance, or subdivision or class or risk or a part or combination thereof as are specified in its application and shall file therewith:

(a) A copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business,

(b) A list of its members and subscribers,

(c) The name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such rating organization may be served, and

(d) A statement of its qualifications as a rating organization.

(3) If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance, or subdivision or class of risk or part or combination thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the commissioner within sixty (60) days after the same has been filed with him.

(4) Licenses issued pursuant to this section shall remain in effect until revoked, as provided in this subtitle.

(5) Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this section.

(6) The fee for filing an application for license as a rating organization is [~~$100,~~] payable in advance to the commissioner.

Section 20. KRS 304.13-130 is amended to read as follows:

Notwithstanding the provision of KRS 304.13-120, each rating organization possessing a license of indefinite term pursuant to such section shall owe and pay to the commissioner an annual fee [~~of $50.00~~] in advance on account of such license until its final termination.

Section 21. KRS 304.13-300 is amended to read as follows:

[~~(1)~~] No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to:

(1)[~~(a)~~] The commissioner;

(2)[~~(b)~~] Any statistical agency designated by the commissioner;

(3)[~~(c)~~] Any rating organization, or any insurer which will affect the rates or premiums chargeable under this subtitle.

[~~(2) A violation of this section shall subject the one guilty of such violation to the penalties provided in KRS 304.13-320.~~]

Section 22. KRS 304.13-320 is amended to read as follows:

(1) [~~The commissioner may, if he finds that any person or organization has violated any provision of this subtitle, impose a penalty of not more than $250 for each such violation, but if he finds such violation to be wilful he may impose a penalty of not more than $1,000 for each such violation. Such penalties may be in addition to any other penalty provided by law.~~

~~(2)~~] The commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the commissioner within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed. The commissioner may modify or rescind a suspension at any time.

(2)[~~(3)~~] No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the commissioner, stating his findings made after a hearing held upon not less than ten (10) days' written notice to such person or organization specifying the alleged violation.

Section 23. KRS 304.17-275 is amended to read as follows:

(1) After two years from its date of issue or the date of its last reinstatement and before the attainment of the age limit, or the date, or the expiration of the period, or the happening of the event such as the qualification for Medicare benefits, if any, stated in the policy, no insurer shall refuse to renew a policy of hospitalization or surgical or medical expense insurance or refuse to renew any other policy in which one-third or more of the total premium is allocable to hospital, surgical or medical expense benefits, or any combination thereof, except for one or more of the following reasons:

(a) Fraud in applying for the policy or in applying for any benefits under the policy;

(b) Demonstrated moral hazard;

(c) Over-insurance or duplication of benefits according to standards stated in the policy on file with the commissioner of insurance;

(d) Discontinuance of a class of policies; and

(e) Such other reasons, including but not limited to, the filing of false claims, as the commissioner of insurance may approve.

(2) After such two-year period, in no event shall any insurer refuse to renew any such policy because of a change in the physical or mental condition or the health of any person covered thereunder.

(3) After such two-year period, no insurer shall require as a condition for the renewal of any such policy, any rider, endorsement or other attachment which shall limit the nature or extent of the benefits provided thereunder.

(4) In the case of an individual converted policy, such two year period shall commence from the date the insurance as to such person became effective under the policy from which conversion was made.

(5) Nothing contained herein shall prohibit an insurer from making changes in premium rates by classes providing such reservation is contained in the policy, and such changes shall be on file with the department of insurance.

(6) The commissioner may require every insurer to file with him such documents, statistics, or other information regarding the refusal to renew permitted by this section as he may deem necessary for the proper administration of this section.

(7) This section shall not apply to or affect:

(a) Any contract of non-cancellable or guaranteed renewable disability insurance;

(b) Any policy or contract of reinsurance;

(c) Any policy of group or blanket insurance;

(d) Any policy providing disability benefits pursuant to the workmen's compensation law;

(e) Any policy of an assessment or cooperative life and accident insurance company;

(f) Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as provide additional benefits in case of death or dismemberment or loss of sight by accident; or as operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract.

(8) *In addition to the penalties provided in subtitle 99 of this chapter,* [~~Any person wilfully violating any provision of this section, or any regulation or order of the commissioner made in accordance with this section, shall be subject to a civil penalty of a sum not to exceed one hundred dollars for each violation. Such civil penalty may be recovered in a civil action brought in the name of the Commonwealth of Kentucky in any court of appropriate jurisdiction.~~] the commissioner may also suspend or revoke the license or authority of an agent or insurer for any [~~such~~] wilful violation.

(9) This section does not affect policies in effect before July 1, 1976.

Section 24. KRS 304.21-020 is amended to read as follows:

(1) Whenever an insurer has been granted a certificate of authority to transact surety insurance in this state, the commissioner shall on *or before* the first day of the next succeeding month send to the county court clerk of each county in this state his certificate, over the seal of his office, stating that such insurer has complied with the laws of this state and is authorized to transact a business as surety in this state. The county court clerk shall record the certificate and it shall become a permanent part of the records of the county court clerk.

(2) The commissioner shall on *or before* the first *day* [~~days~~] of March [~~and October~~] of each year forward to each county court clerk a list containing the names of all surety insurers, foreign and domestic, which are then authorized to transact business in the state.

(3) The county court clerks shall preserve such list on the files of the court, open to public inspection.

Section 25. KRS 304.29-290 is amended to read as follows:

(1) Societies which are authorized on June 18, 1970, to transact business in this state may continue such business until the first day of May next succeeding June 18, 1970. The authority of such societies and all societies licensed after June 18, 1970, may thereafter be renewed annually, but in all cases shall terminate on the first day of the succeeding May; but a license so issued shall continue in full force and effect until the new license is issued or specifically refused.

(2) For each such license or renewal the society shall pay to the commissioner a fee *as specified in subtitle 4 of this chapter* [~~of $25.00~~].

(3) A duly certified copy or duplicate of such license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this subtitle.

Section 26. KRS 304.29-360 is amended to read as follows:

(1) The commissioner may issue a license to any person who has paid *a* [~~an annual~~] license fee [~~of $5.00~~] and who has complied with the requirements of this subtitle authorizing such licensee to act as an insurance agent on behalf of any society named in such license, which society is authorized to do business in this state.

(2) Before any insurance agent's license shall be issued there shall be on file in the office of the commissioner the following documents:

(a) A written application by the prospective licensee in such form or forms and supplements thereto, and containing such information, as the commissioner may prescribe.

(b) A certificate by the society which is to be named in such license, stating that such society has satisfied itself that the named applicant is trustworthy and competent to act as such insurance agent and that the society will appoint such applicant to act as its agent if the license applied for is issued by the commissioner. Such certificates shall be executed and acknowledged by an officer or managing agent of such society.

(3) No written or other examination shall be required of any individual seeking to be named as a licensee to represent a fraternal benefit society as its agent.

Section 27. KRS 304.29-370 is amended to read as follows:

(1) The commissioner may refuse to issue or renew any insurance agent's license if in his judgment the proposed licensee is not trustworthy and competent to act as such agent, or has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance or renewal, as the case may be, of such license.

(2) Every license issued pursuant to KRS 304.29-330 to 304.29-390, inclusive, and every renewal thereof, shall expire on *March* [~~December~~] 31, *except that any application for a renewal license received by the commissioner after such March 31 and prior to the next following June 30 may be accepted and effectuated by the commissioner, in his discretion, if accompanied by a penalty as provided in subtitle 99 of this chapter* [~~of the year following the calendar year in which such license or renewal license was issued~~].

(3) [~~If the application for a renewal license has been filed with the commissioner on or before December 31 of the year in which the existing license is to expire, such applicant named in such existing license may continue to act as insurance agent under such existing license, unless such license is revoked or suspended, until the issuance by the commissioner of the renewal license or until the expiration of five (5) days after he has refused to renew such license and has served written notice of such refusal on the applicant. If the applicant, within thirty (30) days after which such notice is given, notifies the commissioner in writing of his request for a hearing on such refusal, the commissioner shall, within a reasonable time after receipt of such notice, grant such hearing, and he may, in his discretion, re-instate such license.~~

~~(4)~~] Any such renewal license of an insurance agent may be issued upon the application of the society named in the existing license. Such application shall be in the form or forms prescribed by the commissioner and shall contain such information as he may require. Such application shall contain a certificate executed by the president, or by a vice president, a secretary, an assistant secretary, or corresponding officer by whatever name known, or by an employe expressly designated and authorized to execute such certificate of a domestic or foreign society or by the United States manager of an alien society, stating that the addresses therein given of the agents of such society for whom renewal licenses are requested therein have been verified in each instance immediately preceding the preparation of the application. Notwithstanding the filing of such application, the commissioner may, after reasonable notice of any such society, require that any or all agents of such society to be named as licensees in renewal licenses execute and file separate applications for the renewal of such licenses and he may also require that each such application be accompanied by the certificate specified in paragraph (b) of subsection (2) of KRS 304.29-360.

Section 28. KRS 304.29-400 is amended to read as follows:

(1) Every society authorized to do business in this state shall appoint in writing the commissioner and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in such writing that any lawful process against it which is served on said attorney, shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by such commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.

(2) Service shall only be made upon the commissioner, or if absent, upon the person in charge of his office, it shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner, he shall forthwith forward one (1) of the duplicate copies by certified mail, return receipt requested directed to the secretary or corresponding officer. No such service shall require a society to file its answer, pleading or defense in less than thirty (30) days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner herein provided. [~~At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner of insurance a fee of five dollars ($5).~~]

Section 29. KRS 304.29-450 is amended to read as follows:

Reports shall be filed and synopses of annual statements shall be published in accordance with the provisions of this section.

(1) Every society transacting business in this state shall annually, on or before the first day of March, unless for cause shown such time has been extended by the commissioner, file with the commissioner a true statement of its financial condition, transaction and affairs for the preceding calendar year and pay a fee

[~~of $25.00~~] for filing same *as specified in subtitle 4 of this chapter.* The statement shall be in general form and context as approved by the national association of insurance commissioners for fraternal benefit societies and as supplemented by additional information required by the commissioner.

(2) A synopsis of its annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society not later than June 1 of each year, or, in lieu thereof, such synopsis may be published in the society's official publication.

(3) As a part of the annual statement herein required, each society shall, on or before the first day of March, file with the commissioner a valuation of its certificates in force on December 31 last preceding, provided the commissioner may, in his discretion for cause shown, extend the time for filing such valuation for not more than two (2) calendar months. Such report of valuation shall show, as reserve liabilities, the difference between the present midyear value of the promised benefits provided in the certificates of such society in force and the present midyear value of the future net premiums as the same are in practice actually collected, not including therein any value for the right to make extra assessments and not including any amount by which the present midyear value of future net premiums exceeds the present midyear value of promised benefits on individual certificates. At the option of any society, in lieu of the above, the valuation may show the net tabular value. Such net tabular value as to certificates issued prior to one (1) year after June 18, 1970, shall be determined in accordance with the provisions of law applicable prior to June 18, 1970, and as to certificates issued on or after one (1) year from June 18, 1970, shall not be less than the reserves determined according to the commissioner's reserve valuation method as hereinafter defined. If the premium charged is less than the tabular net premium according to the basis of valuation used, an additional reserve equal to the present value of the deficiency in such premiums shall be set up and maintained as a liability. The reserve liabilities shall be properly adjusted in the event that the midyear or tabular values are not appropriate.

Section 30. KRS 304.29-530 is amended to read as follows:

(1) No person shall cause or permit to be made, issued or circulated in any form:

(a) Any misrepresentation or false or misleading statement concerning the terms, benefits or advantages of any fraternal insurance contract now issued or to be issued in this state, or the financial condition of any society;

(b) Any false or misleading estimate or statement concerning the dividends or shares of surplus paid or to be paid by any society on any insurance contract; or

(c) Any incomplete comparison of an insurance contract of one society with an insurance contract of another society or insurer for the purpose of inducing the lapse, forfeiture or surrender of any insurance contract.

(2) A comparison of insurance contracts is incomplete if it does not compare in detail:

(a) The gross rates, and the gross rates less any dividend or other deduction allowed at the date of the comparison; and

(b) Any increase in cash values, and all the benefits provided by each contract for the possible duration thereof as determined by the life expectancy of the insured.

(3) A comparison of insurance contracts is incomplete if it omits from consideration:

(a) Any benefit or value provided in the contract;

(b) Any differences as to amount or period of rates; or

(c) Any differences in limitations or conditions or provisions which directly or indirectly affect the benefits.

(4) In any determination of the incompleteness or misleading character of any comparison or statement, it shall be presumed that the insured had no knowledge of any of the contents of the contract involved.

[~~(5) Any person who violates any provision of this section or knowingly receives any compensation or commission by or in consequence of such violation is guilty of a gross misdemeanor, and shall in addition be liable for a civil penalty in the amount of three (3) times the sum received by such violator as compensation or commission, which penalty may be recovered in a civil action by any person or society aggrieved by his or its own use and benefit.~~]

SECTION 31. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 29, IS CREATED TO READ AS FOLLOWS:

Fraternal benefit societies are subject to the provisions of this subtitle, and to the following provisions of KRS Chapter 304, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 4 — Fees and Taxes; and

(2) Subtitle 99 — Penalties.

Section 32. KRS 304.30-030 is amended to read as follows:

(1) No person shall engage in the business of financing insurance premiums in this state without first having obtained a license as a premium finance company from the commissioner. [~~Any person who shall engage in the business of financing insurance premiums in this state without obtaining a license as provided~~

~~hereunder shall, upon conviction in the court, be guilty of a misdemeanor and shall be subject to a fine of not more than $1,000 or be imprisoned not more than one (1) year, or both.~~]

(2) The annual license fee shall be *as specified in subtitle 4 of this chapter* [~~$50.00~~]. Licenses may be renewed from year to year as of the first day of May of each year upon payment of the fee [~~of $50.00~~].

(3) The person to whom the license or the renewal thereof may be issued shall file sworn answers, subject to the penalties of perjury, to such interrogatories as the commissioner may require. The commissioner shall have authority, at any time, to require the applicant fully to disclose the identity of all stockholders, partners, officers, and employes and he may, in his discretion, refuse to issue or renew a license in the name of any firm, partnership, or corporation if he is not satisfied that any officer, employe, stockholder, or partner thereof who may materially influence the applicant's conduct meets the standards of this subtitle.

Section 33. KRS 304.30-050 is amended to read as follows:

(1) The commissioner may revoke or suspend the license of any premium finance company when and if, after investigation, it appears to the commissioner that:

(a) Any license issued to such company was obtained by fraud,

(b) There was any misrepresentation in the application for the license,

(c) The holder of such license has otherwise shown himself untrustworthy or incompetent to act as a premium finance company,

(d) Such company has violated any of the provisions of this chapter, or

(e) Such company has been rebating part of the service charge as allowed and permitted herein to any insurance agent or any employe of an insurance agent or to any other person as an inducement to the financing of any insurance policy with the premium finance company.

(2) Before the commissioner shall revoke, suspend, or refuse to renew the license of any premium finance company, he shall give to such person an opportunity to be fully heard and to introduce evidence in his behalf. In lieu of *or in addition to* revoking or suspending the license for any of the causes enumerated in the section, after hearing as herein provided, the commissioner may subject such company to a penalty *specified in subtitle 99 of this chapter* [~~of not more than $1,000 for each offense~~] when in his judgment he finds that the public interest would not be harmed by the continued operation of such company. The amount of any such penalty shall be paid by such company through the office of the commissioner to the state treasurer. At any hearing provided by this section, the commissioner shall have authority to administer oaths to witnesses.

(3) If the commissioner refuses to issue or renew any license or if any applicant or licensee is aggrieved by any action of the commissioner, said applicant or licensee shall have the right to a hearing and appeal to the Franklin Circuit Court, within thirty (30) days after any order, decision or finding by the commissioner.

Section 34. KRS 304.30-060 is amended to read as follows:

(1) Every licensee shall maintain records of its premium finance transactions and the said records shall be open to examination and investigation by the commissioner. The commissioner may at any time require any licensee to bring such records as he may direct to the commissioner's office for examination. *Any examination or any part of the examination of any organization subject to the provisions of subtitle 30 of KRS Chapter 304 shall be made by the commissioner or by examiners designated by him and shall be at the expense of the organization examined as specified in subtitle 2 of KRS Chapter 304.*

(2) Every licensee shall preserve its records of such premium finance transactions, including cards used in a card system, for at least three (3) years after making the final entry in respect to any premium finance agreement. The preservation of records in photographic form shall constitute compliance with this requirement.

Section 35. KRS 304.32-160 is amended to read as follows:

(1) On or after June 18, 1970 no corporation subject to the provisions of this subtitle shall deliver or issue for delivery in this state any subscription certificate or membership certificate describing health benefits available, or any indorsement, rider, or application which becomes a part thereof, *or* [~~until a copy of the form and~~] the schedule of rates, dues, fees, or other periodic charges, to be paid by subscribers or members, *until a copy of such form* has been filed with and approved by the commissioner.

(2) At the expiration of *thirty (30)* [~~fifteen (15)~~] days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner, *or a hearing has been scheduled by order of the commissioner. In the event that a hearing is held, the thirty (30) day waiting period shall begin anew after the close of such hearing. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than an additional thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial thirty (30) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved.*

The commissioner may at any time withdraw any such approval. Any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at the expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe [~~The commissioner may withdraw approval at any time for cause~~].

(3) The commissioner's order disapproving any form or withdrawing previous approval shall state the grounds for disapproval or withdrawal.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper, any document or form specified in the order, to which in his opinion this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

Section 36. KRS 304.32-180 is amended to read as follows:

(1) "Agent" means any person authorized by a corporation subject to the provisions of this subtitle and on its behalf to solicit applications for subscription or membership, or offers or assumes to act in the negotiation thereof. To qualify for an agent's license an applicant shall:

(a) Be above the age of eighteen (18) years;

(b) Be a bona fide resident of and actually reside in this state;

(c) Be a trustworthy person;

(d) Be appointed as an agent by one or more corporations subject to the provisions of this subtitle;

(e) Make application to the commissioner in the manner and form prescribed by him. As a part or in connection with any application, the applicant shall furnish information concerning his identity, personal history, experience, business record, purposes, and any other information the commissioner may reasonably require;

(f) Pay the fee provided in *subtitle 4 of this chapter* [~~KRS 304.32-100~~]; and

(g) Take an examination given by the commissioner as a test of his qualifications and competence.

(2) Agents' licenses shall expire *at midnight on March 31* [~~as of 12:01 a. m. on April 1 next following date of issuance~~] unless the licensee prior thereto has filed with the commissioner, on forms prescribed and furnished by him, a request for continuation of license [~~for an ensuing twelve-month period. The request must be~~] accompanied by payment of the renewal fee as provided in *subtitle 4, except that any request for continuation filed with the commissioner after such March 31 and prior to the next following June 30 may be accepted and effectuated by the commissioner, in his discretion, if accompanied by a penalty as prescribed in subtitle 99* [~~KRS 304.32-100~~].

Section 37. KRS 304.32-190 is amended to read as follows:

(1) Each corporation qualified under this subtitle appointing an agent shall notify the commissioner by filing written notice in duplicate with the commissioner on forms prescribed and furnished by him, and shall pay the fee as provided in *subtitle 4 of this chapter* [~~KRS 304.32-100~~]. If the agent is then licensed, or as soon as licensed, the commissioner shall mail the appointment certificate to the corporation.

(2) Each appointment shall continue in force until:

(a) The commissioner notifies the corporation that the agent's license is terminated or revoked;

(b) The appointment is revoked by the corporation by written notice of revocation filed with the commissioner; or

(c) The corporation fails to renew the appointment as required by subsection (3) of this section.

(3) Each appointment shall expire *at midnight on March 31* [~~as of 12:01 a. m. on June 1 of the following calendar year~~] unless prior thereto the corporation has filed with the commissioner its renewal of appointment for the ensuing twelve-month period and has paid the renewal fee as provided in *subtitle 4 of this chapter, except that any request for renewal of appointment filed with the commissioner after such March 31 and prior to the next following June 30 may be accepted and effectuated by the commissioner, in his discretion, if accompanied by a penalty as prescribed in subtitle 99* [~~KRS 304.32-100~~].

Section 38. KRS 304.32-270 is amended to read as follows:

Nonprofit hospital, medical-surgical, dental and health service corporations are subject to the provisions of this subtitle, and to the following provisions of this code, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 1 — Scope of Code;

(2) Subtitle 2 — The Insurance Commissioner;

(3) Subtitle 7 — Investments;

(4) Subtitle 8 — Administration of Deposits;

(5) Subtitle 12 — Trade Practices and Frauds;

(6) Subtitle 25 — Continuity of Management;

(7) Subtitle 33 — Rehabilitation and Liquidation; [~~and~~]

(8) Subtitle 18 — KRS 304.18-110, 304.18-120 — Group Conversion;

(9) Subtitle 4 — Fees and Taxes; and
(10) Subtitle 99 — Penalties.

Section 39. KRS 304.38-050 is amended to read as follows:

(1) No Health Maintenance Organization shall deliver or issue for delivery in this state any contract describing health benefits available, or any endorsement, rider, or application which becomes a part thereof, or any amendments thereto or modifications thereof, *or* [~~until a copy of such form or contract or certificate and~~] the schedule of fees or other periodic charges to be paid by enrollees, *until a copy of such form* has been filed with and approved by the commissioner. Each form [~~or contract or certificate~~] shall contain a complete and clear statement of (a) the health care services to which the enrollee is entitled; (b) any limitations on the services, kind of services, benefits to be provided, including any deductible or co-payment feature; (c) where and in what manner information is available as to how services may be obtained; and (d) any other provisions pertaining to the delivery of health care services. Any schedule of fees or other periodic charges to be paid by enrollees submitted to and filed with the commissioner along with adequate supporting information to show that such charges or fees are not excessive, inadequate, or unfairly discriminatory.

(2) At the expiration of *thirty (30)* [~~fifteen (15)~~] days, the form [~~or contract~~] so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner, *or a hearing has been scheduled by order of the commissioner. In the event that a hearing is held, the thirty (30) day waiting period shall begin anew after the close of such hearing. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than an additional thirty (30) day period within which he may affirmatively approve or disapprove any such form by giving notice to the insurer of such extension before expiration of the initial thirty (30) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time withdraw any such approval* [~~The commissioner may withdraw approval at any time with cause~~].

Section 40. KRS 304.38-120 is amended to read as follows:

(1) The commissioner, or any person authorized by him, shall have power to examine the financial condition, affairs, and management of any organization subject to the provisions of this subtitle. He shall have free access to all the books, papers, and documents relating to the business of the organization, and may summon witnesses and administer oaths and affirmations in the examination of the directors, trustees, officers, agents, representatives, or employees of any organization, or any other person in relation to its affairs, transactions, and conditions. The commissioner shall make an examination of each organization subject to the provisions of this subtitle at least once every three (3) years.

(2) Any examination, or any part of the examination of any organization subject to the provisions of this Act, shall be made by the commissioner or by examiners designated by him and shall be at the expense of the organization examined *as specified in subtitle 2 of this chapter.*

Section 41. KRS 304.38-200 is amended to read as follows:

Health Maintenance Organizations are subject to the provisions of this Subtitle, and to the following provisions of Chapter 304, to the extent applicable and not in conflict with the expressed provisions of this Subtitle;

(1) Subtitle 1 — Scope of Code;
(2) Subtitle 2 — The Insurance Commissioner;
(3) *Subtitle 4 — Fees and Taxes;*
(4) Subtitle 5 — Kinds of Insurance; Limits of Risk; Reinsurance;
(5) Subtitle 12 — Trade Practices and Frauds;
(6)[~~(4)~~] Subtitle 25 — Continuity of Management; [~~and~~]
(7)[~~(5)~~] Subtitle 33 — Rehabilitation and Liquidation*; and*
(8) Subtitle 99 — Penalties.

Section 42. KRS 304.99-010 is amended to read as follows:

In addition to or in lieu of the specific penalties provided for by this code, any person who violates any provision of this code[~~, other than provisions for which specific penalties are provided,~~] or who [~~knowingly~~] violates any proper order of the commissioner[~~,~~] shall, upon conviction by a court of competent jurisdiction, be fined not less than *$100 or twice the amount of the gain from the commission of the violation, whichever is greater, be subject to revocation of certificate of authority or license, or both* [~~$50.00 nor more than $1,000~~].

Section 43. KRS 304.99-020 is amended to read as follows:

(1) For any violation of this code where the commissioner has the power to revoke or suspend a license *or certificate of authority* he may in lieu thereof *or in addition to such revocation or suspension* impose a civil penalty against the violator in the case of an insurer of not more than *$10,000 per violation* [~~$5,000~~]; in the case of an agent, broker or solicitor of not more than *$1,000 per violation* [~~$500~~]; in the case of an adjuster or consultant of not more than *$2,000 per violation* [~~$1,000~~].

(2) Such civil penalty may be recovered in an action brought thereon in the name of the commonwealth of Kentucky in any court of appropriate jurisdiction.

(3) In any court action with respect to a civil penalty, the court may review the penalty as to both liability and reasonableness of amount.

SECTION 44. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 99, IS CREATED TO READ AS FOLLOWS:

If any insurance company, association, or exchange is found by the commissioner, after a hearing, to have committed any of the acts set out in subsections (1) and (2) of KRS 304.6-030, the commissioner may require such company, association, or exchange to pay a fine not exceeding $10,000.

SECTION 45. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 99, IS CREATED TO READ AS FOLLOWS:

The licenses of each solicitor, consultant, adjuster, surplus lines broker, agent, and fraternal benefit society agent may be continued or renewed under KRS 304.9-260, 304.9-270, and 304.29-370 if the request for continuation or renewal is accompanied by a penalty equal to the amount of the biennial continuation or renewal fee specified in subtitle 4.

SECTION 46. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 99, IS CREATED TO READ AS FOLLOWS:

Any person violating KRS 304.12-140 shall be punished by a fine of not more than $250 or by imprisonment of not more than ninety (90) days, or both; and if he holds a license from the commissioner, he shall forfeit the same. The circuit court of Franklin County on complaint by any person that KRS 304.12-140 is being violated, may issue an injunction against such violation and may hold in contempt and punish therefor in case of disregard of such injunction.

SECTION 47. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 99, IS CREATED TO READ AS FOLLOWS:

The commissioner may, if he finds that any person or organization has violated any provision of subtitle 13, impose a penalty of not more than $1,000 for each violation, but if he finds such violation to be wilful he may impose a penalty of not more than $5,000 for each such violation. Such penalties may be in addition to any other penalties provided by law.

SECTION 48. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 99, IS CREATED TO READ AS FOLLOWS:

(1) A fraternal benefit society neglecting to file the annual statement in the form and within the time provided for in subtitle 29 of KRS Chapter 304 shall forfeit $100 for each day during which such neglect continues, and, upon notice by the commissioner to that effect, its authority to do business in this state shall cease while such default continues.

(2) Any person who violates any provision of KRS 304.29-530 or knowingly receives any compensation or commission by or in consequence of such violation is guilty of a Class A misdemeanor, and shall in addition be liable for a civil penalty in the amount of three (3) times the sum received by such violator as compensation or commission, which penalty may be recovered in a civil action by any person or fraternal benefit society so aggrieved.

(3) Any person who wilfully makes a false or fraudulent statement or statements in or relating to an application for membership or for the purpose of obtaining money from or a benefit in any fraternal benefit society, shall upon conviction be fined not less than $100 nor more than $500 or imprisonment in the county jail of not less than thirty (30) days nor more than one (1) year, or both.

(4) Any person who wilfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized by subtitle 29, or of any material fact or thing contained in a sworn statement concerning the death or disability of a member for the purpose of procuring payment of a benefit named in the certificate, shall be guilty of perjury and shall be subject to the penalties therefor prescribed by law.

(5) Any person who solicits membership for, or in any manner assists in procuring membership in, any fraternal benefit society not licensed to do business in this state shall upon conviction be fined not less than $100.

SECTION 49. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 99, IS CREATED TO READ AS FOLLOWS:

(1) Any person who shall engage in the business of financing insurance premiums in this state without obtaining a license as provided by KRS 304.30-030(1) shall, upon conviction by a court of competent jurisdiction, be guilty of a misdemeanor and shall be subject to a fine of not more than $1,000 or be imprisoned not more than one (1) year, or both.

(2) In lieu of or in addition to revoking or suspending the license of an insurance premium finance company for any of the causes enumerated in KRS 304.30-050, after a hearing as provided in KRS 304.30-050 the commissioner may subject such company to a penalty of not more than $1,000 for each offense.

Section 50. KRS 132.210 is amended to read as follows:

Every fraternal benefit society organized or licensed under KRS 304.29-010 to *304.29-570* [~~304.29-580~~] is a charitable and benevolent institution, and its funds shall be exempt from all state, county, district, city and school taxes, other than taxes on real property and office equipment.

Section 51. The following KRS sections are repealed:

304.2-180	Commissioner's annual report.
304.29-460	Penalties for failure to file annual statement.
304.29-580	Penalties.
304.32-100	Fees.
304.33-090	Commissioner's reports.
304.38-160	Fees.

Committee Amendment No. 1 to **HB 469** is as follows:

Amend printed copy of **HB 469,** page 4, line 9, by deleting the brackets and strike through around the word "wilfully"

page 5, line 9, after the word "under" by adding "*a statute requiring examinatin expenses to be paid by the party examined and deposited*" and by placing brackets and strike through around "KRS 304.2-290"

page 11, line 2, after "statement" by placing brackets and strike through around "of insurer"

page 11, line 8, after "organization" by placing brackets and strike through around "of insurer"

page 11, line 11, after "organization" by placing brackets and strike through around "of insurer"

page 62, line 24, after "who" by deleting the brackets and strike through around the word "knowingly"

HB 508, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer authorized to write a policy of general liability, workers' compensation, products liability, professional errors and omissions, professional liability, and automobile liability insurance in this state shall transmit the following information, itemized for each line of insurance based on both its statewide and on its nationwide general liability, workers' compensation, products liability, professional errors and omissions, professional liability and automobile liability insurance writings, to the department each year in the annual report of such insurer:

(a) Premiums written;

(b) Premiums earned;

(c) Dividends paid or credited to policyholders;

(d) The dollar amount of claims paid;

(e) Incurred claims, not including claims incurred but not reported;

(f) Claims closed without payment, and the amount reserved for such claims;

(g) Losses paid and losses paid as a percentage of the amount reserved for such losses;

(h) Allocated loss adjustment expenses, and the ratio of allocated loss adjustment expenses to losses paid;

(i) Unallocated loss adjustment expenses and the ratio of unallocated loss adjustment expenses to losses paid;

(j) The total of losses paid and unallocated and allocated loss adjustment expenses;

(k) The ratio of losses paid and unallocated and allocated loss adjustment expenses to premiums earned;

(l) Loss reserves for all claims except claims incurred but not reported;

(m) Reserves for claims incurred but not reported;

(n) Net investment gain or loss and other income gain or loss allocated to general liability, workers' compensation, products liability, professional errors and omissions, professional liability and automobile liability lines according to the allocation formula used in the annual insurance expense exhibit;

(o) Underwriting income or loss;

(p) Actual expenses in detail, including, but not limited to, loss adjustment expense, commissions, general expense, and advertising, home office, and defense costs;

(q) Claims settled after a suit was filed;

(r) Claims paid based on judgment;

(s) Judgments appealed by the insurer, together with the total results of such appeals;

(t) The number of claims outstanding as of December 31 of each year;

(u) The total amount of losses unpaid as of December 31, of each year;

(v) The total amount of allocated and unallocated loss adjustment expenses unpaid as of December 31 of each year; and

(w) The total of losses paid and unallocated loss adjustment expenses and unallocated loss adjustment expenses, plus the total of losses unpaid as of December 31 of each year and loss adjustment expenses unpaid as of December 31 of each year.

(2) The department shall provide a summary of information provided pursuant to subsection (1) of this section in its annual report.

(3) (a) The first report of this information shall include the information for the last six (6) months for the year ending December 31, 1982. Such report shall be filed no later than March 1, 1983. Beginning with the report for the period ending December 31, 1984, all future reports shall have all information required by subsection (1) of this section broken down by year for the current and two (2) preceding years.

(b) Within thirty (30) days after March 1, 1984, the department of insurance shall commence a review of the rates in effect at that time of all insurers authorized to write a policy of insurance designated in subsection (1) of this section. If, after the review, the department finds on a preliminary basis that the rate may be excessive, inadequate, or unfairly discriminatory, the department shall so notify the insurer. Upon being so notified, the filer shall within sixty (60) days file with the department all information which the filer believes proves the reasonableness, adequacy, and fairness of the rate. In such instances, the filer shall carry the burden of proof. In the event the department finds that a rate is excessive, inadequate, or unfairly discriminatory, the department shall order that a new rate schedule be thereafter filed by the filer and shall further specify the manner in which noncompliance shall be corrected.

HB 512, AN ACT relating to insurance agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 304 SUBTITLE 9 IS CREATED TO READ AS FOLLOWS:

(1) This section shall apply to resident persons licensed to engage in the sale of the following types of insurance: life insurance, annuity contracts, variable annuity contracts and variable life insurance, sickness, accident and health insurance, all lines of property and casualty insurance, and all other lines of insurance for which an examination is required for licensing.

(2) This section shall not apply to those natural persons:

(a) Who hold resident licenses for any kind of insurance for which an examination is not required by KRS 304.9-170; or

(b) Who hold a limited or restricted license as the commissioner may exempt; or

(c) Who are sixty (60) years of age or older on July 15, 1982 and have held a license continuously since January 1, 1972 for any of the lines of insurance listed in subsection (1) of this section.

(3) Resident persons licensed to sell insurance shall annually satisfactorily complete such courses or programs of instruction as may be approved by the commissioner as follows:

(a) Any person holding a license issued for life or health insurance, or property or casualty insurance, or any combination thereof,shall during each year satisfactorily complete courses or programs of instruction or attend seminars equivalent to a minimum of twelve (12) credits.

(b) An agent who holds both a property casualty insurance license and a life/health insurance license shall during any two (2) consecutive years participate in continuing education in one (1) license area during one (1) year and the other license area during the following year.

(4) The courses or programs of instruction which shall be deemed to meet the commissioner's standards for continuing educational requirements and the number of credits for which they are equivalent are:

(a) Any part of the life underwriters training council life course curriculum	*12 credits*
(b) Any part of the life underwriters training council health course curriculum	*12 credits*
(c) Any part of the American College "CLU" diploma curriculum	*12 credits*
(d) Any part of the insurance institute of America's program in general insurance	*12 credits*

(e) Any part of the American Institute for Property and Liability Underwriter's Chartered Property Casualty Underwriter (CPCU) professional designation program ....12 credits

(f) Any part of the certified insurance counselors program ....12 credits

(g) Any insurance related course approved by the commissioner which is taught by an accredited college or university ....12 credits

(h) Any course, program of instruction or seminar approved by the commissioner which is developed or sponsored by any authorized insurer, recognized agents association or insurance trade association or any independent program of instruction approved by the commissioner ....credits assigned by commissioner

(i) Any correspondence course approved by the commissioner ....credits assigned by commissioner

(5) A person teaching any approved course of instruction or lecturing at any approved seminar shall qualify for the same number of credits as if the person had taken and successfully completed such course, seminar or program.

(6) Excess credits accumulated during any one (1) year period may be carried forward to the next year.

(7) For good cause shown, the commissioner may grant an extension of time during which the requirements imposed by subsection (3)(a) of this section may be completed, but such extension of time shall not exceed the period of one (1) year.

(8) Every person subject to this section shall furnish, in a form satisfactory to the commissioner, written certification as to the courses, programs or seminars of instruction taken and successfully completed by such person. Such certification shall be executed by or on behalf of the sponsoring organization.

(9) Any person failing to meet the requirements imposed upon him by this section and who has not been granted an extension of time within which to comply pursuant to subsection (7) of this section, or who has submitted to the commissioner a false or fraudulent certificate of compliance therewith shall, after a hearing thereon which hearing may be waived by such person, be subjected to the suspension of all licenses issued for any kind of insurance, and no further license shall be issued to such person for any kind of insurance until such time as such person shall have demonstrated to the satisfaction of the commissioner that he has complied with all of the requirements of this section and all other laws applicable thereto.

Committee Amendment No. 1 to **HB 512** is as follows:

Amend printed copy of **HB 512,** page 1, delete lines 17, 18, 19, and 20 in their entirety and insert in lieu thereof the following:

"*(c) Who hold licenses on the effective date of this Act for any of the lines of insurance listed in subsection (1) of this section.*"

HB 545, AN ACT relating to banking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Bank" includes every corporation authorized by this chapter to do a banking business;

(b) *"State bank" means a bank or trust company organized pursuant to KRS chapter 287;*

(c) "National bank" or "national bank association" means a bank created by congress and organized pursuant to the provisions of federal law;

(d) "Commissioner" means the commissioner of banking and securities;

(e)[~~(c)~~] "Department" means the department of banking and securities;

(f)[~~(d)~~] "Population" means the population as indicated by the latest regular United States census; and

(g)[~~(e)~~] "Trust company" includes every corporation authorized by this chapter to do a trust business;

(h) "Undivided profits" means the composite of the bank's net retained earnings from current and prior years' operations;

(i) "Capital stock" shall mean, at any particular time, the sum of:

1. The par value of all shares of the corporation having a par value that have been issued;

2. The amount of the consideration received by the corporation for all shares of the corporation that have been issued without par value except such part of the consideration as has been allocated to surplus in a manner permitted by law; and

3. Such amounts not included in paragraphs 1. and 2. of this subsection as have been transferred to stated capital of the corporation, whether through the issuance of stock dividends, resolution of the bank's board of directors under applicable corporate law or otherwise by law; and

(j) "Surplus" means the amount of consideration received by the corporation for all shares issued without par value that has not been allocated to capital stock or the amount of consideration received by the corporation in excess of par value for all shares with a par value or both.

(2) Whenever a corporation engages in the business of real estate title insurance and also a banking or trust business under the provisions of this chapter, the banking or trust business shall be regulated by this chapter and the real estate title insurance business shall be regulated by the laws relating to real estate title insurance companies.

SECTION 2. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

All fees collected and paid into the state treasury under the provisions of KRS chapters 287, 288, 289, 290, 291, 292, 294, 307, 366 and 316.010-.070 shall be credited to a revolving trust or agency fund account, as provided in KRS 45.140, for the department of banking and securities and shall be separately accounted for and shall be used solely for the administration and enforcement of said KRS chapters.

Section 3. KRS 287.025 is amended read as follows:

The commissioner of banking and securities *may* [~~shall~~] appoint a deputy commissioner with the prior written approval of the governor. The deputy commissioner shall [~~have the same qualifications as are required by the commissioner, and shall~~], during the absence or inability of the commissioner or under his instructions, or in the event of a vacancy in the office of the commissioner and until the vacancy is filled, be vested with all the powers and perform all the duties of the commissioner.

Section 4. KRS 287.050 is amended to read as follows:

(1) Before filing the articles of incorporation of any financial institution mentioned in KRS 287.040, the incorporators shall present a copy of their proposed articles to the commissioner of banking and securities who shall investigate the financial standing, moral character and capability of each of the incorporators, and determine whether there is reasonable assurance of sufficient volume of business for the proposed corporation to be successful, and whether the public convenience and advantage will be promoted by the opening of the proposed corporation.

(2) *In the event that the institution for which a charter is sought is to be created solely for the purpose of effectuating a merger or consolidation to facilitate the formation of a bank holding company, the commissioner may waive all or any part of the requirements of subsection (1) of this section.*

(3) If the commissioner of banking and securities determines that it is expedient and desirable to permit the proposed corporation to engage in business, he shall approve the articles of incorporation in writing, and the articles then may be filed and recorded as provided in the general corporation law.

Section 5. KRS 287.061 is amended to read as follows:

(1) Whenever an application for approval of a corporation or facility provided for by KRS 287.050, 287.180, or 287.185 is made, notice of such application shall be published[~~, and any interested party shall have the opportunity to request a public hearing to determine whether the criteria for approval set forth in the particular statutory section have been met~~].

(2) *Any interested party shall have the opportunity to make written comments on whether the criteria for approval set forth in the particular statutory section have been met. Such party shall have access to all materials supplied by the applicant to the commissioner in connection with the application and all evidence assembled by the commissioner or his agents pertaining to said application* [~~Hearings in regard to applications mentioned in subsection (1) of this section need not be held if, after publication of notice, no hearing is requested. However, nothing shall prevent the commissioner from himself causing a hearing to be held, and such hearing, if held, may be convened and conducted in such manner as the commissioner may determine by regulation or otherwise~~].

(3) *The commissioner may cause a hearing to be held if, in his judgment, such hearing is necessary to protect the rights of any party or otherwise advisable under the circumstances.* Regardless of whether or not a hearing is held, the commissioner shall make the determinations required of him by the statutory sections mentioned in subsection (1) by means of a written order which sets forth the bases for his decision.

(4) When no hearing has been held and the commissioner has determined, by written order, that the proposed corporation or facility contemplated by the statutory sections mentioned in subsection (1) of this section should not be approved, he shall afford those parties seeking approval, and them only, a period of twenty (20) days after rendition of the order to [~~again~~] request a public hearing. If a hearing is then held, he shall prepare a second written order which makes the particular determinations required by the above-mentioned statutory sections. This second order may contain bases for his determinations that are in addition to or different from those contained in the first order.

(5) Notice of hearings held pursuant to this section shall be given by advertising one (1) time in the newspaper with the largest circulation in the locality where the proposed corporation or facility is to be situated. Such advertisement shall state the nature and location of the proposed corporation or facility, as well as the name of the corporation or parties applying for approval. The notice shall also state that any interested parties who wish to *make written comments on the application shall so indicate to the department in writing* [~~request of the department that a hearing be held must do so in writing~~] within twenty (20) days after publication of the notice.

Section 6. KRS 287.065 is amended to read as follows:

(1) Each director of a bank or trust company shall own in his own right unpledged capital stock of that bank or trust company, *or of a corporation holding at least eighty percent (80%) of the outstanding capital stock of that bank or trust company,* having *an aggregate value of* at least $500 *at the time such person becomes a director* [~~par value~~], and the certificates of such stock shall remain [~~separately~~] in the exclusive custody and control of that bank or trust company during his term of office.

(2) A majority of the directors of any board must be residents of Kentucky during their term of office.

Section 7. KRS 287.100 is amended to read as follows:

A bank may:

(1) Hold such personal property as has been transferred to it as collateral for the payment of any debt;

(2) Acquire and hold title to real estate, provided:

(a) Such real estate is necessary or appropriate for the transaction of legitimate business, and

(b) The cost of such real estate, including furniture and fixtures, shall not exceed 40 percent of the total paid-in capital, unimpaired surplus and undivided profits (determined on accrual basis). The commissioner may permit the investment of a larger amount;

(3) Acquire and hold for not longer than ten years, any real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, or that it may purchase under a judgment in its favor;

(4) Invest in the bonds of any Federal Home Loan Bank;

(5) Invest in obligations issued separately or collectively by or for federal land banks, federal intermediate credit banks and banks for cooperatives under the Act of Congress known as the Farm Credit Act of 1971, 85 Stat. 583, 12 U.S.C. 2001 and amendments thereto;

(6) Invest, subject to the approval of the commissioner, in the capital stock or bonds or both of any domestic realty corporation organized or existing for the sole purpose of acquiring and holding title to real property used by the bank, through lease or otherwise, for the transaction of the bank's legitimate business.

(7) Purchase, hold, and convey the shares of any open end registered investment company registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933 and whose investments are limited to:

(a) Bonds or other interest bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

(b) Bonds, or other interest bearing obligations issued or guaranteed as to the payment of principal and interest by any instrumentality presently or hereafter incorporated by authority of an Act of Congress.

(8) Purchase and hold shares of a bank service corporation as that term is used in the bank service corporation act (12 U.S.C. 1861) and any amendments thereto.

Section 8. KRS 287.190 is amended to read as follows:

Any bank or trust company may accept for payment at a future date drafts or bills of exchange drawn upon it by its customers, issue letters of credit authorizing the holders thereof to draw drafts upon it or its correspondents at sight or on time, and accept or discount acceptances. [~~(1) Any bank or trust company organized under the laws of this state, may, subject to subsection (2):~~

~~(a) Accept for payment at a future date, drafts or bills of exchange drawn upon it by its customers, and issue letters of credit authorizing the holders thereof to draw drafts upon it or its correspondents at sight or on time, not exceeding one (1) year;~~

~~(b) Accept drafts or bills of exchange drawn upon it, having not more than six (6) months' sight to run, growing out of transactions involving the importation or exportation of goods; and~~

~~(c) Discount acceptances which are based upon the importation or exportation of goods, and which have a maturity at time of discount of not more than three (3) months and are indorsed by at least one (1) other bank or trust company.~~

~~(2) No bank or trust company shall accept drafts or bills of exchange to an amount equal at any time in the aggregate to more than one-half (½) of its paid-up and unimpaired capital stock and surplus, except by authority of the director of banking under such general regulations as the director prescribes, and in no event to an amount exceeding the capital stock and surplus.~~]

Section 9. KRS 287.300 is amended to read as follows:

(1) Each bank and trust company organized under the laws of this state and authorized to receive deposits shall keep on hand at all times at least 7 per cent of its total demand deposits and 3 per cent of its total time and savings deposits; and in cities which are reserve or central reserve cities under the federal reserve act (38 stat. 251), as amended, at least 10 per cent in reserve cities and 13 per cent in central reserve cities of its total demand deposits and 3 per cent of its total time and savings deposits. All reserves required by this subsection shall consist of lawful money of the United States in the office and vaults of the bank, cash and due from banks, checks in process of collection, drawn on a bank, private bank, or any other banking institution, which are payable immediately upon presentation in the United States, including checks with a federal reserve bank in process of collection and checks on hand which will be presented for payment or forwarded for collection on the following business day, government checks and warrants drawn on the treasurer of the United States which are in process of collection, and such other items in process of collection, payable immediately upon presentation in the United States, as are customarily cleared or collected by banks as cash items; Provided, That:

(a) The reserve against savings and time deposits may be invested in bonds of the United States or of the commonwealth, at the market value thereof, and in certificates of deposit issued by any state or national bank or trust company chartered or domiciled in this state; and

(b) A maximum of 25 per cent of the reserve against demand deposits may be invested in

1. Obligations of the United States, or any bureau or agency thereof, which are fully guaranteed as to principal and interest by the United States and which mature within one (1) year after the date such obligations are first considered as a part of the legal reserve of the bank, or

2. Certificates of deposit issued by any state or national bank or trust company chartered or domiciled in this state, or

3. Any combination of 1. and 2.

Any bank which is a member of the federal reserve system may, in lieu of the reserve herein required, keep and maintain such reserve as is required under the acts of congress relating to federal reserve banks.

(2) The commissioner of banking and securities, in his discretion, may require any bank or trust company organized under the laws of this state to keep on hand not exceeding twice the amount of deposits required to be kept on hand by subsection (1) of this section.

(3) Any bank or trust company, incorporated under the laws of this state, which becomes a member of a federal reserve bank, shall be subject to all the provisions of the federal reserve act and its amendments, and the regulations of the federal reserve board applicable to such bank or trust company, and shall have all powers and assume all the liabilities conferred and imposed by the act in regard to state member banks. Such bank or trust company shall comply with the reserve requirements of the federal reserve act and its amendments, and such compliance shall relieve the bank or trust company from compliance with the laws of this state relating to the maintenance of reserves.

(4) As used in this section:

(a) "Demand deposits" include all deposits payable within thirty (30) days; and

(b) "Time deposits" include all deposits payable after thirty (30) days and all savings accounts and certificates of deposit which are subject to not less than thirty (30) days' notice before payment.

(5) The reserve or reserves required by this section shall be computed as of the opening of business on every other Thursday (unless Thursday is a legal holiday, in which event said computation shall be made as of the opening of business on the next succeeding business day) or such other day as the commissioner of banking and securities may from time to time establish for such calculation. Such calculation shall be computed on the basis of the average daily demand or savings and time deposits of such bank or trust company covering the biweekly period immediately preceding the day fixed herein for such computation.

(6) The commissioner may accept the reserves required of state banks pursuant to Title I of the Monetary Control Act of 1980 in lieu of reserves required under subsection (1) of this section.

Section 10. KRS 287.340 is amended to read as follows:

(1) Any bank or trust company organized under the laws of this state may issue preferred capital stock, of one or more classes. Preferred capital stock may be considered as part of the minimum capital stock, and in the case of existing corporations shall be issued in the manner provided for increasing capital stock. *Unless expressly provided otherwise in this chapter, the manner in which preferred stock shall be issued and the rights and preferences of holders thereof shall be governed by KRS chapter 271A.*

(2) [~~(a) The holders of preferred capital stock shall be entitled to receive such cumulative dividends at a rate not exceeding six per cent (6%) per annum of the amount received by the corporation in payment of such preferred stock, and shall have such voting and conversion rights, and such control and management, and such stock shall be subject to retirement at such price, with such premium, in such manner and upon such conditions as is provided in the articles of incorporation.~~

~~(b) If the corporation is placed in voluntary liquidation, or a receiver or liquidator is appointed therefor, no payment shall be made to the holders of common stock until the holders of preferred stock have been paid in full such amount as is provided in the articles of incorporation. The payments to holders of preferred~~

~~stock provided for in this paragraph shall not exceed the amount received by the corporation in payment for the stock plus an amount equal to all unpaid dividends accrued thereon to the date of payment.~~

~~(3)~~] No issue of preferred stock shall be valid until the *stated* [~~par~~] value of all stock so issued has been paid in.

(3)[~~(4)~~] If any part of the capital stock of a bank or trust company consists of preferred stock, the determination of whether or not the capital of such corporation is impaired, and the amount of such impairment shall be based upon the *stated* [~~par~~] value of its stock even though the amount that holders of preferred stock are entitled to receive in the event of retirement or liquidation is in excess of the *stated* [~~par~~] value of the preferred stock.

Section 11. KRS 287.350 is amended to read as follows:

(1) The board of directors of any bank or trust company organized under the laws of this state may declare a dividend of so much of the net profits as they deem expedient. The net profits shall be computed by deducting all expenses, losses, bad or suspended debts and interest and taxes accrued or due from the bank.

(2) [~~No bank or trust company shall pay a dividend to the holders of the common stock thereof until such bank or trust company has a surplus fund equal to ten per cent (10%) of its capital stock, and~~] Before any dividend is declared, other than upon its preferred stock, not less than ten per cent (10%) of the net profits of the bank for the period covered by the dividend applicable to its common stock shall be carried to its surplus fund until such surplus fund amounts to a sum equal to the amount of its common capital stock.

(3) All debts due to a bank or trust company on which interest is due and unpaid for six (6) months, unless the debts are well secured or in the process of collection, are bad or suspended debts within the meaning of this section.

(4) The approval of the commissioner shall be required if the total of all dividends declared by such institution in any calendar year shall exceed the total of its net profits of that year combined with its retained net profits of the preceding two (2) years, less any required transfers to surplus or a fund for the retirement of preferred stock or debt.

Section 12. KRS 287.420 is amended to read as follows:

Within ten (10) days after the commissioner calls upon a bank or trust company, it shall publish pursuant to KRS chapter 424 on a form furnished by the commissioner, a condensed statement of its financial condition, at the close of business on the date named in the call. The commissioner may make the call at any time he desires and shall make at least two (2) calls in each year. Such published statement shall show the total amounts of loans, overdrafts, money invested in bonds and other securities, money due from banks, checks and other cash items, cash on hand, capital paid in, surplus fund, undivided profits (less expense and taxes paid), money due to other banks, individual deposits subject to check, demand certificates of deposit, time deposits, outstanding certified checks and cashier's checks and such other items as will show the actual financial condition of the bank or trust company making the report. [~~The bank or trust company shall send a copy of the report, certified to by the publisher, to the commissioner as a part of its next succeeding report.~~] The reports shall be signed and sworn to by the president, vice president or cashier, and signed by at least three (3) of the directors. *A copy of the report, certified to by the publisher, shall be kept in the files of the bank or trust company for review by the department.*

Section 13. KRS 287.440 is amended to read as follows:

(1) The commissioner of banking and securities shall appoint a sufficient number of examiners and assistant examiners to examine all institutions coming under the supervision of the department of banking and securities. A salary schedule for examiners and assistant examiners shall be prepared by the commissioner and presented to the secretary of the department of finance for his approval. In the event an advisory state banking board is established by law, the appointment and compensation of examiners and assistant examiners shall be with the advice of such board.

(2) [~~Each examiner and assistant examiner of the department of banking and securities shall be a resident and a citizen of this state, shall be a practical bookkeeper and accountant and shall have had not less than two (2) years' actual experience as an officer or clerk in a bank, trust company, savings and loan association, and/or be a graduate of an acceptable college or university.~~

~~(3)~~] The commissioner of banking and securities, the deputy commissioner and each examiner shall take the constitutional oath of office.

(3)[~~(4)~~] Neither the commissioner of banking and securities, nor the deputy commissioner, nor any examiner or assistant examiner shall be indebted directly or indirectly either as borrower, indorser, surety or guarantor, to any bank or trust company under his supervision or subject to his examination, nor shall he be a director, officer or employe in such bank or trust company, nor engage or become interested in the sale of securities as a business or in the negotiation of loans for others.

(4)[~~(5)~~] No person shall be assigned to examine the affairs of any bank or trust company in a county in which he holds stock in either a state or national bank or trust company.

Section 14. KRS 287.450 is amended to read as follows:

(1) Every bank or trust company doing business under the laws of this state shall be subject to inspection by the commissioner of banking and securities or by an examiner appointed *by the commissioner* [~~under KRS 287.440~~]. Examination shall be made of every bank and trust company at least once every *twenty-four (24) months* [~~year~~] and not more than twice unless it appears from examination or from the reports of the bank or trust company that it has failed to comply with laws or regulations relating to banks or trust companies.

(2) The commissioner of banking and securities deputy commissioner and each examiner may compel the appearance of any person for the purpose of the examination, which shall be made in the presence of one (1) of the officers of the bank or trust company being examined. [~~No notice of the intended examination shall be given to the bank or trust company to be examined until the examining officer is prepared to proceed immediately with the examination.~~]

(3) Any bank or trust company that becomes a member of a federal reserve bank shall be subject to the examination required by the federal reserve act, (38 Stat. 251) as amended, and the commissioner of banking and securities may, in his discretion, accept examinations made by the federal reserve authorities in lieu of examinations made under state laws. The commissioner of banking and securities shall furnish to the federal reserve agent of the district in which the member bank is situated, copies of reports and examinations made of the member bank or trust company.

Section 15. KRS 287.480 is amended to read as follows:

The following fees shall be paid to the commissioner of banking and securities by corporations engaged in a banking or trust business:

(1) For the investigation incident to the approval of articles of incorporation and to the approval of applications for branch banks, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense;

(2) For each report, a filing fee of *$25.00* [~~$2.00~~];

(3) For each *bank subject to inspection and examination by the commissioner, an annual assessment based on the assets of such banks,* [~~examination of the institution of~~] other than assets held by it in a fiduciary capacity, *as reported to the department by the banks as of the thirty-first day of December of the previous year. The assessment schedule shall be at such rates as the commissioner shall determine to be necessary to carry out the duties of the department and shall be reasonably related to the costs (other than costs of examination) incurred by the department in regulating banks. The assessments for any one (1) year shall not exceed a sum equal to five cents (5¢) per each one thousand dollars ($1,000) and any fraction thereof of the total non-trust assets;* [~~$0.06 on each $1,000 of assets, or fractional part up to $200,000,000 and $0.035 per $1,000 of assets or fractional part in excess of $200,000,000, and in addition a flat fee as follows: Institutions having assets of not more than $1,000,000, a fee of $80.00; on each institution having assets of $1,000,000 and not more than $2,000,000, a fee of $125; on each institution having assets of $2,000,000 and not more than $3,000,000, a fee of $175; on each institution having assets of $3,000,000 and not more than $5,000,000, a fee of $300; on each institution having assets of $5,000,000 and not more than $10,000,000, a fee of $500; and on each institution having assets of $10,000,000 and not more than $20,000,000, a fee of $600; on each institution having assets of $20,000,000 or more a fee of $800; and~~]

(4) For any examinations under KRS 287.450, a fee shall be collected sufficient to cover the cost of the examination based upon fair compensation for time and actual expense; and

(5)[~~(4)~~] For the examination of the assets held by the institution in a fiduciary capacity, the *fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense* [~~expenses of such examination, not exceeding $30.00 per day for the services of each examiner actively engaged in the examination~~]. The commissioner *may* [~~shall~~] accept examinations made of the trust department in combined banks and trust companies by examiners for the federal reserve system, federal deposit insurance corporation, or a certified public accountant[~~, if the report of such audit or examination is furnished to him~~].

(6)[~~(5)~~] Extraordinary services performed, in addition to examinations, for any financial institution, including institutions in liquidation under the supervision of the commissioner, shall be paid for by such institution upon the basis of fair compensation for time and actual expense.

Section 16. KRS 287.690 is amended to read as follows:

(1) If the commissioner has knowledge or reasonable cause to believe that any bank *or any director, officer, employe, agent, or other person participating in the conduct of the affairs of the bank* has engaged in violations of law, or charter, rule or regulation by the department, or in unsafe or unsound business practices, he may issue and serve upon *such bank, director, officer, employe, agent or other person* [~~the bank~~] a notice of charges containing a statement of facts with respect to alleged violations or practices, and not earlier than thirty (30) days nor later than sixty (60) days after service of such statement fix the time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the bank*, director, officer, employe, agent or other person.*

(2) Unless the *party or parties so served* [~~bank~~] shall appear at the hearing *personally or* by a duly authorized representative, *they* [~~it~~] shall be deemed to have consented to the issuance of the cease and desist order.

(3) In the event of such consent, or if upon the record made at any such hearing the commissioner shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, he may issue and serve upon the bank, *director, officer, employe, agent or other person* an order to cease and desist from any such violation or practice and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

(4) If the commissioner shall determine that the violation or practice, as specified in the notice of charges pursuant to subsection (1) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to otherwise seriously prejudice the interests of its depositors, he may issue a temporary order requiring the bank, *director, officer, employe, agent or other person* to cease and desist from any such violation or practice.

(5) A cease and desist order or temporary cease and desist order shall become effective upon service upon the bank or at the expiration of not more than thirty (30) days after the date of service. Unless set aside, limited or suspended, as provided by subsection (6) of this section, a cease and desist order shall remain effective and enforceable pending completion of the administrative proceedings until the commissioner shall dismiss all specified charges, or, where a temporary cease and desist order has issued, until the effective date of a cease and desist order.

(6) Within ten (10) days after service of a temporary cease and desist order, the *party or parties served* [~~bank~~] may apply to the circuit court for the county in which the bank is located, or the Circuit Court of Franklin County, for an injunction setting aside, limiting, or suspending the enforcement, operation or effectiveness of such order pending completion of administrative proceedings, and such court shall have jurisdiction to issue an injunction.

(7) In the case of violation or threatened violation of, or failure to obey, a temporary cease and desist order issued pursuant to this section, the commissioner may apply to the circuit court for the county in which the bank is located, or the Circuit Court of Franklin County, for an injunction to enforce such order, and it shall be the duty of the court to issue such injunction.

(8) If the commissioner shall determine that any officer or director of a bank has committed any violation of law, rule or regulation or of a cease and desist order which has become final, or has engaged in or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such officer or director, and the commissioner determines that the bank has suffered or will probably suffer substantial financial loss or other damages or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice of breach of fiduciary duty or that the director or officer has received financial gain by reason of the violation or practice or breach of fiduciary duty, the commissioner may serve upon such director or officer a written notice of intention to remove him from office. The violation, practice or breach must be one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful or continuing disregard for the safety or soundness of the bank. The written notice shall serve to suspend the officer or director from office. Such suspension shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (10) of this section, shall remain in effect pending the completion of the administrative proceedings under subsection (9) of this section and until such time as the commissioner shall dismiss the charges specified in such notice or, if an order of removal is issued against the officer or director, the effective date of any such order.

(9) A notice of intention to remove an officer or director from office shall contain a statement of the facts constituting grounds therefore, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty (30) days nor later than sixty (60) days after the date of service of such notice; unless an earlier date is set by the commissioner at the request of such officer or director and for good cause shown. Unless such officer or director shall appear at the hearing in person or by duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal. In the event of such consent, or if upon the record made at any such hearing the commissioner shall find that any of the grounds specified in such notice have been established, the commissioner may issue such orders of suspension or removal from office as he deems appropriate.

(10) Within ten (10) days after an officer or director has been suspended from office, such officer or director may apply to the circuit court for the county in which the bank is located or the Circuit Court of Franklin County, for a stay of such suspension pending the completion of the administrative proceedings pursuant to the notice served upon such officer or director, and such court shall have jurisdiction to grant such stay.

(11) Any bank which violates or any officer, director, employe, agent, or other person participating in the conduct of the affairs of a bank who violates the terms of any order issued under this section which has become final shall forfeit and pay a civil penalty of not more than one thousand dollars ($1,000) per

day for each day such violation continues. The penalty shall be assessed and collected by the commissioner by written notice. As used in this subsection, the term "violates" includes any action causing, participating in, counseling, aiding or abetting a violation. In determining the amount of the penalty the commissioner shall consider the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations and such other factors as justice requires.

(12) The bank or person assessed shall be afforded an opportunity for a hearing upon request made to the commissioner within ten (10) days after issuance of the assessment notice. Any such hearing shall be on the record and the commissioner's determination shall constitute a final order. If no hearing is requested within the ten (10) days, the notice of assessment shall constitute a final order.

(13) Any person aggrieved by a final order of the commissioner under subsections (9) or (12) of this section may obtain a review of the order by filing in the Franklin Circuit Court or the circuit court for the county in which the bank is located a petition of appeal within ten (10) days after the rendition of a final order. A copy of the petition shall be served upon the commissioner and thereupon the commissioner or his agent shall certify and file in court a copy of the record or other evidence upon which the order is entered. No objection to the order may be considered by the court unless it was urged before the commissioner or there were reasonable grounds for failure to do so. The findings of the commissioner as to the facts, if supported by substantial evidence, are conclusive.

(14) The commissioner may apply to the circuit court for the county in which the bank is located or the Circuit Court of Franklin County for an injunction to enforce any order issued under subsection (9) of this section or any assessment made under subsection (12) of this section, and it shall be the duty of the court to issue such injunction.

Section 17. KRS 287.990 is amended to read as follows:

(1) Any person who violates subsection (1) of KRS 287.030 shall be fined not less than twenty ($20.00) nor more than fifty dollars ($50.00) for each day he is engaged in the private banking business.

(2) Any institution that fails to make the report required by KRS 287.420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420, shall pay a penalty of two hundred dollars ($200) to be sued for and collected by the commissioner in the name of the state.

(3) If any person violates subsection *(3)* [~~(4)~~] of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection *(3)* [~~(4)~~] of KRS 287.440 shall immediately report such fact to the commissioner of banking and securities, who shall remove the person so offending.

(4) Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall be subject to the same penalties provided for solvent institutions and officers so offending.

(5) Any directors of a bank who knowingly violate, or knowingly permit any officer or employe of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from such violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the attorney general, shall institute proceedings to revoke the corporate powers of the bank.

(6) Any deputy commissioner or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of such facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred ($100) nor more than two thousand dollars ($2,000) for each offense.

(7) Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who wilfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000) for each offense.

(8) Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in such report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of twenty-five dollars ($25.00) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed two hundred and fifty dollars ($250).

(9) Each person, bank or trust company that wilfully makes or transmits a false report or refuses to submit its books, papers and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than one hundred ($100) nor more than five hundred dollars ($500).

(10) Whenever any penalty imposed by subsections (4), (6), (7), (8), or (9) is not paid, the attorney general shall institute an action, in the name of the state, in the Franklin Circuit Court or the circuit court of the county in which the offense was committed, for the recovery of the penalty.

(11) Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars ($50.00) nor more than two thousand dollars ($2,000).

(12) Any person who willfully makes charges in excess of those permitted by KRS 287.710 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment for not more than six (6) months, or both.

(13) Any bank which violates any provision of KRS 287.710 to 287.770, except as a result of an accidental or bona fide error shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of such finance charge; provided such action is commenced within two (2) years from the date such violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 287.760.

(14) Notwithstanding the provisions of subsections (12) and (13) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.

Section 18. The following KRS statutes are hereby repealed:

47.130 Agency fund account for administration of securities law.
287.085 Increase of capital stock.
287.171 Definitions for KRS 287.171 to 287.174.
287.430 Commissioner to post and keep detailed information.

Section 19. Whereas the department of banking and securities sends out assessments on April 30 to be paid by July 1 of the assessment year, an emergency is declared to exist and Section 4 of this Act shall become effective upon its passage and approval by the governor.

Committee Amendment No. 1 to **HB 545** is as follows:

Amend printed copy of **HB 545**, page 29, line 3, by deleting the words "~~The findings of the commissioner as to the facts, if supported by substantial evidence, are conclusive.~~"

and on page 34, line 1, by deleting the words "Section 4 of"

SB 28, AN ACT relating to third-party prescription programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Third-party prescription programs" means any system of providing for the reimbursement for pharmaceutical products or services under a contractual arrangement or agreement between a provider of such products or services and another party who is not the consumer of such products or services. Such programs may include, but not be limited to, employe benefit plan whereby a consumer receives prescription drugs or other pharmaceutical services, and those products or services are paid for by an agent of the employer or others.

(2) "Administrator" means any individual, partnership company, agency or corporation which performs the executive portions of a third-party prescription program.

(3) "Provider" means any pharmacist or pharmacy (as defined in KRS Chapter 315) which provides prescription drugs or pharmaceutical services to a participating consumer, which are to be reimbursed by an administrator.

SECTION 2. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The administrator of a third-party prescription program shall notify the commissioner of insurance and all providers enrolled in such program of any cancellation or change in the coverage or benefits of any group enrolled in the program within a reasonable period of time after the effective date of such cancellation or change.

(2) All persons enrolled in a third-party prescription program shall be notified of its cancellation and the administrator of the program shall make reasonable effort to regain possession of any plan identification cards issued to such persons.

(3) The administrator shall make reasonable effort to regain possession of plan identification cards when the administrator has knowledge that the cards have been lost or stolen, or have been cancelled.

(4) In addition to any other criminal or civil penalties authorized by law, any person who knowingly utilizes a third-party prescription program identification card to obtain services from a pharmacy after having received notice of the cancellation of his benefits shall be liable to the program administrator for all moneys paid by the program administrator for any services received pursuant to the illegal use of said identification card.

SECTION 3. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any agreement or contract entered into between a program administrator of a third-party prescription program and a provider within the Commonwealth shall include a statement of the method and amount of reimbursement to the provider for services rendered to persons enrolled in the program, the frequency of payments by the administrator to the provider for such services rendered, and a method for the adjudication of complaints or the settlement of disputes between the parties. No agreement shall preclude any party to the agreement from seeking redress in the courts.

SECTION 4. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No administrator shall deny payment to any provider which may have resulted from the fraudulent or illegal use of an identification card by any person, unless the administrator has actual written knowledge that the card has been lost, stolen or cancelled and the provider has been notified that the card has been cancelled, lost or stolen or that the plan for which it was issued has been cancelled.

(2) No administrator shall without good cause withhold any payment to a provider beyond the time period specified in the payment schedule provisions of the agreement for covered services, except that individual claims for payment may be returned to the provider for causes such as incomplete or illegible information, and may be resubmitted by the pharmacy to the administrator after the appropriate corrections.

SECTION 5. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No agreement between an administrator and a provider shall establish reimbursement rates or procedures that result in reimbursement rates for products or services rendered to persons covered by the plan which are less than the usual, reasonable and customary rates paid by ordinary consumers for the same or similar services or products.

SECTION 6. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

After the effective date of this Act, no third-party prescription program shall be instituted in this Commonwealth unless:

(1) The administrator has given written notice of the particular program to the commissioner of insurance and to all pharmacies located within the geographic area in the Commonwealth which is served by the plan.

(2) All pharmacies located in the geographic area served by the third-party reimbursement plan have had thirty (30) days from the date of said notice to enroll in the particular program. The administrator of a third-party prescription program may permit additional pharmacies to enroll in the program at any time thereafter.

SECTION 7. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

This Act shall not apply to any services rendered or products provided pursuant to the provisions of the "Kentucky Medical Assistance Act" (KRS Chapter 205).

Committee Amendment No. 1 to **SB 28** is as follows:

Amend printed copy of **SB 28,** page 1, line 13, after "." "*No part of this section shall refer to companies that are self-insured. Self-insured companies shall be defined as those that administer their health care programs with their own employes.*"

SB 82, AN ACT relating to payment of insurance benefits for services provided by certified social workers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 17, IS CREATED TO READ AS FOLLOWS:

Every individual health insurance policy issued, delivered or renewed in this state which provides coverage on an expense incurred basis for any service within the lawful scope of practice of a duly licensed certified social worker as regulated under KRS Chapter 335 shall be deemed to entitle the policyholder, or other person entitled to such benefits under such policy, to payment of or reimbursement for the cost of any such service, not in excess of the coverage limits, whether or not such service is performed by a duly licensed physician or a duly licensed certified social worker with certification for the practice of clinical social work who provides such services when such service is prescribed by a duly licensed physician.

SECTION 2. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 18, IS CREATED TO READ AS FOLLOWS:

Every policy of group or blanket health insurance issued, delivered or renewed in this state which provides coverage on an expense incurred basis for any service within the lawful scope of practice of a duly licensed certified social worker as regulated under KRS Chapter 335 shall be deemed to entitle the policyholder, or other person entitled to such benefits under such policy, to payment of or reimbursement for the cost of any such service, not in excess of the coverage limits, whether or not such service is performed by a duly licensed physician or a duly licensed certified social worker with certification for the practice of clinical social work who provides such services when such service is prescribed by a duly licensed physician.

SECTION 3. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 32, IS CREATED TO READ AS FOLLOWS:

Every policy, contract or plan issued, delivered or renewed in this state by a non-profit hospital, medical-surgical, dental or health service corporation which provides coverage for services which can be lawfully performed within the scope of the license of a duly licensed certified social worker with certification for the practice of clinical social work as provided in KRS Chapter 335, shall be deemed to provide benefits for such services whether performed by a duly licensed physician or a duly licensed certified social worker with certification for the practice of clinical social work who provides such services when such service is prescribed by a duly licensed physician. If the policy, contract or plan so provides, payment may be made directly to the provider of the services, but in the event it does not so provide, the person entitled to such benefits shall be entitled to reimbursement for the cost of such services received.

SECTION 4. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 38, IS CREATED TO READ AS FOLLOWS:

Every contract, agreement or certificate entered into, issued or delivered by a health maintenance organization in this state which provides coverage for services which can be lawfully performed within the scope of the license of a duly licensed certified social worker with certification for the practice of clinical social work as provided in KRS Chapter 335, shall be deemed to provide benefits for such services whether performed by a duly licensed physician or a duly licensed certified social worker with certification for the practice of clinical social work who provides such services when such service is prescribed by a duly licensed physician. If the contract, agreement or certificate so provides, payment may be made directly to the provider of the services, but in the event it does not so provide, the person entitled to such benefits shall be entitled to reimbursement for the cost of such services received.

Committee Amendment No. 1 to **SB 82** is as follows:

Amend printed copy of **SB 82,** page 1, line 8, by deleting "*, or other person*"

page 1, line 9, by deleting the words "*entitled to such benefits under such policy, to*"

page 1, line 8, by inserting after "policyholder" the words "*the option to purchase benefits for*"

page 1, line 19, by inserting after "every" the word "*master*"

page 2, line 4, by deleting the words "*be deemed to*"

page 2, line 4, by inserting before the word "policyholder" the word "*master*"

page 2, line 4, by deleting "*, or other*"

page 2, line 5, by deleting "*person entitled to such benefits under such policy, to*"

page 2, line 4, by inserting after "policyholder" the words "*the option to purchase benefits for*"

page 2, line 15, by adding after "Every" the word "*master*"

page 2, line 22, by inserting after "provide" the words "*the master policyholder the option to purchase*" page 3, line 8, by inserting after "Every" the word "*master*"

page 3, line 15, after "provide" by inserting "*the master policyholder the option to purchase*"

The Committee on Natural Resources and Environment reported **SB 56** with expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 56, AN ACT relating to the department of fish and wildlife resources commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.081 is amended to read as follows:

While retaining the right to vote as he may please and to express privately his opinion of all political subjects and issues, no employe or officer of the department including the commissioner, shall take any active part in political management or political campaigns, nor shall he use his office or influence for the purpose of interfering in any election or affecting the results thereof, or for the purpose of coercing the political action of any body or person *or for the purpose of directly or indirectly influencing any person in the selection or appointment of a member to the commission.*

Announcements

A meeting of the Committee on Judiciary-Criminal was announced for Thursday, 10:00 a.m.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, March 4, 1982.

On the roll call the vote was yeas 49-Arnold, Barrows, Bendl, Bennett, Boswell, Burch, Clapp, Clark, Cline, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Farrow, Foster, Freibert, Fryman, Hancock, Harper, Head, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, List, McBee, Moberly, Nett, Noe, Noland, Pearman, Petty, Priddy, Rapier, Richards, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Thomason, Todd, Van Horn, Williams. Nays 10-Blevins, Endicott, Ford, Handy, Holbrook, Holloway, Maggard, Mann, Perkins, Schmidt.

The motion to adjourn was adopted.

THURSDAY, MARCH 4, 1982

THIRTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Billy G. Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the the Pledge of Allegiance to the Flag.

The roll was called. All present except Representatives Allen and Yates.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of March 3, 1982, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HCR 68, by Representatives Farrow and Clarke: A CONCURRENT RESOLUTION directing a comprehensive study of a determination of death law for the Commonwealth of Kentucky

HJR 69, by Representatives Clarke and Long: A JOINT RESOLUTION establishing a Commonwealth Council to study the roles and functional and financial responsibilities of the various governmental jurisdictions or of the private sector.

HCR 70, by Representatives Harper and Caldwell: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the laws and procedures for hearing complaints against police officers of units of local government.

HB 759, by Representative Allen: AN ACT relating to housetrailers, mobile homes and recreational vehicles.

HB 760, by Representative Craddock: AN ACT relating to school district finance.

HB 761, by Representative Deskins: AN ACT relating to surface mining and declaring an emergency.

HB 762, by Representative Deskins: AN ACT relating to surface mining and declaring an emergency.

HB 763, by Representative Deskins: AN ACT relating to surface mining and declaring an emergency.

HB 764, by Representative Deskins: AN ACT relating to surface mining and declaring an emergency.

HB 765, by Representative Clarke: AN ACT relating to organizational sessions of the General Assembly.

HB 766, by Representative Bennett and Cyrus: AN ACT relating to public contracts.

HB 767, by Representative Petty: AN ACT relating to county finance.

HB 768, by Representative Pearman: AN ACT relating to buildings.

HB 769, by Representative Maggard: AN ACT relating to unclaimed property.

HB 770, by Representative Thomason: AN ACT relating to the office for public advocacy.

HB 771, by Representatives Blevins and Holbrook: AN ACT relating to the collection of fees for birth certificates to be used in preventing child abuse.

HB 772, by Representative Blevins: AN ACT relating to community antenna television and making an appropriation therefor.

HB 773, by Representative Worthington: AN ACT relating to recording of interests in property.

HB 774, by Representative Freibert: AN ACT relating to property assessment appeals.

HB 775, by Representative Barrows: AN ACT relating to audits of state agencies.

HCR 71, by Representative List: A CONCURRENT RESOLUTION directing continued study of the problems connected with the provision of medical care to the indigent.

HJR 72, by Representatives Freibert, Blevins, Ford, Rapier, and Barrows: A JOINT RESOLUTION establishing the Kentucky Honorable Service Award in memory of Kentucky veterans who rest in Arlington National Cemetery and authorizing display of the award in the Memorial Amphitheater.

HCR 73, by Representatives Bendl and Kenton: A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study of the effectiveness and economic impact of the regulation of health professions in Kentucky.

HB 776, by Representative Barrows: AN ACT relating to employes of the auditor of public accounts.

HB 777, by Representatives B. Richardson, Thomason, Donnermeyer, and F. Smith: AN ACT relating to abuse of public office.

HB 778, by Representative B. Richardson: AN ACT relating to revenue and taxation and declaring an emergency.

HB 779, by Representatives Lundergan and McBee: AN ACT relating to cancer and making an appropriation therefor.

HB 780, by Representative B. Richardson: AN ACT relating to the appointment of cabinet secretaries.

HB 781, by Representatives Priddy and Maggard: AN ACT relating to probation and parole.

HB 782, by Representative Burnette: AN ACT relating to health.

HB 783, by Representative Dunn: AN ACT relating to roads.

HB 784, by Representative Bendl: AN ACT relating to drug product selection.

HB 785, by Representative LeMaster: AN ACT relating to state government.

HB 786, by Representative Turner: AN ACT relating to payroll deductions for public school employes.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 19, HB 20, HB 24, HB 53, HB 64, HB 71,** and **HB 258** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:20 p.m.)

HB 19, HB 20, HB 24, HB 53, HB 64, HB 71, and **HB 258** delivered to the Senate, sigend by President. Ordered delivered to Governor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 744, HCR 63.**

Appropriations and Revenue: **HB 740, HB 721, HB 724, HB 725, HB 728, HB 743, HB 735, HB 739, HB 750, HR 60, HJR 64.**

Banking and Insurance: **HB 730, SB 250, HB 731.**

Business Organizations and Professions: **HB 727, HB 741, HB 733.**

Cities: **HB 729, HB 755.**

Counties and Special Districts: **HB 723, HB 745, HB 757.**

Education: **HB 722, HB 732, HB 736, HB 742, HB 749, HB 751, HB 753, HB 754, HJR 58, HCR 57, SB 312.**

Energy: **HB 738, HB 752.**

Judiciary-Civil: **HB 748, HB 720.**

Judiciary-Criminal: **HCR 67.**

Labor and Industry: **HB 746, HB 747, SB 109.**

Natural Resources and Environment: **HB 758, HJR 59, HR 62, SB 165.**

State Government: **HB 734, HB 737, HB 756, HCR 61, HR 66, HR 65, SB 167.**

Transportation: **HB 726.**

The Chair appointed the following Committee to wait upon the Governor: Representatives Patrick, Tobin, and Rapier.

Senate Message

Announcing passage of **SB 175, HB 298** with Senate Amendments, and **HCR 48.**

Report of Committees

The Committee on Rules reported **HB 290, HB 106, HB 196, HB 231, HB 500, HB 585, HB 589,** and **HB 595** have been posted for passage in Orders of the Day, March 5, 1982.

The Committee on Rules reported the following Bills and Resolutions have been recommitted:

Appropriations and Revenue: **HB 208, HCR 2.**

Judiciary-Civil: **HB 125.**

State Government: **HB 275.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Energy: **HR 54, HB 636, SB 33.**

Transportation: **HB 606, HB 381, HB 678, SB 137.**

Report of Committees

The Committee on State Government reported **HR 33, HB 430** with Committee Amendments attached thereto, **HB 551, HB 293** with Committee Amendment attached thereto, **HB 345, HB 355, HB 210,** and **HB 146** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 33, A RESOLUTION urging the United States not to renew the Most Favored Nation trading status of the Socialist Republic of Romania.

WHEREAS, five leading Romanian Baptist pastors of Bucharest, Joseph Sarac, Vasile Talos, Vasile Brinzei, Pascu Geabau, and Buni Cocar, have been falsely accused by the Romanian authorities of embezzling $57,285. These funds were spent without the knowledge of the Romanian Ministry of Cults, but with the full knowledge and approval of the various congregations involved; and

WHEREAS, Klaus Wagner of Sighisoara, Romania, who is a member of the Brethren Church and Maria and Fibia Delapeta of Carpinis, Romania, who are members of the Army of the Lord/Romanian Orthodox Church, were arrested on October 1, 1981, and tried in the Romanian courts. They were sentenced to six years, five years, and five years imprisonment respectively, as well as, levied unspecified monetary fines; and

WHEREAS, Silviu Cioata and Costel Georgescu of Ploesti, Romania, were arrested on November 11, 1981, and Nicu Rotaru of Bacau, Romania was arrested on December 11, 1981, for distributing Bibles in the Socialist Republic of Romania and are now awaiting trial; and

WHEREAS, John Teodosiu of Cluj, Romania, was arrested and charged on December 16, 1981, for espionage due to his information-gathering activities for western human rights organizations relating to the arrests and persecution of religious believers in the Socialist Republic of Romania. These information-gathering activities were religious, not political, in nature and have resulted in John Teodosiu being held incommunicado by the Romanian Secret Police; and

WHEREAS, relatives of Christian believers are being impelled by the Romanian authorities to sign statements which would subject their loved ones, because of their religious beliefs, to treatment in psychiatric institutions; and

WHEREAS, 13 other Christian believers in the towns of Bucharest, Ploesti, Bacau and Alba are currently being subjected to daily interrogations by the Romanian Secret Police because of their involvement in distributing Bibles; and

WHEREAS, numerous reports are reaching the United States which indicate that those individuals arrested are being held and tortured with electric shock treatments and severe beatings; and

WHEREAS, in August of 1975, the Romanian government signed the Final Act of the Helsinki Accords, pledging to "recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience"; and

WHEREAS, in accordance with Section 402 (Jackson-Vanik Amendment) of the 1974 Trade Act, Romania's emigration and human rights record is to be studied annually by the administration, as well as, both houses of Congress to determine whether that country is eligible to receive Most Favored Nation trading status for an additional year;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives urges President Reagan not to renew the Most Favored Nation trading status which the Socialist Republic of Romania now enjoys with the United States.

Section 2. That this honorable body encourages the members of the Kentucky Congressional Delegation to testify before the House Subcommittee on Trade and the Senate Subcommittee on International Trade against the renewal of Romania's Most Favored Nation trading status in protest of the repression of Christian believers by the Romanian government.

Section 3. That the United States Helsinki Commission is urged to block the selection of Bucharest, Romania, as the next location for the review of the Final Acts of the Helsinki Agreement by the Commission for Security and Cooperation in Europe.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to President Reagan, the members of the Kentucky Congressional Delegation, the United States State Department, the Commission for Security and Cooperation in Europe, the Embassy of the Socialist Republic of Romania, Radio Free Europe/Radio Liberty and the Voice of America.

HB 430, AN ACT relating to the establishment of day care services for children of state employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of personnel may contract for licensed day care services for children of state employes.

(2) The cost for these services shall be funded in whole by payroll deductions by participating employes.

(3) Participation in such a payroll deduction plan shall be by a specific written agreement between such employes and the state.

SECTION 2. A NEW SECTION OF KRS CHAPTER 18 IS CREATED TO READ AS FOLLOWS:

(1) Any day care services established under the provisions of this Act shall comply with the requirements of KRS 199.892 to 199.896.

(2) Day care services may be located at state owned or state occupied facilities or buildings where there is a sufficient number of participating employes to economically warrant the location of such services.

Committee Amendment No. 1 to **HB 430** is as follows:

Amend printed copy of **HB 430,** page 1, line 3, by deleting "*secretary*" and inserting in lieu thereof "*commissioner*".

Committee Amendment No. 2 to **HB 430** is as follows:

Amend printed copy of **HB 430,** page 1, by deleting all of lines 15, 16, 17 and 18 in their entirety.

HB 551, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 337.010 through KRS 337.070 and KRS 41.160, the treasurer shall pay, by electronic fund transfer, the wages of any state employe who makes a prior written request to the department of the treasury to be paid by electronic fund transfer. The treasurer may refuse to comply with the request of an employe if the financial institution designated by the employe does not have the capability of receiving electronic transfers of funds.

(2) The department of personnel shall provide forms on which to request wage payments by electronic transfer of funds. The department of personnel may, by regulations promulgated pursuant to KRS Chapter 13, require information on the request forms for wage payment by electronic transfer of funds that sufficiently identifies the employe and the designated financial institution of the employe.

(3) Any state agencies which employ persons who have exercised the option authorized by subsection (1) of this section shall retain the forms described in subsection (2) of this section.

Section 2. KRS 41.350 is amended to read as follows:

Cancelled checks of the state treasurer upon state depository banks *and permanent records of paperless entries debiting state accounts transmitted to the state treasurer by state depositories* shall [~~, after cancellation,~~] be preserved by the state treasurer for a period of seven (7) years. At the expiration of that period, unless required for the purpose of an action then pending, the checks shall be sold as waste paper or destroyed.

Section 3. The provisions of this Act shall be effective on January 1, 1983.

HB 293, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.035 is amended to read as follows:

(1) The polls shall be opened at 6:00 a.m. *in the central time zone of the state and at 7:00 a.m. in the eastern time zone of the state. The polls shall remain open continuously until 6:00 p.m. in the central time zone and continuously until 7:00 p.m. in the eastern time zone*[~~, prevailing time, and remain open continuously until 6:00 p.m., prevailing time~~]. Any voter who is waiting in line at the polls to cast his vote at closing time, and who has been unable to cast his vote before closing time because of the large numbers of voters casting their votes, shall be allowed to cast his vote as soon after closing time as practicable; provided however, that no vote shall be cast after 7:00 p.m. *in the central time zone, nor after 8:00 p.m. in the eastern time zone.* No voter who arrives at the polls after 6:00 p.m. *in the central time zone, or after 7:00 p.m. in the eastern time zone*[~~, prevailing time~~], shall be allowed to cast his vote.

(2) Any person entitled to a vote at any election in this state shall, if he has made application for leave prior to the day of election, be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of four (4) hours on the day of the election, between the time of opening and closing the polls. Such person shall not, because of so absenting himself, be liable to any penalty. The employer may specify the hours during which the employe may absent himself. No person shall refuse an employe the privilege hereby conferred, or discharge or threaten to discharge an employe or subject an employe to a penalty, because of the exercise of the privilege.

Committee Amendment No. 1 to **HB 293** is as follows:

Amend printed copy of **HB 293,** page 1, in Section 1, subsection (1), line 1, by inserting "*both*" between "*in*" and "*the*"; and in Section 1, subsection (1), line 2, by deleting "*at 7:00 a.m.*"

HB 345, AN ACT relating to the organization of state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.010 is amended to read as follows:

[~~(1)~~] In this chapter, unless the context requires otherwise:

(1) "Organizational unit" means any unit of organization in the executive branch of the state government that is not an administrative body, including but not limited to any agency, program cabinet, department, bureau, division, section or office.

(2)[~~(a)~~] "Department" means that basic unit of administrative organization of state government, by whatever name called, designated by statute or by *statutorily authorized* [~~appropriate~~] executive action as a "department";

(3)[~~(b)~~] "Division" means a major branch of a department established by statute or by *statutorily authorized* administrative action;

(4)[~~(c)~~] "Administrative body" *means any multi-member body in the executive branch of the state government, including but not limited to any board, council, commission, committee, authority or corporation.* [~~includes authority, board, bureau, interstate compact, commission, committee, conference, council, office and any other form of organization in the executive branch of government, but does not include "department," "program cabinet" or "division."~~]

(5)[~~(2)~~] "Program cabinet" means a group of departments, or departments and [~~commissions, or other~~] administrative bodies, designated by statute or *statutorily authorized* [~~appropriate~~] executive action as a "program cabinet."

SECTION 2. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) Recognizing the necessity for grouping related functions of organizational units and administrative bodies in order to promote greater economy, efficiency and improved administration, the governor may propose to the general assembly, for its approval, changes in the state government organizational structure which may include the creation, alteration or abolition of any organizational unit or administrative body and the transfer of functions, personnel, funds, equipment, facilities and records from one (1) organizational unit or administrative body to another.

(2) Recognizing that changes in the state government organizational structure may need to be made as rapidly as possible to achieve greater economy, efficiency and improved administration as the needs of government dictate, the governor may temporarily effect a change in the state government organizational structure as described in subsection (1) of this section if such temporary reorganization plan is first approved by the interim joint legislative committee with appropriate jurisdiction. Unless required by federal law, the governor may not effect a temporary reorganization plan under this subsection that would contravene:

(a) A constitutional or statutory provision relating to any constitutional officer or to an organizational unit headed by a constitutional officer; or

(b) A constitutional or statutory provision relating to an administrative body or to an organizational unit headed by an administrative body; or

(c) A constitutional provision relating to an organizational unit.

(3) Any reorganization proposed under subsection (1) or (2) of this section shall be set forth in a reorganization plan which shall be filed with the legislative research commission. The plan shall include:

(a) An explanation of each proposed change, including the need for the change;

(b) An estimate of any reduction or increase in expenditures, itemized as far as practicable, which the governor expects will result from the reorganization;

(c) A description of any improvements in the management, delivery of state services, and efficiency of state government operations which the governor expects will be realized as a result of the reorganization; and

(d) Specification of the effects of the reorganization on the budget and personnel of each affected organizational unit or administrative body, including but not limited to the amount of funds and the number of employes that will be transferred from one (1) organizational unit or administrative body to another, any reductions in the state work force resulting from the reorganization, and the methods to be utilized to achieve such reductions.

(4) When a proposed reorganization plan is submitted for approval under subsection (2) of this section the presiding co-chairman of the legislative research commission shall determine which interim joint legislative committee has appropriate jurisdiction and shall refer the plan to such committee within ten (10) days after the director of the legislative research commission receives the proposal. The co-chairman's action shall be reported to the legislative research commission at its next meeting. If, at the commission's next meeting, the commission disagrees with the co-chairman's determination as to which committee has appropriate jurisdiction, the commission may re-refer the proposed plan to a different interim joint legislative committee, provided that the interim joint legislative committee to which the plan was originally referred has taken no action on the plan. Prior to approving a temporary reorganization plan, the interim joint legislative committee to which it is referred shall review the plan to determine whether the plan can reasonably be expected to achieve greater economy, efficiency or improved administration in state government. The committee shall review and act upon the plan within sixty (60) days after it is filed with the legislative research commission. If the committee finds that increased economy or efficiency or improved administration can be expected from implementation of the plan, it shall approve the plan; otherwise, it shall disapprove the plan. If the committee does not act on a proposed plan within the time specified in this subsection, the plan shall be considered approved by the appropriate interim joint legislative committee.

(5) A temporary reorganization effected by the governor under subsections (2) to (4) of this section shall be terminated ninety (90) days after sine die adjournment of the next regular session of the general assembly unless otherwise specified by the general assembly. If the general assembly fails to enact the temporary reorganization plan or an alternative to such plan, the organizational structure that existed immediately prior to the implementation of the temporary plan shall be reinstated upon the termination of the temporary plan.

(6) The legislative research commission or the legislative program review and investigations committee may monitor the implementation of any reorganization plan to determine the extent to which the anticipated improvements in economy, efficiency or administration have been realized as a result of the reorganization and shall report its findings to the general assembly.

(7) Funds transferred due to reorganization shall be maintained in separately designated accounts. Any excess funds resulting from a reorganization shall lapse to the general fund surplus account.

SECTION 3. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

The governor may appoint advisory or study committees to assist and recommend to him on problems concerning the various functions, organizational units and administrative bodies of state government. Members of such committees shall serve without pay, but shall be reimbursed for necessary and actual expenses.

Section 4. KRS 12.015 is amended to read as follows:

Unless specifically provided otherwise, each administrative body established by statute or *statutorily authorized* [~~the appropriate~~] executive action shall be included for administrative purposes in an existing department or program cabinet. When an administrative body is established and the law establishing it does not specify the department or program cabinet within which the body is to be included, the governor shall assign the body to an existing department or program cabinet *in accordance with this chapter*.

Section 5. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or *statutorily authorized* executive order, provided, however, that where the attached department or administrative body is headed by a constitutionally elected officer such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Departments headed by elected officers:
1. The governor.
2. Lieutenant governor.
3. Department of state.
(a) Board of elections.
4. Department of law.
(a) Consumers advisory council.
(b) Travel assistance board.
5. Department of the treasury.
6. Department of agriculture.
(a) State board of agriculture.
(b) Milk marketing and antimonopoly commission.
7. Department of education.
(a) Superintendent of public instruction.
(b) State board for elementary and secondary education.
(c) The department for elementary and secondary education.
(d) State board for occupational education.
(e) The department for occupational education.
(f) State textbook commission.
8. Auditor of public accounts.
9. Railroad commission.
II. Cabinet departments headed by appointed officers:
1. Department of finance.
(a) State property and buildings commission.
(b) Turnpike authority of Kentucky.
(c) Capital plaza authority.
(d) Kentucky pollution abatement authority.
(e) Kentucky health and geriatric authority.
(f) Kentucky savings bond authority.
(g) Spindletop foundation.
(h) Kentucky public employes deferred compensation system.
2. Department of transportation.
(a) Railroad commission.
(b) Motor vehicle dealers board.
3. Department for natural resources and environmental protection.
(a) Environmental quality commission.
(b) Soil and water conservation commission.
(c) Ohio river sanitation commission.
4. Department of justice.
(a) Kentucky crime commission.
(b) Parole board.
(c) Kentucky law enforcement council.
(d) Commission on corrections and community service.
(e) State police personnel board.
5. Department for human resources.
(a) Citizens commission for human resources.
(b) Advisory council for medical assistance.
(c) Unemployment insurance commission.
(d) Certificate of need and licensure board.
(e) Generic formulary council.
(f) Kentucky cancer commission.
(g) Statewide health coordinating council.
6. Department of energy.
(a) Bureau of energy research.
(b) Bureau of energy management.
(c) Advisory council for energy and natural resources.

(d) Energy research board.
(e) Kentucky geological survey.
Cabinet for development
Department of agriculture (headed by elected officer).
7. Department of commerce.
(a) Kentucky industrial development finance authority.
8. Department of fish and wildlife resources.
(a) Fish and wildlife resources commission.
9. Department of parks.
(a) Breaks interstate park commission.
10. Kentucky historical events celebration commission.
11. State fair board.
12. Economic development commission.
13. The governor's council on agriculture.
14. Kentucky film commission.
15. Department for local government.
16. State horse park board.
17. Office for program administration.
18. Kentucky urban development office.
19. Kentucky tobacco research board.
Cabinet for education and the arts.
20. Kentucky arts commission.
21. Bureau for the blind.
Department of education (headed by elected officer).
22. Kentucky authority for educational television.
23. Kentucky heritage commission.
24. Kentucky historical society.
25. Department of library and archives.
(a) State archives and records commission.
(b) State board for certification of librarians.
26. Advisory council for vocational education and manpower development and training.
Cabinet for public protection and regulation.
27. Department for alcoholic beverage control.
(a) Alcoholic beverage control board.
28. Department of banking and securities.
29. Department of insurance.
(a) Custodian of insurance securities.
30. Department of labor.
(a) Workmen's compensation board.
(b) Occupational safety and health standards board.
(c) State labor relations board.
31. Department of mines and minerals.
32. Kentucky registry of election finance.
33. Energy regulatory commission and utility regulatory commission.
34. Kentucky quarterhorse and appaloosa commission.
35. Kentucky state racing commission.
36. Kentucky harness racing commission.
37. Kentucky board of tax appeals.
38. Department of housing, buildings and construction.
(a) Kentucky housing corporation.
39. Board of claims.
40. Crime victims compensation board.
III. Other departments headed by appointed officers:
1. Department of military affairs.
2. Department of personnel.
(a) Personnel board.
3. Department of public information.
4. Department of revenue.
5. Human rights commission.
6. Council on higher education.
7. Teachers' retirement system.

8. Kentucky employes' retirement system.
9. Commission on women.

Section 6. KRS 12.023 is amended to read as follows:

The following *organizational units and* administrative bodies shall be attached to the office of the governor:

(1) Council on higher education (The state universities and colleges shall report through the council on higher education).
(2) Department of military affairs.
(3) Department of personnel.
(4) Department of public information.
(5) Department of revenue.
(6) Human rights commission.
(7) Teachers' retirement system.
(8) Kentucky employes' retirement system.
(9) Commission on women.

Section 7. KRS 12.027 is amended to read as follows:

When the governor effects a *temporary* reorganization under *Section 2 of this Act* [~~KRS 12.025~~], *he shall do so* by executive order *filed with the legislative research commission and the secretary of state, and* he shall clearly designate the order as one relating to reorganization. The secretary of state shall keep a copy of all executive orders relating to organization.

SECTION 8. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

As used in KRS 42.010, unless the context requires otherwise:

(1) "Department" means that basic unit of administrative organization of state government, by whatever name called, designated by statute or by statutorily authorized executive action as a "department";

(2) "Division" means a major branch of a department established by statute or by statutorily authorized administrative action;

(3) "Administrative body" includes authority, board, bureau, interstate compact, commission, committee, conference, council, office and any other form or organization in the executive branch of government, but does not include "department," "program cabinet" or "division";

(4) "Program cabinet" means a group of departments, or departments and commissions, or other administrative bodies, designated by statute or statutorily authorized executive action as a "program cabinet."

Section 9. KRS 42.010 is amended to read as follows:

As used in KRS 42.023 to 42.030, unless the context requires otherwise, "state agency" means any state administrative body, [~~agency,~~] department or division as defined by *Section 8 of this Act* [~~KRS 12.010~~].

Section 10. KRS 56.440 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Commission" means the state property and buildings commission.

(2) "Real estate" includes lands together with improvements thereon and appurtenances thereto.

(3) "Building" includes any structure or improvement upon real estate of a permanent nature and additionally includes any sites, structures, equipment, machinery or devices for the purpose of establishing, developing or furthering television or related services in aid of education or in aid of any other proper public functions, whether or not the same would otherwise be legally defined as buildings; but only if used or to be used by the Commonwealth of Kentucky or one of its departments or agencies (not including independent municipal corporations or political subdivisions).

(4) "Building project" includes the construction, reconstruction and structural maintenance of buildings, the installation of utility services, including roads and sewers, and the purchase and installation of equipment, facilities and furnishings of a permanent nature for buildings, and the purchase and installation initially of movable equipment, furnishings and appurtenances necessary to make a building operable, and for television or related purposes as referred to in subsection (3) of this section, for use by the state government or one of its departments or agencies, not including any independent municipal corporation or political subdivision.

(5) "State agency" means any state administrative body, agency, department or division as defined in *Section 8 of this Act* [~~KRS Chapter 12~~], or any board, commission, institution, or division exercising any function of the state but which is not an independent corporation or political subdivision.

(6) "Department" means the department of finance.

Section 11. KRS 342.350 is amended to read as follows:

(1) In order to comply with KRS 342.340 groups of employers may form, either among themselves or with employers in other states, mutual insurance associations or reciprocal or interinsurance exchanges subject to the insurance laws of this state and such reasonable conditions and restrictions not inconsistent

therewith as may be fixed by the board. Membership in such mutual insurance associations or reciprocal or interinsurance exchanges so approved, together with evidence of the payment of premiums due, shall be evidence of compliance with KRS 342.340.

(2) The board may, except as provided in subsection (3), require any mutual insurance association or reciprocal or interinsurance exchange to purchase an annuity or to effect reinsurance with a company authorized to transact insurance in this state or to make such deposit with a bank or trust company of this state as shall in either case be approved by the board for the purpose of fully securing the payment of all deferred installments upon any claim for compensation.

(3) Any mutual insurance association or reciprocal or interinsurance exchange possessing a surplus of at least one hundred thousand dollars ($100,000) and not less in amount than the capital required of a domestic stock insurance company transacting the same kind of insurance, shall not be required to purchase an annuity or effect reinsurance with a company authorized to transact insurance in this state or to make such a deposit with a bank or trust company of this state for the purpose of fully securing the payment of all deferred installments upon any claim for compensation.

(4) In addition, the board, under rules and regulations as it shall prescribe, may permit two (2) or more employers to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as self-insurers. Employers securing certification as group self-insurers are regulated by the rules and regulations drawn by the workers' compensation board and are not to be in any way subject to the provisions of subsections (1), (2), and (3) of this section; provided, however, that the governor may assign the regulatory authority under this subsection to another board or agency pursuant to *Section 2 of this Act* [~~KRS 12.025~~].

Section 12. KRS 12.025, Governor's reorganization powers, is repealed.

HB 355, AN ACT relating to state employment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18.110 is amended to read as follows:

As used in KRS 18.110 to *18.370* [~~18.360~~], unless the context indicates otherwise:

(1) "Appointing officer" means the officer or employe or group of officers or employes authorized by law to make appointments;

(2) "Board" means the personnel board created by KRS 18.160;

(3) "Certification" means the referral of the name of one or more qualified prospective employes by the commissioner of personnel on request of an appointing officer for consideration in filling a position in the classified service;

(4) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(5) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18.140; a "classified position" is a position in the classified service;

(6) "Demotion" means a change in the rank of an employe from a position in one (1) class to a position in another class having a lower minimum salary range and less discretion or responsibility;

(7) "Department" means the department of personnel provided for in KRS 18.160 unless the context indicates otherwise;

(8) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18.110 to *18.370* [~~18.360~~] and who has qualified to be placed on a register;

(9) "Emergency employe" means an employe appointed without regard to the examination requirements of KRS 18.110 to *18.370* [~~18.360~~] to any position by reason of a governmental emergency, whose appointment is not to exceed thirty (30) working days in duration and is nonrenewable;

(10) "Employe" means a person regularly appointed to a position in the state service for which he is compensated on a full-time or part-time basis;

(11) "Position" means an office or employment in an agency (whether part-time, full-time, permanent, temporary, seasonal, federally funded time-limited, or emergency, occupied or vacant) involving duties requiring the services of one (1) person;

(12) "Probation" means the period of service following appointment to any position under KRS 18.110 to *18.370* [~~18.360~~] which requires special observation and evaluation of an employe's work and which must be passed successfully before status may be conferred as provided in KRS 18.210. An employe serving the probationary period is known as a "probationary employe";

(13) "Promotion" means a change of rank of an employe from a position in one (1) class to a position in another class having a higher minimum salary and carrying a greater scope of discretion or responsibility;

(14) "Provisional employe" means any employe appointed on a temporary or interim basis to a permanent position under KRS 18.110 to *18.370* [~~18.360~~] without examination, such appointment being made necessary by the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in KRS 18.210;

(15) "Reemployment list" means the separate list of names of persons reduced in force by reason of lack of appropriations, curtailment of program or abolishment of position or of organizational unit, and through no fault of their own, who have requested the opportunity for further consideration of state employment. Reemployment lists are used as provided in KRS 18.210 and subject to KRS 18.216 and 18.217;

(16) "Register" means any official list of eligibles for a particular class placed in rank order according to the examination records, maintained for use in making original appointments or promotions to positions in the classified service;

(17) "Status" means the acquisition of tenure with all rights and privileges appertaining thereunto after satisfactory completion of the probationary period by an employe in the classified service;

(18) A "temporary position" is one created for a defined period of time not to exceed six (6) months and not renewable; a "temporary employe" is one (1) appointed to such a temporary position. A "seasonal position," although temporary in duration in the foregoing sense, coincides in duration with a particular season or seasons of the year, but may not exceed eleven (11) months duration, and may recur regularly from year to year; a "seasonal employe" is one appointed to such a seasonal position from an existing eligible list or without reference to an eligible list;

(19) A "federally funded time-limited position" is one created for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided. A "federally funded time-limited" employe is one appointed to such position and, except as provided in KRS 18.140, may in all other respects be entitled to the benefits provided permanent, full-time regular employes as defined in KRS 18.110 to *18.370* [~~18.360~~];

(20) "Transfer" means a movement of any employe from one (1) position to another of the same grade having the same salary ranges and the same level of responsibility within the classified service;

(21) A "war veteran" is a person who served on active duty in the United States armed forces during any war, or in a campaign or expedition for which a campaign badge or service medal has been authorized, or between April 28, 1952, and July 1, 1955 or between August 6, 1964 and May 7, 1975.

Section 2. KRS 18.120 is amended to read as follows:

The general purpose of KRS 18.110 to *18.370* [~~18.360~~] is to establish for the state a system of personnel administration based on merit principles and scientific methods governing the recruitment, examination, appointment, promotion, transfer, lay-off, removal, discipline, and welfare of its civil employes and other incidents of state employment. All appointments and promotions to positions in the state civil service shall be made solely on the basis of merit and fitness, to be ascertained by competitive examination, except as hereinafter specified. The general assembly finds that this chapter is necessary in order to improve the morale and motivation of state employes and to gain the maximum utilization of human resources in order to provide better service to the citizens of this Commonwealth.

Section 3. KRS 18.140 is amended to read as follows:

(1) The classified service to which KRS 18.110 to *18.370* [~~18.360~~] shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employes of the general assembly including the employes of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employes on the staff of the governor, the lieutenant governor, the office of the secretary of the governor's cabinet, and the office of program administration;

(e) Cabinet secretaries, commissioners, department heads, bureau commissioners and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(g) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the commissioner of personnel approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the personnel board may approve such an addition or additions on petition of the department head approved by the commissioner of personnel;

(h) Division directors subject to the provisions of KRS 18.150;

(i) Physicians employed as such;

(j) One (1) private secretary for each person exempted under subsections (1)(e), (1)(f) and (1)(g) of this section;

(k) The judicial department, referees, receivers, jurors, and notaries public;

(l) Officers and members of the staffs of state universities and colleges and student employes of such institutions; and officers, teachers, and employes of local boards of education;

(m) Patients or inmates employed in state institutions;

(n) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor, and persons employed by state agencies *pursuant to personal service contracts authorized in compliance with KRS 45.700 through 45.720* [~~for a specified, limited period to provide professional, technical, scientific, or artistic services who are retained pursuant to application procedures, lists of eligibles, and classification and compensation systems developed by the commissioner of personnel and approved by the professional employment commission under the provisions of KRS 45.535~~];

(o) Seasonal, temporary, and emergency employes;

(p) Federally funded time-limited employes;

(q) Officers and members of the state militia;

(r) State police troopers, *detectives* and [~~sworn~~] officers *subject to the provisions of KRS Chapter 16* [~~in the bureau of state police, department of justice~~];

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner [~~or shall be participants in a cooperative education program approved by the commissioner~~];

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and commonwealth's attorneys and their respective appointees*;*

(w) Students who are employed by the state in cooperative education programs or internship programs approved by the commissioner.

(2) Nothing in KRS 18.110 to *18.370* [~~18.360~~] is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and KRS 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Classified employes with status promoted to positions exempted from classified service may, upon termination of their employment in the exempted service, revert to their classified status, but not necessarily to a particular position in the classified service.

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 4. KRS 18.150 is amended to read as follows:

It is further provided that the responsible departmental, board, commission or agency head shall at the time at which he elects to come under the provisions of KRS 18.110 to *18.370* [~~18.360~~], certify to the personnel board the positions of those division directors or heads under their jurisdiction whose duties are nonpolicy making together with a sufficient statement of their duties to enable the board to determine whether or not, as a matter of fact, such duties are nonpolicy making in their nature. He shall, at any time subsequent to coming under the provisions of KRS 18.110 to *18.370,* [~~18.360~~] certify to the personnel board additional division directors or heads whose duties are nonpolicy making. At the time of certification notice thereof shall be given to the interested division director or head in the form of a copy of the statement certifying the duties of his office. The board may conduct such hearings as it may deem necessary, and shall conduct hearings pursuant to the administrative provisions of KRS 18.270 in the event of a difference of opinion between the certifying officer and the interested division director or head, before entering its findings of fact and an order either classifying or denying classification to such position. Either the certifying officer or the division director or head may appeal the findings of fact and the final order of the board by initiating action in the Franklin Circuit Court pursuant to the provisions of KRS 418.040 et seq.

Section 5. KRS 18.160 is amended to read as follows:

(1) There shall be created by KRS 18.110 to *18.370* [~~18.360~~] a department of personnel headed by a commissioner who shall be appointed by the governor. There shall also be created a personnel board in which shall be vested the constitutional powers and responsibilities of officers of the Commonwealth. The personnel board shall consist of five (5) members appointed by the governor for four (4) year terms, and

the governor shall select citizens of Kentucky known for their devotion to the merit principle in government employment and the improvement of management and professional development of the public service of the state. No member of the personnel board shall be otherwise an employe or officer of the Commonwealth except faculty or staff members of the state universities or colleges. No member of the personnel board shall be a member of any local, state, or national committee of a political party, or an officer or member of a committee in any partisan political club or organization, or shall be or have been a candidate for any elective office within one (1) year prior to appointment. Members of the personnel board shall receive compensation of sixty-five dollars ($65) per diem and reimbursements of travel expenses and other special expenses for each called meeting of the board or hearing which they attend. If any board member misses three (3) consecutive meetings for any reason other than illness or temporary absence from the Commonwealth, he shall be deemed to have vacated his office and the governor shall proceed forthwith to appoint a successor to his unexpired term.

(2) The members of the first board shall be appointed by the governor within thirty (30) days of July 1, 1960. Of the members first appointed, one (1) shall serve until January 1, 1961, one (1) until January 1, 1962, one (1) until January 1, 1963, and two (2) until January 1, 1964. Thereafter, each term shall run for four (4) years from the date of expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. Each member of the board shall hold office until his successor is appointed and qualifies.

(3) Members of the personnel board may be removed by the governor only for cause after being given a copy of charges against them and an opportunity to be heard publicly, with the advice of counsel, on such charges against them before the governor and a finding of fact by the governor. A copy of the charges and transcript of the record of the hearing and findings of fact shall be filed with the secretary of state.

(4) The personnel board shall annually elect one (1) of its members chairman. It shall meet at such time and place as shall be specified by call of the chairman or the commissioner of personnel. At least one (1) meeting shall be held each month. All meetings shall be open to the public. Notice of each meeting shall be given in writing to each member by the commissioner of personnel at least three (3) days in advance of the meeting. Three (3) voting members shall constitute a quorum for the transaction of business. The personnel board shall keep records and minutes of its business and official actions, with the commissioner of personnel serving as secretary. Such minutes shall be public records open to public inspection, subject to such reasonable rules as to hours and conditions of inspection as the board may establish. It shall be the duty of the officer or officers charged by law with the custody of the state buildings, upon written request of the personnel board, to assign suitable office space for executing the duties charged to it and to the commissioner of personnel.

Section 6. KRS 18.170 is amended to read as follows:

It shall be the duty of the personnel board to:

(1) Adopt comprehensive rules consistent with the provisions of KRS 18.110 to *18.370* [~~18.360~~], and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;

(2) Present to the governor, through the secretary of the department of finance, for his adoption such classification and compensation plans for the state service, provision for vacation, sick and special leave and hours of work, together with rules for their administration, as recommended by the commissioner of personnel and the board after a thorough survey of the personnel and departmental organizations included in such plan or plans;

(3) Make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 18.110 to *18.370* [~~18.360~~], and to require observance of its provisions and the rules and regulations made pursuant thereto; and to make such investigation as may be requested by the general assembly or the governor and to report thereon;

(4) Hear appeals from applicants for positions for which examinations are being or have been conducted, from eligibles on examination registers, and from officers or employes serving under the personnel system created by KRS 18.110 to *18.370* [~~18.360~~], as hereinafter provided, subject to the procedural rules which the board may adopt pursuant to the provisions of this section;

(5) Promote public understanding of merit principles in government service;

(6) Make annual reports to the governor and biennial reports to the general assembly, which reports shall be a public record freely available to those persons interested in obtaining a copy;

(7) Advise the governor and the commissioner of personnel with respect to the administration of the personnel system created by KRS 18.110 to *18.370* [~~18.360~~];

(8) Consider and act on such matters as may be referred to the board by the commissioner of personnel; and

(9) Represent the public interest in the improvement of personnel administration in the state service, and advise and assist the commissioner of personnel in fostering the interest of institutions of learning and

of civic, professional, and employe organizations in the improvement of personnel standards in the state service.

Section 7. KRS 18.190 is amended to read as follows:

The commissioner of personnel shall be the executive and administrative head of the department of personnel and shall supervise and control all examinations and work of the department. He shall act as the personnel board's adviser on all matters pertaining to the civil service of this state. Within the limitations of the budget, the commissioner of personnel shall appoint and supervise such staff as may be needed in the department of personnel to carry out the purposes of KRS 18.110 to *18.370* [~~18.360~~]. It shall be the duty of the commissioner of personnel, with the aid of his staff to:

(1) Attend all meetings of the personnel board;

(2) Prepare and recommend to the personnel board rules and regulations for the purpose of carrying out the provisions of KRS 18.110 to *18.370* [~~18.360~~]. Such rules shall provide, among other things, the manner of completing appointments and promotions, including multiple and simultaneous certifications; rejection of ineligible candidates; competitive examinations; creation of eligible lists with successful candidates ranked according to their rating in the examination; leaves of absence with and without pay; transfers, reinstatements, lay-offs; public notice of examinations; procedures for changes in rates of pay; and other conditions of employment;

(3) Establish general procedures for personnel recruitment, for certification, for improving the efficiency of employed personnel, and for the separation of employes deemed unsatisfactory or excessive by agency or department heads subject to the provisions of KRS 18.110 to *18.370* [~~18.360~~];

(4) Appoint such examiners and technicians as are necessary for the conduct of the personnel program, whether on a permanent or temporary basis;

(5) Prepare and maintain a record of all employes, showing for each employe his name, post-office address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make such data and the class specifications for all positions available to the press and public;

(6) Prepare, in accordance with the provisions of KRS 18.110 to *18.370* [~~18.360~~] and the rules adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;

(7) Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18.110 to *18.370* [~~18.360~~];

(8) Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18.110 to *18.370* [~~18.360~~] and rules and regulations prescribed thereunder;

(9) Prepare, in cooperation with appointing authorities and others, programs for appraising employe work performance and collaborate with the several departments of the Commonwealth in the development of programs for employe training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department of personnel to this end;

(10) Provide personnel services to unclassified employes in agreement with the agencies involved not otherwise provided for herein;

(11) Present, in accordance with the provisions of KRS 45.070, budget estimates for the support of the personnel system created by KRS 18.110 to *18.370* [~~18.360~~];

(12) Make a report and submit the same to the personnel board and to the governor not later than October first of each year; and

(13) Discharge such other duties as are imposed upon him by KRS 18.110 to *18.370* [~~18.360~~], or by the board. The commissioner of personnel on behalf of the department may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.

Section 8. KRS 18.210 is amended to read as follows:

The commissioner of personnel shall prepare and submit to the personnel board proposed rules for the classified service. Such rules shall have the force and effect of law, when approved by the board, after public notice and public hearing, and after filing with the legislative research commission in accordance with KRS chapter 13 and procedures adopted thereunder. If not disapproved by the board within forty-five (45) days after the submission thereof, they shall have the same force and effect as if approved. Amendments thereto may be made in the same manner, or on the initiative of the board. The rules shall provide:

(1) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification has been approved by the board, the commissioner shall allocate the position of every employe in the classified service to one (1) of the classes in the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner of personnel a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(2) For a pay plan for all employes in the classified service, after consultation with appointing authorities and the secretary of the department of finance. The plan shall take into account such factors as (a) the relative levels of duties and responsibilities of various classes of positions; (b) rates paid for comparable positions elsewhere; and (c) the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the board. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed;

(3) For open competitive examinations to test the relative fitness of applicants for the respective positions. Such examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service, and shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgment serves the need to discover the relative fitness of applicants;

(4) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct and seniority. Vacancies shall be filled by promotion whenever practicable and in the best interest of the service;

(5) For the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Eligibility lists shall expire automatically at the end of two (2) years, unless the life of a list is extended by action of the personnel board for a period not to exceed one (1) additional year;

(6) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training and experience, or who have been guilty of infamous or disgraceful conduct; who are addicted to alcohol to excess or to narcotics, or who have attempted any deception or fraud in connection with an examination;

(7) For the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(8) For a period of probation not to exceed one (1) year before appointment or promotion may be made complete, and during which period a probationer may be discharged or reduced in class or rank, or replaced on the eligible list. Unless the appointing authority notifies the employe prior to the end of the probationary period that the employe's services are not satisfactory, the employe shall have status in the classified service. The notice shall be in writing and as provided by personnel rules;

(9) For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;

(10) For provisional employment without competitive examination when there is no appropriate eligible list available. No such provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;

(11) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(12) For reinstatement within not more than five (5) years, only with the approval of the commissioner, of persons who resign in good standing or who are laid off from their positions without fault or delinquency on their part;

(13) For developing, in cooperation with the appointing authorities, uniform standards and methods of appraising work performance of all employes and for the use of such methods of appraisal in personnel actions;

(14) For lay-offs by reasons of lack of funds or work, or abolishment of a position, or material change in duties or organization, and for reinstatement of employes so laid off, giving consideration in both lay-offs and re-employment to qualifications, performance records, conduct and seniority in service;

(15) For imposition as disciplinary measures of a fine of not more than ten (10) working days' pay or for suspension from the service without pay for not longer than thirty (30) working days and for the manner of notification of the employe of the discipline and his right of appeal;

(16) For discharge or reduction in rank or grade only for cause, after the person to be discharged or reduced has been presented with the reasons for such discharge or reduction stated in writing, and has been allowed a reasonable time to reply thereto in writing, or, upon request, to appear personally with counsel and reply to the head of the department or his deputy. The statement of reasons and the reply shall be filed as a public record with the commissioner;

(17) For establishment of a plan for resolving employe grievances and complaints;

(18) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in KRS 18.170(2);

(19) For the development and operation of programs to improve the work effectiveness of employes in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, and employe relations;

(20) For promotion of career employes to positions in the unclassified service without loss of status to the individual employes so promoted;

(21) For such other rules and administrative regulations not inconsistent with KRS 18.110 to *18.370* [~~18.360~~], as may be proper and necessary for its enforcement.

Section 9. KRS 18.220 is amended to read as follows:

(1) The commissioner of personnel shall prepare and submit proposed rules to the governor for employes in non-merit system positions enumerated in paragraphs (f), (g), (h), (i), (j), (o), (t), [~~and~~] (u) *and (w)* of KRS 18.140(1). Such rules shall become effective after approval by the governor and promulgation in accordance with KRS Chapters 12 and 13. The rules shall provide:

(a) For the preparation, maintenance and revision of a position classification plan for all aforementioned positions in the unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the governor, the commissioner shall allocate the positions of every employe in the unclassified service to one (1) of the classes of the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner of personnel a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(b) For a pay plan for all aforementioned employes in the unclassified service, after consultation with appointing authorities and the secretary of the department of finance, and taking into account such factors as 1. the relative levels of duties and responsibilities of various classes of positions; 2. rates paid for comparable positions elsewhere; and 3. the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the commissioner of personnel through the secretary of the department of finance. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;

(c) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(d) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in KRS 18.170(2);

(e) For the development and operation of programs to improve the work effectiveness and morale of employes in the unclassified service, including training, safety, health, welfare, counseling, recreation, and employe relations;

(f) For such other rules and administrative regulations, not inconsistent with KRS 18.110 to *18.370* [~~18.360~~], as may be proper and necessary for its enforcement.

(2) Nothing herein shall be construed to preclude the optional use of rules promulgated under this section on behalf of employes enumerated in paragraphs (a), (d), (e) and (p) of subsection (1) of KRS 18.140 and on behalf of members of state boards and commissions who work on a full-time, salaried basis.

Section 10. KRS 18.230 is amended to read as follows:

All officers and employes of the Commonwealth and of all its municipalities and political subdivisions shall allow the department the reasonable use of public buildings under their control, and furnish heat, light and furniture for any examination, hearing, or investigation authorized by KRS 18.110 to *18.370* [~~18.360~~]. The department shall pay to a municipality or political subdivision the reasonable cost of any such facilities furnished by it.

Section 11. KRS 18.240 is amended to read as follows:

(1) All officers and employes of the Commonwealth shall comply with, and aid in all proper ways in carrying out, the provisions of KRS 18.110 to *18.370* [~~18.360~~] and the rules, regulations, and orders thereunder. All officers and employes shall furnish any records or information pertaining to the administration of KRS 18.110 to *18.370* [~~18.360~~] which the commissioner may request. The commissioner or the board may require the attorney general to institute and maintain such legal action as the commissioner or the board may consider necessary or appropriate to secure compliance with KRS 18.110 to *18.370* [~~18.360~~] and the rules and orders thereunder.

(2) The secretary of the department of finance may review and approve all proposed position establishments and abolishments. Reclassifications and reallocations may also be reviewed and approved by the secretary of the department of finance on the basis of the availability of funds.

Section 12. KRS 18.250 is amended to read as follows:

(1) Except as hereinafter provided, all hiring for the classified service shall be on the basis of competitive examinations and certification by the personnel department in accordance with the provisions of KRS 18.110 to *18.370* [~~18.360~~].

(2) As of February 29, 1976, when an entity and its employes, either initially or subsequently, is brought into state service, all employes of that entity required to be covered under the classified service shall be required to meet the minimum qualifications for the positions to which they are assigned and to satisfactorily complete a probationary period, except that in the discretion of the commissioner they shall not be required to take an examination. The commissioner shall equitably assign such employes to any *rate* [~~step~~] within the salary range of an appropriate pay grade.

Section 13. KRS 18.260 is amended to read as follows:

(1) No disbursing or auditing officer of the Commonwealth shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the classified or unclassified service unless the payroll voucher or account of such pay bears the certification of the commissioner, or of his authorized agent, that the persons named therein have been appointed and employed in accordance with the provisions of KRS 18.110 to *18.370* [~~18.360~~] and the rules, regulations, and orders thereunder. The commissioner may for proper cause withhold certification from an entire payroll or from any specific item or items thereon. The commissioner may, however, provide that certification of payrolls may be made once every six (6) months, and such certification shall remain in effect except in the case of any officer or employe whose status has changed after the last certification of his payroll. In the latter case no voucher for payment of salary to such employe shall be issued or payment of salary made without the further certification of the commissioner.

(2) Any citizen, including public officers, may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of KRS 18.110 to *18.370* [~~18.360~~], or of any rule, regulation or order thereunder. Any sum paid contrary to any provision of KRS 18.110 to *18.370* [~~18.360~~] or of any rule, regulation, or order thereunder may be recovered in an action maintained by any citizen, from any officer who made, approved, or authorized such payment or who signed or countersigned a voucher, payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer. All monies recovered in any such action shall be paid into the treasury.

(3) Any person appointed or employed in contravention of any provision of KRS 18.110 to *18.370* [~~18.360~~] or of any rule, regulation, or order thereunder, who performs service for which he is not paid, may maintain an action against the officer or officers, employe or employes, who purported so to appoint or employ him, to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No such officer or employe shall be reimbursed by the Commonwealth at any time for any sum paid to such person on account of such services.

(4) If the commissioner wrongfully withholds certification of the payroll voucher or account of any employe, such employe may maintain a proceeding in the circuit court in the county in which he resides to compel the commissioner to certify such payroll voucher or account.

Section 14. KRS 18.270 is amended to read as follows:

Any classified employe who is dismissed, demoted, suspended, or otherwise penalized after completing his probationary period of service may, within thirty (30) days after such dismissal, demotion, suspension, or other form of penalization, appeal to the personnel board for review thereof. Upon such review, both the appealing employe and the appointing authority whose action is reviewed shall have the right to be heard publicly and to be represented by counsel to present evidentiary facts. At the hearing of such appeals, technical rules of evidence shall not apply. If the personnel board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's *race, color,* sex, [~~or~~] age or handicap, the appointing authority shall, not later than thirty (30) days after receipt of such findings and recommendations, reinstate the employe to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employe whole. If the personnel board finds that the action complained of was taken without just cause, the personnel board shall order the employe reinstated to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employe whole. In all other cases, if the personnel board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the personnel board shall alter, modify or rescind the disciplinary action. The appointing authority shall, not later than thirty (30) days after receipt of the final order of the personnel board, comply with such final order. When any employe is dismissed and not ordered reinstated after such appeal, the personnel board in its discretion may direct that his name be placed on an appropriate re-employment list, for employment in any similar position other than the one from which he had been removed.

Section 15. KRS 18.280 is amended to read as follows:

The personnel board, each member of the personnel board, and the commissioner shall have the power to administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by KRS 18.110 to *18.370* [~~18.360~~]. Any person who shall fail to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation or hearing or who shall knowingly give false testimony therein shall be guilty of a misdemeanor.

Section 16. KRS 18.300 is amended to read as follows:

(1) Subject to the approval of the personnel board the commissioner may enter into agreements with any municipality or other political subdivision of the Commonwealth to furnish services and facilities of the department to such municipality or political subdivision in the administration of its personnel on merit principles. Any such agreement shall provide for the reimbursement to the department, under contract, of the reasonable cost of the services and facilities furnished, as determined by the commissioner. All municipalities and political subdivisions of the Commonwealth are hereby authorized to enter into such agreements.

(2) The commissioner may cooperate with the governmental agencies of other jurisdictions charged with personnel administration in conducting joint tests and establishing joint lists from which eligibles shall be certified for appointment in accordance with the provisions of KRS 18.110 to *18.370* [~~18.360~~].

(3) The commissioner may, upon the request of the secretary of the department for human resources and upon the approval of the personnel board, furnish merit system services to "local" departments of health.

Section 17. KRS 18.320 is amended to read as follows:

(1) No person shall make any false statement, certificate, mark, rating, or report with regard to any test, certification, or appointment made under any provision of KRS 18.110 to *18.370* [~~18.360~~] or in any manner commit or attempt to commit any fraud preventing the impartial execution of KRS 18.110 to *18.370* [~~18.360~~] and the rules, regulations or orders thereunder.

(2) No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the classified service.

(3) No employe of the department, examiner, or other person shall defeat, deceive, or obstruct any person in his right to examination, eligibility, certification, or appointment under KRS 18.110 to *18.370* [~~18.360~~], or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

(4) No person shall make any false statement, record or report regarding hours, days, or other time worked by any employe. No person shall falsely prepare any payroll document or record relating to the pay for any employe.

Section 18. KRS 18.330 is amended to read as follows:

(1) Appropriations shall be made from the general expenditure fund to the department of personnel to meet the estimated pro rata share of the cost of administering the provisions of this chapter for departments, commissions, boards or agencies which receive their sole support from the general expenditure fund.

(2) The commissioner shall maintain accurate records reflecting the cost of administering the provisions of this chapter. At the close of each quarter year period he shall summarize the cost and shall bill each department, commission, board or agency which receives support from sources other than the general expenditure fund, except the department of fish and wildlife resources, for a pro rata share of the administrative cost based on the relationship between the quarterly average number of employes in the service of such department, commission, board or agency and the quarterly average number of employes in the service of all the departments, commissions, boards and agencies for the appropriate calendar quarter.

(3) All departments, commissions, boards or agencies which receive support from other than the general expenditure fund, except the department of fish and wildlife resources, shall include in their budgets sufficient amounts to meet their pro rata shares of the cost of administering KRS 18.110 to *18.370* [~~18.360~~] and shall remit such shares quarterly to the department of personnel in the manner provided by law.

(4) The department is authorized and directed to accept on behalf of the state any grant or contribution, federal or otherwise, made to assist in meeting the cost of carrying out the purposes of KRS 18.110 to *18.370* [~~18.360~~].

Section 19. KRS 18.340 is amended to read as follows:

The personnel board and the commissioner shall see that rules, regulations and practices meeting federal merit system standards shall, where such standards apply as a prerequisite for federal grants-in-aid, be in effect continuously, notwithstanding any other provision of KRS 18.110 to *18.370* [~~18.360~~].

Section 20. KRS 18.350 is amended to read as follows:

(1) State offices shall be closed and state employes shall be given a holiday on the following days:
(a) The 1st day of January plus one extra day;
(b) The 3rd Monday in February;
(c) Good Friday, one-half day;
(d) The last Monday in May;
(e) The 4th day of July;
(f) The 1st Monday in September;
(g) *Presidential election day;*
(h) The 4th Thursday in November plus one extra day;
(i)[~~(h)~~] The 25th day of December plus one extra day.

(2) When any of the days enumerated in subsection (1) falls on a Saturday, the preceding Friday shall be observed as the holiday, and when any of the days enumerated in subsection (1) falls on a Sunday,

the following Monday shall be observed as the holiday. When one extra day is mentioned in paragraphs (a), [~~(g) and~~] (h) *and (i)* of subsection (1), the Governor shall designate the extra day.

(3) The holidays set out in this section are in addition to vacation leave and other benefits of state employes.

Section 21. KRS 148.026 is amended to read as follows:

The commissioner of parks may employ or contract with such other persons, firms or corporations as he may deem necessary or desirable to accomplish the duties and functions assigned by law to the department of parks; may fix the compensation and the terms of employment or contract of those employed or contracted with; and may assign to them such duties and responsibilities as he may determine; provided, however, that any contract shall be approved by the department of finance before it shall become effective. Individuals employed by the commissioner of parks on a temporary basis for specific construction projects under KRS 56.491(5) or for maintenance projects shall be exempt from the requirements of KRS 18.110 to *18.370* [~~18.360~~].

HB 210, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.546 is amended to read as follows:

(1) Any member of the Kentucky employes retirement system or the state police retirement system who is employed by the Commonwealth shall, on retirement, receive credit for unused sick leave accrued in the state service in accordance with this section.

(2) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring employe's unused, accumulated sick leave balance to the board of trustees of the Kentucky retirement systems. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.510 to 16.552 or KRS 61.510 to 61.702 *and* [~~. Such sick leave balance shall not be used~~] for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.702.

(3) The board shall compute the cost to the retirement system of the sick leave credit of each retiring member and shall bill the last employer of the retiring employe for such cost. The employer shall pay the cost of such service credit by interaccount charge.

HB 146, AN ACT relating to capital construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

The draft appropriation act or acts submitted to the general assembly by the governor, and the appropriation act or acts enacted by the general assembly, shall comply with the provisions of this Act. Expressions of general exclusion, including but not limited to, "any act or statute to the contrary notwithstanding," and, "the provisions of any other law notwithstanding," shall not be effective as an exemption from the provisions of this Act. Exemptions from the provisions of this Act shall include the specific projects exempted.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

There is created within the capital construction fund the capital construction surplus account. This account shall consist of income derived from the investment of monies appropriated to the capital construction fund, including income derived from the investment of monies appropriated to any capital construction account, and shall be appropriated and allotted as provided in KRS 45.750 through 45.800. Monies and income derived from bond proceeds shall not be included.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) The proceeds from the sale of major items of equipment or real property, purchased in whole or in part with capital construction funds, shall be returned to the source of the funds utilized for their

purchases in a pro rata manner. Proceeds accruing to the capital construction fund under this subsection shall be deposited in the capital construction fund surplus account and shall be appropriated and allotted as provided in KRS 45.770 through 45.800 unless federal funding restraints required otherwise.

(2) The provisions of this section shall not apply to the sale of real property held as right-of-way by the department of transportation.

Section 4. KRS 45.322 is amended to read as follows:

(1) The accounting system prescribed and installed by the department of finance shall include the following fund structure:

(a) Operating Fund Group. This fund shall consist of all monies, not otherwise restricted, available for general operations of state government. It may include general funds, agency receipts, grants, and federal funds. A separate record of each source of revenue within this fund group shall be maintained.

(b) Transportation Fund Group. This fund shall consist of road fund revenues, agency receipts, federal funds and general funds appropriated by the general assembly for programs carried out in the department of transportation. A separate record of each source of revenue within this fund group shall be maintained.

(c) Capital Construction Fund. This fund shall consist of monies allotted for capital construction projects, except road construction projects, for all agencies of state government.

(d) Bond Debt Related Fund Group. This group of funds shall consist of all outstanding bonded debt liability and related funds of state government, including all revenue bonds issued by or approved by the state property and buildings commission. Accounts necessary to assure integrity of trust indentures shall be maintained. Funds appropriated for debt service shall be allotted to these accounts and any excess of appropriation over net requirements for principle, interest and reserves for any issue shall lapse to the general fund if general funds are a part of the appropriation for that budget unit.

(e) Restricted Fund Group. This fund group shall consist of appropriations and other receipts restricted as to purpose, and which by statute or otherwise may not be included in the operating fund.

(2) Transfers of appropriations, allotments, or receipts between funds shall be permitted, with the permission of the office for policy and management, for the purpose of matching restricted grants, for debt service, [~~for capital construction, or~~] for necessary government expense, *or, except as provided by KRS 45.750 through 45.800, for capital construction*; provided, however, that no transfers, may be made from other funds to the operating fund except to correct errors, or to return excess transfers, and with the written permission of the secretary of the department of finance.

Section 5. KRS 41.380 is amended to read as follows:

(1) There shall be a state investment commission composed of the governor, the state treasurer, the secretary of the development cabinet and the secretary of the department of finance. The commission shall have authority to and may invest any and all surplus funds of the state in direct obligations of the United States government, or of the Commonwealth of Kentucky. All such investments shall be obligations that will mature within five (5) years from the date of investment.

(2) The commission shall also have authority and may, whenever in its opinion the cash in the state treasury is in excess of the amount required to meet current expenditures, invest any and all of said excess cash in United States treasury bills or certificates of indebtedness or any other United States government security which will mature within one (1) year from the date of investment.

(3) Interest earned from investments made pursuant to this section shall accrue to the credit of the general expenditure fund, except that interest from investments of excess cash in the road fund shall be credited to the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when such donor shall have designated the use to which such interest shall be placed, *and interest earned from the investment of monies appropriated to the capital construction fund and its accounts shall accrue to the capital construction surplus account of the capital construction fund.*

(4) The authority granted by this section to the state investment commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.

Section 6. KRS 45.750 is amended to read as follows:

(1) As used in KRS 45.750 to 45.800:

(a) "Committee" means the capital construction and equipment purchase oversight committee.

(b) "Capital construction" includes:

(i) The construction, reconstruction and structural maintenance of buildings;

(ii) The installation of utility services, including roads and sewers;

(iii) The acquisition of land for the construction or reconstruction of a building or for the installation of utility services;

(iv) The purchase and installation initially of equipment, facilities and furnishings of a permanent nature for buildings; and

(v) The purchase and installation initially of movable equipment, furnishings and appurtenances necessary to make a building operable*; and*

(vi) Major items of equipment, to include aircraft estimated to cost fifty thousand dollars ($50,000) or more.

(c) "Capital construction project" means any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost two hundred thousand dollars ($200,000) or more, *and* [~~(d)~~] "major item of *movable* equipment," [~~means an item of movable equipment,~~] estimated to cost fifty thousand dollars ($50,000) or more[~~, that is not an item of capital construction as defined in paragraph (b) of this subsection~~].

(d) "Purchase of equipment" shall include, but not be limited to, equipment purchased or otherwise acquired, or equipment to be purchased or otherwise to be acquired, under a lease or lease-purchase contract or agreement or an arrangement equivalent to a lease or lease-purchase contract or agreement.

(e) "Emergency repair, maintenance or replacement project" means the maintenance, repair or reconstruction of a capital construction project or the maintenance, repair or replacement of a major item of equipment that is:

(i) Necessitated by injury or damage resulting from a disaster; or

(ii) Necessary to maintain government operations or to prevent or minimize injury or damage that could reasonably be expected to result from an impending disaster; or

(iii) Necessitated by an unforeseen mechanical breakdown, electrical breakdown, or structural defect that must be corrected to make a facility or item of equipment usable.

(f) "Disaster" means a fire, flood, tornado, other natural disaster, riot, enemy attack, sabotage, explosion, power failure, energy shortage, transportation emergency, or other man-caused disaster.

(2) KRS 45.750 to 45.800 shall apply to capital construction projects and the purchase of major items of equipment for use by the state government or one of its departments or agencies, including institutions of higher education, but excluding capital construction projects or equipment purchases *used in the construction or maintenance of roads* [~~under the jurisdiction of the bureau of highways or the turnpike authority of Kentucky~~]. KRS 45.750 to 45.800 shall not apply to political subdivisions.

Section 7. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

(1) The governor shall include in the biennial budget report and in the draft appropriation act or acts submitted to each regular session of the general assembly pursuant to KRS 45.030 and 45.040, for the biennium period beginning July 1, 1980 and for each biennium thereafter, a recommended state capital construction program and a recommended program for the purchase of major items of equipment.

(2) The recommended capital construction program shall include:

(a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and

(b) For each project:

(i) The agency and purpose for which it will be used;

(ii) The justification for the project;

(iii) Its estimated completion date;

(iv) The total estimated cost of completing the project;

(v) The estimated cost of the project during the biennium;

(vi) The recommended sources of funds for the entire project; and

(vii) The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.

(3) All information required by subsection (2) of this section shall be included in the biennial budget report. The draft appropriation act or acts shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs (v), (vi) and (vii) of subsection (2)(b) of this section.

(4) During any biennium beginning July 1, 1980 and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in the biennial budget report and in the appropriation act or acts enacted by the general assembly, except as provided in KRS 45.770 and 45.780.

(5) The recommended program for the purchase of major items of equipment shall include:

(a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and

(b) For each major item of equipment:

(i) The agency and purpose for which it will be used;

(ii) The justification for the purchase;

(iii) The estimated cost of the item;

(iv) The recommended sources of funds; and

(v) The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.

(6) All information required by subsection (5) of this section shall be included in the biennial budget report. The draft appropriation act or acts shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs (iii), (iv) and (v) of subsection (5)(b) of this section.

(7) When the general assembly disapproves a project or item of equipment that was previously approved, it shall be eliminated as a project or major item of equipment in the capital construction program. Monies appropriated for that project or item of equipment but not allotted, and monies allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund.

(8) Projects and major items of equipment disapproved under the preceding subsection shall be terminated.

(9)[~~(7)~~] During any biennium beginning July 1, 1980 and during each biennium thereafter, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in the biennial budget report and in the appropriation act or acts enacted by the general assembly and authorizing the purchase, except as provided in subsection (8) of this section and in KRS 45.770 and 45.780.

(10)[~~(8)~~] A major item of equipment to be used for medical, scientific or research purposes, excluding computer equipment *and aircraft*, may be purchased even though it is not specifically listed in the biennial budget report and appropriation act or acts enacted for the current biennium subject to the following conditions and procedures:

(a) Monies specifically appropriated by the general assembly for another purpose shall not be realloted for expenditure on the item;

(b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and

(c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the capital construction and equipment purchase oversight committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.

(11) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in the biennial budget report and appropriation act or acts, subject to the following conditions and procedures:

(a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by monies appropriated to the capital construction and equipment purchase contingency account;

(b) Monies specifically appropriated by the general assembly for another purpose shall not be allotted or reallotted for expenditure on the project or major item of equipment; and

(c) The department of finance shall submit the project or major item of equipment to the committee for review as provided by Section 10 of this Act.

(12) On or before September 1, the secretary of the department of finance shall submit to the committee the following information:

(a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and

(b) For each project and major item of equipment, as of July 1, of the current fiscal year:

(i) The project phase;

(ii) The project account number, project name, and any other term employed to identify the project or major item of equipment;

(iii) The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;

(iv) A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;

(v) The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;

(vi) Total expenditure on the project or major item of equipment;

(vii) The current estimated completion cost, including the amount required for annual inflation;

(viii) A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available;

(ix) Justification for the project or major item of equipment;

(c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.

Section 8. KRS 45.770 is amended to read as follows:

(1) There is created within the *capital construction fund the* [~~state treasury a~~] capital construction and equipment purchase contingency *account* [~~fund~~]. The *account* [~~fund~~] shall consist of monies appropriated to the *account* [~~fund~~] by the general assembly[~~ and income derived from the investment of monies appropriated to the fund. The fund shall also include income derived from the investment of funds appropriated by the general assembly for capital construction projects or the purchase of major items of equipment prior to the time such funds are allotted for expenditure on the project or item~~].

(2) Money in the capital construction and equipment purchase contingency *account* [~~fund~~] may be transferred to the allotment account of a capital construction project, authorized by the general assembly under KRS 45.760, subject to the following conditions and procedures:

(a) Except as provided in *paragraphs (b) and (c)* [~~paragraph (d)~~] of this subsection, during any biennium, the amount that may be transferred from the capital construction and equipment purchase contingency *account* [~~fund~~] to the allotment account of an authorized project shall not exceed an amount equal to *fifteen percent (15%)* [~~twenty-five percent (25%)~~] of the estimated cost of the project, for that biennium, approved by the general assembly in the manner provided by KRS 45.760.

(b) [~~The department of finance may transfer an amount equal to fifteen percent (15%) or less of the estimated cost of an authorized project from the fund to the allotment account of the project provided that the department reports the transfer to the capital construction and equipment purchase oversight committee within thirty (30) days after making the transfer. The report shall include documentation of the amount, necessity and purpose of the transfer, the amount already expended on the project prior to and during the current biennium, and any alterations made or planned in the project since its consideration by the general assembly during the most recent regular session.~~

~~(c) The department of finance may transfer, from the fund to the allotment account of an authorized project, an amount equal to more than fifteen percent (15%) but not more than twenty-five percent (25%) of the estimated cost of the project, subject to paragraph (e) of this subsection.~~

~~(d)~~] *Subject to paragraph (c) of this subsection, if* [~~In the event that~~] the cost of an authorized project exceeds, by more than *fifteen percent (15%),* [~~twenty-five percent (25%),~~] its estimated cost, as approved by the general assembly, due to an unforeseen decision by a federal or state court or regulatory agency, monies in excess of *fifteen percent (15%)* [~~twenty-five percent (25%)~~] of the estimated cost of the project may be transferred from the capital construction and equipment purchase contingency *account* [~~fund~~] to the allotment account of the project[~~, subject to paragraph (e) of this subsection~~].

(c)[~~(e)~~] The department of finance shall, prior to making any transfer under [~~paragraph (c) or (d) of~~] this subsection, present the proposed transfer to the capital construction and equipment purchase oversight committee for review *as provided by Section 10 of this Act* [~~in accordance with KRS 45.800~~]. Presentation of a proposed transfer under paragraph *(b)* [~~(d)~~] of this subsection shall include written certification to the committee from the commissioner of the bureau of facilities management, department of finance, that the transfer is necessitated by cost increases resulting from an unforeseen decision by a federal or state court or regulatory agency.

(3) Money in the capital construction and equipment purchase contingency *account* [~~fund~~] may be transferred to the allotment account of a major item of equipment, authorized by the general assembly under KRS 45.760, for expenditure on that item subject to the following conditions and procedures:

(a) Except as provided in *paragraphs* [~~paragraph~~] (b) *and (c)* of this subsection, during any biennium, the amount that may be transferred from the capital construction and equipment purchase contingency *account* [~~fund~~] to the allotment account of an authorized major item of equipment shall not exceed an amount equal to *fifteen percent (15%)* [~~ten percent (10%)~~] of the estimated cost of the item, for that biennium, approved by the general assembly in the manner provided by KRS 45.760.

(b) In the event that the cost of an authorized major item of equipment exceeds, by more than *fifteen percent (15%)* [~~ten percent (10%)~~], its estimated cost, as approved by the general assembly, due to an unforeseen decision by a federal or state court or regulatory agency, monies in excess of *fifteen percent (15%)* [~~ten percent (10%)~~] of the estimated cost may be transferred from the capital construction and equipment purchase contingency *account* [~~fund~~] to the allotment account of the item.

(c) The department of finance shall, prior to making any transfer under this subsection, present the proposed transfer to the capital construction and equipment purchase oversight committee for review *as provided by Section 10 of this Act* [~~in accordance with KRS 45.800~~]. Presentation of a proposed transfer under paragraph (b) of this subsection shall include written certification to the committee from the secretary of the department of finance that the transfer is necessitated by cost increases resulting from an unforeseen decision by a federal or state court or regulatory agency.

(4) Unless the project is the subject of litigation, final acceptance of a project shall occur no later than thirteen (13) months after the project is transferred to the Commonwealth of Kentucky. No later than

thirty (30) days after final acceptance of a project or item of equipment by the Commonwealth of Kentucky, monies constituting the available balance in the project or equipment account shall be transferred to the appropriated, but unallotted account within the capital construction fund, and the project or equipment account shall be closed. The department of finance shall notify the committee of the final acceptance of a project or item of equipment, the transfer of the available balance, and the closing of the account no later than thirty (30) days following the closing of the account.

Section 9. KRS 45.780 is amended to read as follows:

(1) There is created within the *capital construction fund the* [~~state treasury an~~] emergency repair, maintenance and replacement *account* [~~fund~~]. The *account* [~~fund~~] shall consist of monies appropriated to the fund by the general assembly[~~ and income derived from the investment of monies appropriated to the fund~~].

(2) The department of finance may transfer money from the emergency repair, maintenance and replacement *account* [~~fund~~] to the allotment account of an emergency repair, replacement or maintenance project, for expenditure thereon, even though the specific project is not included in the biennial budget report and appropriation act or acts enacted for that biennium. The department of finance shall report each such transfer, including the necessity, purpose and amount of the transfer, to the capital construction and equipment purchase oversight committee not later than thirty (30) days after the transfer.

Section 10. KRS 45.800 is amended to read as follows:

(1) Except as otherwise provided in subsection (2)(b) of KRS 45.770, prior to transferring funds from the capital construction and equipment purchase contingency *account* [~~fund~~] to the allotment account of a capital construction project or major item of equipment, the department of finance shall present to the capital construction and equipment purchase oversight committee, for its review, specification of the amount of the proposed transfer, documentation of the necessity for the transfer, and, with respect to capital construction projects, documentation of:

(a) The amount already expended on the project prior to and during the current biennium; and

(b) Any alterations made or planned in the project since its consideration by the general assembly during the most recent regular session.

(2) Within thirty (30) days after submission to the committee of a proposed capital construction and equipment purchase contingency *account* [~~fund~~] transfer, the committee shall determine whether the amount of the proposed transfer is reasonable and consistent with KRS 45.770, whether the proposed transfer is necessary, and whether any alterations made or planned in a project materially change the project as considered and authorized by the general assembly. The legislative research commission shall promptly transmit the committee's findings and determinations to the department of finance. [~~The department shall promptly and in writing inform the committee of its action on the proposed transfer.~~]

(3) *If the committee disapproves a proposed transfer or other proposed action, the transfer shall not be made nor the action taken unless the secretary of the department of finance shall:*

(a) Revise the transfer or action to comply with the objections of the committee; or,

(b) Cancel the transfer or action; or,

(c) Determine to make the transfer or take the action disapproved by the committee.

(4) The decision made by the secretary of the department of finance under the preceding subsection shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.

(5) The legislative research commission shall maintain records of the committee's findings and determinations and the department of finance's report of its action on each proposed transfer from the capital construction and equipment purchase contingency *account* [~~fund~~]. If the committee determines that the amount of a proposed transfer is not reasonable or is not consistent with KRS 45.770, or that the transfer is not necessary, or if the committee finds that any alteration in a project materially changes the project as considered and approved by the general assembly, the committee's determination and the department's action on the transfer shall be transmitted to the appropriate interim joint *committees* [~~committee~~] of the legislative research commission and to the general assembly when next convened.

(6)[~~(4)~~] The legislative research commission shall maintain reports of purchases made under subsection *(10)* [~~(8)~~] of KRS 45.760, reports of transfers made under *the provisions of this Act* [~~subsection (2)(b) of KRS 45.770~~], reports of transfers made from the emergency repair, maintenance and replacement *account* [~~fund~~], and a record of any committee finding or recommendation relating to such purchases and transfers.

(7)[~~(5)~~] The capital construction and equipment purchase oversight committee shall monitor the costs of state capital construction projects in comparison with the costs of construction for the private sector to determine whether the costs are comparable and, if not comparable, the reasons for any difference. The committee shall consider contractors' charges to the state, land acquisition costs, costs and availability of materials, cost and availability of labor, and laws, regulations and purchasing procedures pertaining to state capital construction projects that are not applicable to construction for the private sector. The committee's findings and recommendations shall be transmitted to the appropriate interim joint committee of the legislative research commission and to the general assembly when convened.

Committee Amendment No. 1 to **HB 146** is as follows:

Amend printed copy of **HB 146,** page 6, line 18, after the word "aircraft" to insert a comma","

The Committee on Judiciary-Criminal reported **SB 190** with Committee Substitute attached thereto, **HB 489,** and **SB 75** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 190, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 520.020 is amended to read as follows:

(1) A person is guilty of escape in the first degree when he escapes from custody or a detention facility by the use of force or threat of force against another person.

(2) Escape in the first degree is a Class *B* [~~C~~] felony.

Section 2. KRS 520.030 is amended to read as follows:

(1) A person is guilty of escape in the second degree when he escapes from a detention facility or, being charged with or convicted of a felony, he escapes from custody.

(2) Escape in the second degree is a Class *C* [~~D~~] felony.

Section 3. KRS 532.110 is amended to read as follows:

(1) When multiple sentences of imprisonment are imposed on a defendant for more than one crime, including a crime for which a previous sentence of probation or conditional discharge has been revoked, such multiple sentences shall run concurrently or consecutively as the court shall determine at the time of sentence, except that:

(a) A definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term;

(b) The aggregate of consecutive definite terms shall not exceed one year; and

(c) The aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by KRS 532.080 for the highest class of crime for which any of the sentences is imposed.

(2) If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run concurrently with any other sentence which the defendant must serve.

(3) When a defendant is sentenced to imprisonment for a crime committed while on parole in this state such term of imprisonment and any period of reimprisonment that the Board of Parole may require the defendant to serve upon the revocation of his parole shall run concurrently, unless the court orders them to run consecutively.

(4) Notwithstanding any provision in this section to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, during an escape from imprisonment, or while he awaits imprisonment, the sentence imposed for that offense may be added to the portion of the term which remained unserved at the time of the commission of the offense. *Provided, however, that the sentence imposed upon any person convicted of an escape or attempted escape offense shall run consecutively with any other sentence which the defendant must serve.*

(5) Notwithstanding any provision in this chapter to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution the sentence imposed for that offense may, upon order of the trial court be served in that institution, provided, however, such person may be transferred to another institution pursuant to rules and regulations of the Bureau of Corrections.

Committee Substitute to **SB 190** is as follows:

SB 190, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 520.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, departmental regulation, or posted institutional rule or order.

(2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes, but does not include supervision of probation or parole or constraint incidental to release on bail.

(3) "Dangerous contraband" means contraband which is capable of such use as may endanger the safety or security of a detention facility or persons therein.

(4) "Detention facility" means any place used for the confinement of a person:

(a) Charged with or convicted of an offense; or

(b) Alleged or found to be delinquent; or

(c) Held for extradition or as a material witness; or

(d) Otherwise confined pursuant to an order of court for law enforcement purposes.

(5) "Escape" means departure from custody or the detention facility in which a person is held or detained with knowledge that such departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period.

(6) As used in Section (2) of this section "penitentiary" includes any facility operated by the department of corrections and the confines of any work detail or other detail, whether under guard or not, under the custody and control of the department of corrections.

SECTION 2. A NEW SECTION OF KRS CHAPTER 520 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of attempting to escape from the penitentiary when he:

(a) Conceals himself within the walls of the penitentiary; or

(b) Attempts to scale the enclosure surrounding the penitentiary; or

(c) Flees from whatever bounds he may be assigned, whether under guard or as a trusty; or

(d) Escapes from a locked cell, dormitory, hospital or other lockup in the penitentiary; or

(e) Escapes from one part of the penitentiary to another; or

(f) Does any other act in furtherance of an escape from the penitentiary; or

(g) Does any act or omission constituting criminal attempt under KRS 506.020.

(2) Attempting to escape from the penitentiary is a Class D felony.

(3) No penalty provision of KRS 506.020 shall apply to an offense committed under this section.

Section 3. KRS 532.110 is amended to read as follows:

(1) When multiple sentences of imprisonment are imposed on a defendant for more than one crime, including a crime for which a previous sentence of probation or conditional discharge has been revoked, such multiple sentences shall run concurrently or consecutively as the court shall determine at the time of sentence, except that:

(a) A definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term;

(b) The aggregate of consecutive definite terms shall not exceed one year; and

(c) The aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by KRS 532.080 for the highest class of crime for which any of the sentences is imposed.

(2) If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run concurrently with any other sentence which the defendant must serve.

(3) When a defendant is sentenced to imprisonment for a crime committed while on parole in this state such term of imprisonment and any period of reimprisonment that the Board of Parole may require the defendant to serve upon the revocation of his parole shall run concurrently, unless the court orders them to run consecutively.

(4) Notwithstanding any provision in this section to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, during an escape from imprisonment, or while he awaits imprisonment, the sentence imposed for that offense may be added to the portion of the term which remained unserved at the time of the commission of the offense. *Provided, however, that the sentence imposed upon any person convicted of an escape or attempted escape offense shall run consecutively with any other sentence which the defendant must serve.*

(5) Notwithstanding any provision in this chapter to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution the sentence imposed for that offense may, upon order of the trial court be served in that institution, provided, however, such person may be transferred to another institution pursuant to rules and regulations of the Bureau of Corrections.

HB 489, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.080 is amended to read as follows:

(1) When a defendant is found to be a persistent felony offender, the jury, in lieu of the sentence of imprisonment assessed under KRS 532.060 for the crime of which such person presently stands convicted, shall fix a sentence of imprisonment as authorized by subsection (6) of this section. When a defendant is charged with being a persistent felony offender, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (6) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) A persistent felony offender in the second degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of one (1) previous felony. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on the previous felony conviction within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

2. Was on probation, [~~or~~] parole, *conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release* from *any of* the previous felony *convictions* [~~conviction~~] at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, [~~or~~] parole, *conditional discharge, conditional release, or any other form of legal release* on *any of* the previous felony *convictions* [~~conviction~~] within five (5) years prior to the date of commission of the felony for which he now stands convicted*; or*

4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony conviction at the time of commission of the felony for which he now stands convicted.

(3) A persistent felony offender in the first degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of two (2) or more felonies. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on any of the previous felony convictions within five (5) years prior to the date of the commission of the felony for which he now stands convicted; or

2. Was on probation, [~~or~~] parole, *conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release* from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, [~~or~~] parole, *conditional discharge, conditional release, or any other form of legal release* on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted*; or*

4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(4) For the purpose of determining whether a person has two (2) or more previous felony convictions, two (2) or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one conviction, unless one (1) of the convictions was for an offense committed while that person was imprisoned.

(5) A person who is found to be a persistent felony offender in the second degree shall be sentenced to an indeterminate term of imprisonment pursuant to the sentencing provisions of KRS 532.060(2) for the next highest degree than the offense for which convicted. A person who is found to be a persistent felony offender in the second degree shall not be eligible for probation, shock probation or conditional discharge.

(6) A person who is found to be a persistent felony offender in the first degree shall be sentenced to imprisonment as follows:

(a) If the offense for which he presently stands convicted is a Class A or Class B felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than twenty (20) years nor more than life imprisonment; or

(b) If the offense for which he presently stands convicted is a Class C or Class D felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten (10) years nor more than twenty (20) years.

(7) A person who is found to be a persistent felony offender in the first degree shall not be eligible for probation, shock probation, or conditional discharge, nor for parole until having served a minimum term of incarceration of not less than ten (10) years.

SB 75, AN ACT relating to penalties for improper waste disposal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 512.070 is amended to read as follows:

(1) A person is guilty of criminal littering when he:

(a) Drops or permits to drop on a highway any destructive or injurious material and does not immediately remove it; or

(b) Knowingly places or throws litter on any public or private property or in any public or private water without permission; or

(c) Negligently places or throws glass or other dangerous pointed or edged substances on or adjacent to water to which the public has access for swimming or wading or on or within fifty feet of a public highway; or

(d) Discharges sewage, minerals, oil products or litter into any public waters or lakes within the state.

(2) *Any person convicted of criminal littering shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500) and may be imprisoned for a term not to exceed twelve (12) months in the county jail* [~~Criminal littering is a Class B misdemeanor~~].

Section 2. KRS 224.994 is amended to read as follows:

(1) Any person who violates KRS 224.060, 224.140, 224.330 or who fails to perform any duties imposed by these sections, or who violates any determination, permit, rule, regulation or order of the department promulgated pursuant thereto shall be liable to a civil penalty not to exceed the sum of ten thousand dollars ($10,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section.

(2) Any person who willfully or with criminal negligence violates KRS 224.060, 224.140, 224.330 or any determination, permit, rule, regulation or order of the department promulgated pursuant to those sections which have become final or who knowingly provides false information in any document filed or required to be maintained under this chapter or who knowingly renders inaccurate any monitoring device or method shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than fifteen thousand dollars ($15,000) or by imprisonment for a term of not more than one year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(3) Any person who violates any provision of this chapter other than KRS 224.060, 224.140, and 224.330, except as provided in KRS 224.992, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the department promulgated pursuant thereto shall be liable to a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section.

(4) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the department or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders, rules, and regulations of the department promulgated pursuant thereto.

(5) Any person who deposits leaves, clippings, prunings, garden refuse or household waste materials in any litter receptacle except with permission of the owner of such receptacle *or* [~~is guilty of a class B misdemeanor.~~

~~(6) Any person~~] who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him *shall be fined not less than one hundred dollars ($100) and not more than five hundred dollars ($500) and may be imprisoned for a term not to exceed twelve (12) months in the county jail* [~~is guilty of a class B misdemeanor~~].

(6)[~~(7)~~] Any person knowingly violating any provision of KRS 224.905 to 224.970 or any rule or regulation adopted hereunder shall be guilty of a class B misdemeanor.

(7)[~~(8)~~] In addition to or in lieu of the penalties set forth in *this section or in* KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

Section 3. KRS 381.770 is amended to read as follows:

(1) It shall be unlawful for the owner, occupant or person having control or management of any land within a city to permit a public nuisance, health hazard or source of filth to develop thereon through the accumulation of rubbish or the excessive growth thereon of weeds or grass.

(2) It shall be unlawful for the owner, occupant or person having control or management of any land in an unincorporated area to knowingly permit a public nuisance or health hazard to develop thereon through the accumulation of rubbish.

(3) Whenever such a situation is discovered, the director of sanitation or other responsible officer designated by the *fiscal court or* city legislative body shall give five days' written notice to remedy such situation. The said notice shall be mailed to the last known address of the owner of the said property, as it appears on the current tax assessment roll. Upon the failure of the owner of the said property to comply, the director of sanitation or other responsible officer [~~designated by the city legislative body of such city~~] is authorized to send employes upon the said property to remedy the situation.

(4)[~~(3)~~] The *county or* city shall have a lien against the said property for the reasonable value of labor and materials used in remedying such situation. The affidavit of the director of sanitation or other responsible officer [~~designated by the city legislative body~~] shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this statute, and shall be recorded in the office of the county clerk [~~in the county where such city is located~~]. The said lien shall be notice to all persons from the time of its recording and shall bear interest at six percent per annum thereafter until paid.

(5) The provisions of subsections (3) and (4) of this section shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant or person is not the generator of such rubbish or is not dumping or knowingly allowing the dumping of such rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons onto said property.

SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The department shall not enforce any provision of this chapter relating to improper disposal of solid waste against an owner, occupant, or person having control or management of any land if the owner, occupant or person is not the generator of such solid waste or is not dumping or knowingly allowing the dumping of such solid waste and has made reasonable efforts to prevent the dumping of solid waste by other persons onto said property.

Committee Amendment No. 1 to **SB 75** is as follows:

Amend printed copy of **SB 75**, page 1, line 17, following "(2)" to delete the remainder of the line

and on page 1, lines 18 through 20, to delete the same

and on page 1, line 21, to delete "*the county jail*" and to delete the bracket before "Criminal" and delete the strike through of "criminal littering is a Class" and "mis"

and on page 1, line 21, to insert "*A*" before "B" and to place brackets around "B"

and on page 4, line 4, to delete "*shall be fined not less than one hundred*"

and on page 4, lines 5 and 6, to delete the same

and on page 4, line 7, to delete "*twelve (12) months in the county jail*", and delete the bracket before the word "is" and to remove the strike through from "is guilty of a"

and on page 4, line 8 to delete the strike through from "class" and "misdemeanor" and insert "*A*" before "B" and to place brackets around "B"

The Committee on Judiciary-Civil reported **HB 623** and **HR 42** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 623, AN ACT relating to sureties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 425 IS CREATED TO READ AS FOLLOWS:

No surety shall be required on any bond made for the purpose of the issuance of a temporary restraining order, writ of possession, or order of attachment pursuant to this chapter by any institution which is a member of the Farm Credit System, as defined by 12 U.S.C. Section 2002.

HR 42, A RESOLUTION honoring Edith Schwab, Statute Reviser.

WHEREAS, Edith Schwab, Statute Reviser for the Commonwealth of Kentucky, is friendly, cooperative, helpful, efficient, accommodating, trustworthy, diligent, frugal, persevering, conscientious, cautious, neat, forthright, legal, firm, accurate, slow to fluster, quick to respond, unassuming, loyal, competent, eventempered, intelligent, capable, straight-forward, analytical, generous with assistance, patient, sympathetic, bipartisan, credible, praiseworthy, tactful, unpretentious, precise, thorough, innovative, considerate, polite, prudent, reasonable, experienced, logical, peerless in ability, witty, energetic, broad-minded, diplomatic, calm under pressure, hardworking, fair, scrupulous, incisive, mischievous, direct, astute, compassionate, humble, clean, thrifty, reverent, brave and nice; and

WHEREAS, Edith Schwab is a superb employe, and one which the General Assembly and the Legislative Research Commission are most fortunate in having;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Edith Schwab, Statute Reviser, be, and she is hereby, accorded the esteem, devotion, praise and affection she has so rightfully earned throughout her many years of service to the Legislative Research Commission and the General Assembly.

The Committee on Labor and Industry reported **HB 229** and **HB 240,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 229, AN ACT relating to the payment of wages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 337.020 to 337.070 IS CREATED TO READ AS FOLLOWS:

Except for employers who have been doing business in the state for five (5) consecutive years, every employer engaged in construction work, or the severance, preparation, or transportation of minerals, shall furnish on a form prescribed by the commissioner a performance bond to assure the payment of all wages due from the employer. Surety for the bond shall be an amount of money equal to the employer's gross payroll operating at full capacity for four (4) weeks. Any employe whose wages are secured by a bond may obtain payment of those wages, liquidated damages, and attorney's fees as provided by law on presentation to the commissioner of a final judgment entered by a court of competent jurisdiction. The bond may be terminated, with the approval of the commissioner, on submission of the employer's statement, lawfully administered under oath, that the employer has ceased doing business in the state and that all due wages have been paid.

HB 240, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.055 is amended to read as follows:

Unless the employing unit thereof has elected that such services become covered employment under the provisions of subsection (3) or (4) of KRS 341.250, "covered employment" shall not include:

(1) Service performed in agricultural labor, as defined in section 3306(k) of the Internal Revenue Code, but only if such service is not defined as "covered employment" in paragraphs (f) and (h) of subsection (1) of KRS 341.050; or agricultural service performed prior to January 1, 1980 by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the immigration and nationality act;

(2) Domestic service in a private home, a local college club, or local chapter of a college fraternity or sorority but only if such service is not defined as "covered employment" in paragraphs (g) and (h) of subsection (1) of KRS 341.050;

(3) Service in the employ of an organization described in paragraphs (e) of subsection (1) of KRS 341.050 but only if such service is not defined as "covered employment" in paragraphs (e) and (h) of subsection (1) of KRS 341.050;

(4) Certain service performed in the employ of this state or any of its political subdivisions or municipalities or instrumentalities thereof but only if such service is performed by an individual in the exercise of his or her duties:

(a) As a public elected official; or

(b) As a member of a legislative body of this state or a political subdivision thereof; or

(c) As a member of the judiciary of this state or political subdivision thereof; or

(d) As a member of the state national guard or air national guard; or

(e) As an employe serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

(f) In a position which, under or pursuant to the state law is designated as a [~~major nontenured policymaking or advisory position, or a~~] policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week or by reason of service on any appointed state or local board or commission; or

(g) As a part-time staff employe of the general assembly, or any temporary, part-time or seasonal employe of the Commonwealth or political subdivision thereof if not required to be covered employment pursuant to Section 3309 of the Internal Revenue Code, as amended, as a requirement of Section 3304 of that code, as amended, for approval of the state's unemployment insurance law;

(5) Except as provided in paragraph (d) of subsection (1) of KRS 341.050 service performed in the employ of any other state or any political subdivision thereof, or of the United States government or an instrumentality of the United States exempt by federal law from the contributions imposed by this chapter, except that to the extent that the congress of the United States shall permit states to require instrumentalities of the United States to make payments into an unemployment fund under a state unemployment insurance law, all the provisions of this chapter shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employing units, individuals and services; provided that if this state shall not be certified for any year by the secretary of labor of the United States under section 3304 of the Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded from the fund in the same manner and within the same period as is provided in KRS 341.330 with respect to contributions erroneously collected;

(6) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress. The secretary may enter into agreements with the proper agencies under such act of congress to provide reciprocal treatment to workers who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such act of congress, or who have, after acquiring potential rights to unemployment compensation under such act of congress, acquired rights to benefits under this chapter;

(7) Service performed by a worker in the employ of his son, daughter, or spouse and service performed by a child under the age of twenty-one (21) in the employ of his father or mother;

(8) Service performed in the employ of a foreign government (including service as a consular, or other officer or employe or a nondiplomatic representative), or of an instrumentality wholly owned by a foreign government if:

(a) The service is of a character similar to that performed in foreign countries by employes of the United States government or of an instrumentality thereof, and

(b) The secretary finds that the United States secretary of state has certified to the United States secretary of the treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employes of the United States government and of instrumentalities thereof;

(9) Service performed as a student nurse in the employ of a hospital or a nurses' training school by a worker who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to the laws of this state; and service performed as an intern in the employ of a hospital by a worker who has completed a four (4) years' course in a medical school chartered or approved pursuant to the laws of this state;

(10) Service performed by a worker for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such worker for such employing unit is performed for remuneration solely by way of commission;

(11) Service performed by a worker under the age of eighteen (18) in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(12) Service not in the course of the employing unit's trade or business performed in any calendar quarter by a worker, unless the cash remuneration paid for such service is fifty dollars ($50) or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purpose of this subsection, an individual shall be deemed to be regularly employed by an employing unit during a calendar quarter only if:

(a) On each of some twenty-four (24) days during such quarter such individual performs for such employing unit for some portion of the day service not in the course of the employing unit's trade or business, or

(b) Such individual was regularly employed (as determined under paragraph (a) above) by such employing unit in the performance of such service during the preceding calendar quarter;

(13) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the Internal Revenue Code (other than an organization described in section 401(a)), or under section 521 of the Internal Revenue Code, if the remuneration for such service is less than fifty dollars ($50);

(14) Service performed in the employ of an international organization;

(15) Service covered by an election duly approved by the agency charged with the administration of any other state or federal employment security law, in accordance with an arrangement pursuant to KRS 341.145 during the effective period of such election;

(16) Service performed in the employ of a school, college, or university, if such service is performed:

(a) By a student who is enrolled and is regularly attending classes at such school, college or university, or

(b) By the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that:

1. The employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and

2. Such employment will not be covered by any program of unemployment insurance;

(17) Service performed by an individual under the age of twenty-two (22) who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(18) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital, as defined in KRS 341.067;

(19) Service performed in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(20) Service defined in KRS 341.050(1)(d) and (e) performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work; or as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof by an individual receiving such work relief or work training; or in a custodial or penal institution by an inmate of such institution.

Committee Amendment No. 1 to **HB 240** is as follows:

Amend printed copy of **HB 240,** on page 2, lines 24 and 25 by bracketing and striking through the words "or by reason of service on any appointed state or local board or commission"

The Committee on Labor and Industry reported **SB 54,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Committee Amendment No. 1 to **SB 54** is as follows:

Amend printed copy of **SB 54,** on page 2, line 20 by placing brackets and strike throughs around the "." and by adding the following: "*, except for just cause.*"

The Committee on Appropriations and Revenue reported **HB 50** and **HB 98** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Appropriations and Revenue reported **HB 467** with Committee Amendments attached thereto, **HB 493** with Committee Amendment attached thereto, and **HB 525** with Committee Substitute and Committee Amendment attached thereto, with the expressin of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 467, AN ACT relating to the collection of delinquent taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.500 is amended to read as follows:

(1) In addition to any other remedy provided by the laws of the Commonwealth, if any person has been assessed for a tax the collection of which is administered by the department of revenue as provided by the laws of the Commonwealth and if such person has not sought administrative or judicial review of the assessment as provided for in KRS 131.110, or if such person has sought but exhausted all administrative and judicial review so that the assessment is final, due and owing, then the commissioner of revenue or *his delegate* [~~a person designated by him~~] may cause a demand to be made on the person for the payment thereof. If the tax remains unpaid for ten (10) days after the demand, then the commissioner or *his delegate* [~~a person designated by him~~] may *levy upon and sell all property and rights to property found within the Commonwealth belonging to such person or on which there is a lien provided by KRS 134.420, except such property as is exempt from an execution on a judgment in favor of the Commonwealth as provided in KRS Chapter 427,* [~~cause a warrant to be issued, directed to any sheriff or other person authorized to serve process, commanding the sheriff or other person to levy upon and sell the personalty and realty of the taxpayer found within this jurisdiction,~~] for the payment of the amount of the tax, penalty, interest and cost of the levy. [~~The warrant shall be returned to the department together with the money collected within the time specified within the warrant which shall not be less than thirty (30) nor more than ninety (90) days from the date of the warrant.~~]

(2) *As soon as practicable after seizure of property, notice in writing shall be given by the commissioner or his delegate to the owner of the property. The notice shall be given to the owner either in person or by certified mail to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.* [~~The sheriff or other person to whom the warrant is directed shall proceed in the same manner with the warrant as prescribed by law in respect to executions issued against property upon judgments by a court of record and shall be entitled to the same fees for his services in executing the warrant as he would be entitled to for collecting debts under an execution as provided by KRS 64.090.~~]

(3) *The commissioner or his delegate shall as soon as practicable after the seizure of the property cause a notification of the sale of the seized property to be published in the newspaper with the largest circulation within the county wherein such seizure is made. Such notice shall be published once each week for three (3) successive weeks. In addition, such notice shall be posted at the courthouse and three (3) other public places in the county where the seizure is made for fifteen (15) days next preceding sale. The notice shall specify the property to be sold, and the time, place, manner, and condition of the sale thereof.* [~~No proceedings under this section shall be commenced more than five (5) years after the assessment becomes final.~~]

(4) *If any property liable to levy is not divisible, so as to enable the commissioner or his delegate by sale of a part thereof to raise the whole amount of the tax, penalty, interest and cost of the levy, the whole of such property shall be sold.*

(5) The time of sale shall not be less than thirty (30) nor more than ninety (90) days from the time the seizure is made. The place of sale shall be within the county in which the property is seized, except by special order of the commissioner.

(6) The sale shall not be conducted in any manner other than by public auction, or by public sale under sealed bids. In the case of the seizure of several items of property, the commissioner or his delegate

may offer such items for sale separately, in groups, or in the aggregate and accept whichever method produces the highest aggregate amount.

(7) The commissioner or his delegate shall determine whether payment in full shall be required at the time of acceptance of a bid, or whether a part of such payment may be deferred for such period, not to exceed one (1) month, as he may determine to be appropriate. If payment in full is required at the time of acceptance of a bid and is not then and there paid, the commissioner or his delegate shall forthwith proceed to again sell the property as provided in subsection (6) of this section. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid, within the prescribed period, suit may be instituted in the Franklin Circuit Court or the circuit court of the county where the sale was conducted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of twelve percent (12%) per annum from the date of the sale; or, in the discretion of the commissioner, the sale may be declared to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this section. In the event of such readvertisement and sale, any new purchaser shall receive such property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by such defaulting purchaser shall be forfeited.

(8) If the commissioner or his delegate determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense, he shall appraise the value of such property and, if the owner of the property can be readily found, the commissioner or his delegate shall give him notice of such determination of the appraised value of the property. The property shall be returned to the owner if, within such time as may be specified in the notice, the owner pays to the commissioner or his delegate an amount equal to the appraised value, or gives bond in such form, with such sureties, and in such amount as the commissioner or his delegate determines to be appropriate in the circumstances. If the owner does not pay such amount or furnish such bond in accordance with this subsection, the commissioner or his delegate shall as soon as practicable make public sale of the property without regard to the advertisement requirements or the time limitations contained in subsections (3) and (5) of this section.

(9) No proceedings under this section shall be commenced more than five (5) years after the assessment becomes final.

(10) The term "levy" as used in this section includes the power of distraint and seizure *by any means. Except as otherwise provided in KRS 131.510(2)(a),* a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the *commissioner or his delegate may* [~~department issues a warrant to a sheriff to~~] levy upon property or rights to property, *he may* [~~the department may cause the sheriff to~~] seize and sell such property or rights whether real, personal, tangible or intangible.

Section 2. KRS 131.520 is amended to read as follows:

(1) Any person in possession of or obligated with respect to property or rights to property subject to levy upon which a levy has been made shall, upon demand of the *commissioner or his delegate* [~~sheriff~~], surrender such property or rights or discharge such obligation to the *commissioner or his delegate* [~~sheriff~~], except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(2) Any person who fails or refuses to surrender any property or rights to property subject to levy shall be liable in his own person and estate to the Commonwealth in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the rate of *twelve percent (12%)* [~~eight percent (8%)~~] per annum from the date of such levy. Any amount other than costs recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

(3) Any person in possession of or obligated with respect to property or rights to property subject to levy upon which a levy has been made who, upon demand by the *commissioner or his delegate* [~~sheriff~~], surrenders such property or rights to property or discharges such obligation to the *commissioner or his delegate* [~~sheriff~~] shall be discharged from any obligation or liability to the delinquent taxpayer with respect to such property or rights to property arising from such surrender or payment.

Section 3. KRS 131.530 is amended to read as follows:

(1) Any person whose property has been levied upon shall have the right to pay the amount due, together with the expense of the proceeding, to the commissioner or his delegate at any time prior to the sale thereof and upon such payment the commissioner or his delegate shall cause such property to be restored to him and all further proceedings in connection with the levy on such property shall cease from the time of such payment.

(2) *The owner of any real property sold as provided in KRS 131.500(2), his heirs, executors, or administrators, or any person having an interest therein, or a lien thereon, or any person in his behalf, shall be permitted to redeem the real property sold or any particular tract of such property, at any time within one hundred twenty (120) days after the date of the sale. Such property or tract of property shall be permitted to be redeemed only upon payment to the purchaser, or in case he cannot be found in the county in*

which the property to be redeemed is situated, then to the commissioner or his delegate, for the use of the purchaser, his heirs, or assigns, the amount paid by such purchaser and interest thereon at the rate of twenty percent (20%) per annum from the date of sale [~~Any person whose property has been levied upon and sold shall have the same rights of redemption as provided in cases of executions in KRS Chapter 426.~~]

(3) In the case of property sold pursuant to KRS 131.500(2), the commissioner or his delegate shall give to the purchaser a certificate of sale upon payment in full of the purchase price. The certificate shall set forth a description of the property purchased, for whose taxes the property was sold, and the price paid therefor.

(4) In all cases where property is sold pursuant to KRS 131.500(2), except real property, the certificate of sale issued pursuant to subsection (3) of this section shall have the following effect:

(a) Shall be prima facie evidence of the rights of the commissioner or his delegate to make such sale, and of the regularity of the proceeding of the sale; and

(b) Shall transfer to the purchaser all right, title and interest of the taxpayer in and to the property sold; and

(c) If such property consists of stock, shall be notice, when received, to any corporation, company, or association of such transfer, and shall be authority to such corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the same, in lieu of any prior certificate, which shall be void, whether cancelled or not; and

(d) If the subject of sale is securities or other evidences of debt, shall be a good and valid receipt to the person holding the same, as against any person holding or claiming to hold possession of such securities or other evidences of debt; and

(e) If such property consists of a motor vehicle, shall be notice, when received by any public official charged with the registration of title to motor vehicles, of such transfer and shall be authority to such official to record the transfer on his books and records in the same manner as if title to such motor vehicle were transferred or assigned by the party holding the same, in lieu of any original or prior title, which shall be void, whether cancelled or not.

(5) In the case of any real property sold pursuant to KRS 131.500(2) and not redeemed in the manner and within the time provided in subsection (2) of this section, the commissioner or his delegate shall execute in accordance with the laws of the Commonwealth, to the purchaser of such real property upon surrender of the certificate of sale, a deed to the real property so purchased by him, reciting the facts set forth in the certificate. The deed executed pursuant to this subsection shall have the following effect:

(a) Shall be prima facie evidence of the rights of the commissioner or his delegate to make such sale, and of the regularity of the proceedings of the sale; and

(b) If the proceedings of the commissioner or his delegate have been substantially in accordance with the provisions of KRS 131.500, such deed shall be considered and operate as a conveyance of all right, title and interest the taxpayer has in and to the real property thus sold at the time the lien of the Commonwealth attached thereto.

(6) A certificate of sale of personal property given or a deed to real property executed pursuant to this section shall discharge such property from all liens, encumbrances, and titles over which the lien of the Commonwealth, with respect to which the levy was made, had priority.

Section 4. KRS 131.540 is amended to read as follows:

(1) It shall be lawful for the commissioner or his delegate, under regulations prescribed by the commissioner, to release the levy upon all or part of the property or rights to property levied upon where the commissioner or his delegate determines that such action will facilitate the collection of the liability, but such release shall not operate to prevent any subsequent levy.

(2) If the commissioner determines that property has been wrongfully levied upon, it shall be lawful for the commissioner to return the specific property levied upon, or an amount of money equal to the amount of money levied upon, or any amount of money equal to the amount of money received by the Commonwealth from a sale of such property.

(3) Property may be returned at any time. An amount equal to the amount of money levied upon or received from such sale may be returned at any time before the expiration of four (4) years from the date of such levy.

[~~(4) If the property has been wrongfully levied upon by the department of revenue, the department shall pay a penalty to the owner. If the property has been returned to the owner under the provisions of KRS 131.530, such penalty shall be ten percent (10%) of the fair market value of the property levied upon except that it shall not exceed five thousand dollars ($5,000) nor be less than five hundred dollars ($500). If the property has been sold, the department shall pay a penalty of ten percent (10%) of the proceeds from such sale except that the penalty shall not exceed five thousand dollars ($5,000) nor be less than five hundred dollars ($500). In addition to the penalties levied above, the department shall pay interest at the rate of ten percent (10%) per annum upon the fair market value of the property or, if such property is sold, upon the~~

~~proceeds from such sale. Interest shall accrue from the date the property is wrongfully seized until the owner receives either the proceeds from such sale or the property is returned.~~]

SECTION 5. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) When the department of revenue reasonably believes that any taxpayer has divested himself by gift, conveyance, assignment, transfer of, or charge upon any property, whether real, personal, tangible or intangible, with the intent to hinder or evade the collection of any tax assessed or to be assessed by the department or declared by the taxpayer on a return filed with the department, any transferee of such property may be assessed by the department of revenue an amount equal to the lesser of the amount of tax assessed against the transferor taxpayer or the fair market value of the property so transferred. However, no assessment shall be made pursuant to this section against a transferee who takes the property for full and valuable consideration in money or money's worth, unless it appears that such transferee had notice of the intent of the transferor taxpayer to hinder or evade the collection of any tax.

(2) Any assessment made by the department of revenue against a transferee pursuant to subsection (1) of this section is, except as provided in this section, subject to the same provisions and limitations as in the case of the taxes for which the liabilities were incurred.

(3) The period of limitation for assessment of any liability against a transferee pursuant to subsection (1) of this section shall be as follows:

(a) In the case of an initial transferee, within one (1) year after the expiration of the period of limitation for assessment against the transferor taxpayer; and

(b) In the case of the liability of a transferee of a transferee, within one (1) year after the expiration of the period of limitation for assessment against the preceeding transferee, but not more than three (3) years after the expiration of the period of limitation for assessment against the initial transferor taxpayer.

(4) The notice of any assessment against a transferee made pursuant to subsection (1) of this section shall be either given to the transferee in person or sent by mail to such transferee's last known address.

Section 6. KRS 134.420 is amended to read as follows:

(1) The state and each county, city or other taxing district shall have a lien on the property assessed for taxes due them respectively for five (5) years following the date when the taxes become delinquent, and also on any real property owned by a delinquent taxpayer at the date when the sheriff offers the tax claims for sale as provided in KRS 134.430 and 134.440. This lien shall not be defeated by gift, devise, sale, alienation or any means whatever except by sale to a bona fide purchaser, but no purchase of property made before final settlement for taxes for a particular assessment date has been made by the sheriff shall preclude the lien covering such taxes. The lien shall include all interest, penalties, fees, commissions, charges and other expenses incurred by reason of delinquency in payment of the tax bill or in the process of collecting it, and shall have priority over any other obligation or liability for which the property is liable. The lien of any city, county or other taxing district shall be of equal rank with that of the state. When any proceeding is instituted to enforce the lien provided in this subsection, it shall continue in force until the matter is judicially terminated.

(2) The state shall have a lien of equal rank with the lien provided in subsection (1) of this section on all property of a taxpayer who owes any property tax, license tax, inheritance or estate tax, excise tax, income tax, or other tax, when such taxes are not included in or covered by the lien provided in subsection (1) of this section. This lien shall *arise at the time any assessment becomes delinquent, and it shall continue until the amount of the original assessment and any subsequent assessments of liability for taxes, fees, penalties, interest or costs are fully paid. The lien shall attach to all interest in property, either real or personal, tangible or intangible, in this state then owned or subsequently acquired by the person against whom the assessment is made* [~~accrue at the time the liability becomes fixed~~]. The department of revenue may file notice of the lien and every city of the third, fourth, fifth and sixth class shall file notice of the delinquent tax liens with the county clerk of any county *or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property and such notice shall be recorded* [~~where the taxpayer has property, giving the name and address of the taxpayer and the amount of the lien. The clerk shall file the notice~~] in the same manner as notices of lis pendens are filed, and the file shall be designated miscellaneous state and city delinquent and unpaid tax liens. *Such recordation shall constitute notice of both the original assessment and all subsequent assessments of liability against the same taxpayer. Upon request, the department of revenue shall disclose the specific amount of liability at a given date to any interested party legally entitled to such information. The lien of the Commonwealth of Kentucky for taxes shall be superior to all liens and security interests created under Kentucky law* [~~The notice, when filed, shall be constructive notice to all persons of the lien on the property having a legal situs in that county,~~] except that nothing in this subsection shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in KRS chapter 355, Art. 3, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice. The clerk may charge a fee pursuant to KRS 64.012 for filing the notice of lien or releasing the lien. The fees for

filing or releasing the lien shall be paid by the taxing authority filing same and shall become a part of the lien as an added cost of the delinquent taxpayer to be paid by him as a part of the amount necessary to release the lien. The lien shall be released by the taxing authority that filed the notice of lien.

Section 7. KRS 514.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deprive" means:

(a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or

(b) To dispose of the property so as to make it unlikely that the owner will recover it.

(2) "Financial institution" means a bank, insurance company, credit union, building and loan association, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(3) "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.

(4) "Obtain" means:

(a) In relation to property, to bring about a transfer or purported transfer from another person of a legal interest in the property, whether to the obtainer or another; or

(b) In relation to labor or service, to secure performance thereof.

(5) "Propelled vehicle" means any vehicle, including but not limited to motor vehicles, aircraft, boats, or construction machinery, which is propelled otherwise than by muscle power or which is readily capable of being towed otherwise than by muscle power.

(6) "Property" means anything of value, including real estate, tangible and intangible personal property, contract rights, documents, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink.

(7) "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(8) "Receiving" means acquiring possession, control or title or lending on the security of the property.

(9) "Services" includes labor, professional service, transportation, telephone, electricity, gas, water or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, use of vehicles or other movable property.

(10) "Tax liability" for purposes of this chapter means the amount of money by which a person understates the total amount of taxes due or collected and not remitted to the Commonwealth, or the amount he fails to pay to the state, or both. Any person whose income is subject to the withholding of income tax and from whose income taxes are withheld shall be considered, for purposes of this chapter, to have paid to the Commonwealth the sum of money withheld, whether or not such sum withheld is paid to the Commonwealth.

(11) "Tax return" means any return, declaration, report or form issued or prescribed by the department of revenue and required to be filed with the department of revenue as prescribed by law.

Section 8. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; or

(b) Prevents another from acquiring information which would affect his judgment of a transaction; or

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or

(d) Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1), an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within 10 days after receiving notice of that refusal.

(5) *A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.*

(6) Theft by deception is a Class A misdemeanor unless the value of the property *or the amount of the check or sight order referred to in subsection (5) of this section* is $100 or more, in which case it is a Class D felony.

SECTION 9. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

(1) A person who is required by law to file a tax return and pay taxes to the Commonwealth shall be guilty of tax fraud when he intentionally:

(a) Fails to file any tax return; or

(b) Fails to pay any tax liability; or

(c) Supplies fraudulent information on any document required by statute or regulation relating to the assessment or collection of taxes.

(2) The penalties imposed by this statute shall be in addition to any other penalties provided by law.

(3) Tax fraud is a Class A misdemeanor unless the tax liability is one thousand dollars ($1,000) or more, in which case it is a Class D felony.

Committee Amendment No. 1 to **HB 467** is as follows:

Amend printed copy of **HB 467,** page 22, lines 23-26, and page 23, lines 1-11, by deleting Section 9 in its entirety.

Committee Amendment No. 2 to **HB 467** is as follows:

Amend printed copy of **HB 467,** page 6, lines 4 through 26, by deleting lines 4 through 26 in their entirety.

Committee Title Amendment to **HB 467** is as follows:

Amend printed copy of **HB 467,** title, by deleting the title and inserting in lieu thereof the following: AN ACT relating to delinquent taxes.

HB 493, AN ACT relating to industrial revenue bonds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 103.200 is amended to read as follows:

As used in KRS 103.200 to 103.285, "building" or "industrial building" means any land and building or buildings [~~(including office buildings)~~], any facility or other improvement thereon, and all real and personal properties, including operating equipment and machinery deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for the following or any combination thereof:

(1) Any activity, business or industry for the manufacturing, processing or assembling of any commercial product, including agricultural, mining or manufactured products, together with storage, warehousing and distribution facilities in respect thereof;

(2) [~~Any commercial enterprise engaged in selling, providing or handling any financial service to the general public;~~

~~(3)~~] Any undertaking involving the construction, reconstruction and use of airports, mass commuting facilities, ship canals, ports or port facilities, docks or wharf facilities or harbor facilities, off-street parking facilities or of railroads, monorails or tramways, railway or airline terminals, cable television, mass communication facilities, and related facilities;

[~~(4) All or any part of any office building or buildings for the use of such tenant or tenants as may be determined or authorized by the city or county issuing bonds, including without limitation, any industrial, commercial, financial or service enterprise or any nonprofit domestic corporation or enterprise now or hereafter organized, whose purpose is the promotion of the economy of the Commonwealth or the health, welfare and safety of the citizens of the Commonwealth;~~]

(3)[~~(5)~~] Any buildings, structures and facilities, including the site thereof and machinery, equipment and furnishings suitable for use as health care or related facilities, including without limitation, hospitals, clinics, nursing homes, research facilities, extended or long-term care facilities, including housing for the aged or the infirm and all buildings, structures and facilities deemed necessary or useful in connection therewith;

(4)[~~(6)~~] Any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including but not limited to classroom, laboratory, housing, administrative, physical educational and medical research and treatment facilities;

(5)[~~(7)~~] Any facilities for any recreation or amusement park, public park or theme park, including specifically facilities for the use of nonprofit entities in making recreational and cultural benefits available to the public;

[~~(8) Any commercial facilities constructed primarily for making wholesale or retail sales to the general public, if such facilities constitute new construction or substantial reconstruction;~~

~~(9) Any medical office building whether or not contiguous with or related to a hospital or health care facility;~~]

(6)[~~(10)~~] Any facilities involving manufacturing and service industries which process raw agricultural products, including timber, provide value added functions, or supply ingredients used for production of basic agricultural crops and products;

(7)[~~(11)~~] Any facilities incident to the development of industrial sites, including land costs and the costs of site improvements thereon, such as grading, streets, drainage, storm and sanitary sewers, and other facilities and structures incidental to the use of such site or sites for industrial or [~~commercial~~] use;

(8)[~~(12)~~] Any facilities for the furnishing of water if available on reasonable demand to members of the general public;

(9)[~~(13)~~] Any facilities for the extraction, production, grading, separating, washing, drying, preparing, sorting, loading and distribution of mineral resources, together with related facilities;

(10)[~~(14)~~] Any convention or trade show facilities, together with all related and subordinate facilities necessary to the development and proper utilization thereof;

[~~(15) Any facilities designed and constructed to be used as hotels and/or motels, together with all related and subordinate facilities necessary to the operation thereof, including site preparation and similar facilities;~~]

(11)[~~(16)~~] Any activity designed for the preservation of residential neighborhoods, provided that such activity receives approval of the Kentucky Heritage Commission and insures the preservation of not fewer than thirty (30) family units.

Section 2. KRS 102.2101 Industrial revenue bond oversight committee — Membership — Meetings — Review and approval or disapproval of projects, is repealed.

Committee Amendment No. 1 to **HB 493** is as follows:

Amend printed copy of **HB 493,** page 4, on line 10 before the bracket insert *(11)* and delete the brackets and strike through on lines 10, 11, 12, 13, and 14.

and on line 19 delete "thirty (30)" and insert in lieu thereof *four (4)*

and after line 19 insert:

(13) Any activity, designed for the preservation of commercial or residential buildings which are on the national register of historic places or within an area designated as a national historic district or approved by the Kentucky heritage commission.

(14) Any activity including new construction, designed for revitalization or redevelopment of downtown business districts.

and on page 4, line 10:

Section 2. Any bond issue approved by the industrial revenue bond oversight committee prior to July 15, 1982, shall be uneffected by this act.

and on line 20, after the word Section, delete 2 and insert in lieu *3.*

HB 525, AN ACT relating to the funding of law enforcement and professional firefighters foundation programs, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.340 is amended to read as follows:

Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the department of revenue a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall at the same time pay a tax of *three dollars fifty cents ($3.50)* [~~two dollars ($2.00)~~] upon each one hundred dollars ($100) of such amounts paid to the company, less amounts returned on canceled policies and policies not taken.

Section 2. KRS 136.350 is amended to read as follows:

(1) All mutual companies other than life doing business under this law shall pay to the department of revenue on or before the first day of March in each year, a tax of *three and one-half percent (3 ½%)* [~~two percent (2%)~~] of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, including amounts paid for membership or policy dues or fees, on property or risks in this state during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies.

(2) In addition to the foregoing tax, mutual insurance companies and Lloyd's insurers shall pay an annual tax as prescribed for stock insurance companies by KRS 136.360 and for like purposes.

(3) In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on canceled policies and policies not taken, and dividends paid or credited to policyholders.

[~~(4) The provisions of this section shall not apply to domestic mutual companies, cooperative or assessment fire insurance companies.~~]

Section 3. KRS 136.370 is amended to read as follows:

Each attorney, for the exchange of reciprocal or interinsurance contracts, under KRS chapter 304, shall pay to the department of revenue on or before March 1 of each year a tax of *three and one-half percent (3 ½%)* [~~two percent (2%)~~] of the gross premiums or deposits collected from subscribers in this state during the preceding calendar year, less all amounts returned to subscribers or accredited to their account as savings. In addition, the attorney shall pay an annual premium tax of three-fourths of one per cent (.75%) of all amounts as prescribed for every stock insurer by and for the purposes specified in KRS 136.360.

Section 4. KRS 136.377 is amended to read as follows:

(1) Any company whose tax, as provided in KRS 136.330, 136.340, 136.350, 136.370, *136.390* and 342.445 or 304.3-270 was five thousand dollars ($5,000) or more in the previous year shall file a declaration of estimated tax and remit one third of such amount on or before June 1, 1965, provided that if any taxpayer uses the amount of the tax liability for the previous calendar year as the estimate for such declaration no penalties or interest shall apply to any subsequent adjustments. The remainder of the tax shall be due on or before March 1, 1966.

(2) As provided in subsection (1) of this section, but beginning in 1966, and each year thereafter, the tax due shall be paid in three installments, one third on or before June 1, one third on or before October 1, and the remainder on or before the following March 1. Provided, however, if any taxpayer uses the amount of the tax liability for the previous calendar year as the estimate for such declaration no penalties or interest shall apply to any subsequent adjustments.

(3) Any adjustments may be made on or before October 1. All adjustments shall be made on or before March 1.

(4) All such taxes not paid when due may be subject to a penalty of five percent per month, but not more than twenty-five percent penalty shall be assessed on any one report, and interest at the rate of one-half of one percent per month from the date the report was due.

Section 5. KRS 136.390 is amended to read as follows:

(1) All associations of underwriters authorized under KRS 304.3-040, 304.3-140, 304.28-010, 304.28-030, 304.28-040, and 304.28-050, and their representatives, shall make the same reports as are required of foreign stock insurance companies and their representatives transacting the same or similar kinds of insurance business in this state, and shall pay the same taxes as are required to be paid by such companies.

(2) All foreign mutual assessment companies, associations, individual firms, underwriters or Lloyd's, having resident members doing business in this state, who shall enter into contracts of insurance with each

other or into agreements to indemnify each other against losses by fire, lightning, windstorm or other casualties for which there is no premium charged or collected at the time insurance is made, shall be deemed to be doing an insurance business in this state, and shall annually, by July 30, pay to the department of revenue a license tax of *three dollars fifty cents ($3.50)* [~~two dollars ($2.00)~~] upon each one hundred dollars ($100) of assessments paid or collected in any one (1) year. Each resident member shall be liable to the state for the license tax and all interest and penalties.

(3) No person shall fail or refuse to make a report giving all the data and information necessary to determine the amount of revenue due under subsection (2) of this section, or fail to make the report provided for in subsection (2) of this section, or fail to pay the tax due thereon.

SECTION 6. A NEW SECTION OF KRS 136.340 TO 136.400 IS CREATED TO READ AS FOLLOWS:

(1) One dollar fifty cents ($1.50) of every three dollars fifty cents ($3.50) in taxes collected by the state pursuant to KRS 136.340, 136.350, 136.370 and 136.390 shall be deposited in the state treasury, and shall constitute a fund allocated for the uses and purposes of the professional firefighters foundation program fund (KRS 95A.220) and the law enforcement foundation program fund (KRS 15.430).

(2) Within five (5) days at the end of each month, all tax proceeds deposited in the state treasury as set forth in subsection (1) of this section, shall be paid by the state treasurer into the professional firefighters foundation program fund trust and agency account and the law enforcement foundation program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to Section 7 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) On or before the first day of December each year, the department shall request in writing of the administrator of the professional firefighters foundation program fund, which is established by KRS 95A.220, and of the administrator of the law enforcement foundation program fund, which is established by KRS 15.430, costs projections of their respective funds for the next calendar year. Based on these projections, the department shall determine the proportionate share of tax proceeds, prescribed in Section 6 of this Act, to accrue to each fund.

(2) The department shall certify to the state treasurer by the first day of March each year, a distribution schedule describing the proportionate share of tax proceeds accruing to each fund, and the state treasurer shall pay into each fund's trust and agency account its proportionate share of all deposited tax monies as set forth and in the manner as prescribed in Section 6 of this Act.

(3) Monies deposited in the professional firefighters foundation program fund's trust and agency account, and in the law enforcement foundation program fund's trust and agency account, shall be invested by the state in accordance with state investment practices, and all earning from such investments shall accrue to, and be paid into the respective account from which such investments are made. All monies remaining on deposit at the close of the state's fiscal year in the professional firefighters foundation program fund's account and the law enforcement foundation program fund's account and all earnings from investments made from monies in these accounts, shall not lapse, and shall be used for the purposes as specified by law pertaining to the fund in which said deposits and earnings remain.

SECTION 8. A NEW SECTION OF KRS 15.410 TO 15.510 IS CREATED TO READ AS FOLLOWS:

Upon receipt of a written request by the department of finance for costs projections of the law enforcement foundation program fund for the next calendar year as prescribed in Section 7 of this Act, the administrator of the fund shall, within thirty (30) calendar days, certify in writing said projections to the department of finance.

SECTION 9. A NEW SECTION OF KRS 95A.200 TO 95A.990 IS CREATED TO READ AS FOLLOWS:

Upon receipt of the written request by the department of finance for costs projections of the professional firefighters foundation program fund for the next calendar year as prescribed in Section 7 of this Act, the administrator of the fund shall certify, within thirty (30) calendar days, in writing said projections to the department of finance.

Section 10. KRS 95A.220 is amended to read as follows:

(1) There is established the professional fire fighters foundation program fund consisting of appropriations from the general fund of the Commonwealth of Kentucky *for the fiscal year beginning July 1, 1982; then, beginning July 1, 1983, and thereafter, the fund shall consist of tax proceeds and earnings on the investments of those proceeds which accrue to this fund pursuant to Sections 6 and 7 of this Act* [~~in amounts sufficient to carry out the provisions of KRS 95A.200 to 95A.300~~]. The fund may also receive any other funds, gifts or grants made available to the state for distribution to local governments in accordance with the provisions of KRS 95A.200 to 95A.300.

(2) *All monies remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, and shall not lapse, and shall be continuously appropriated for the purposes specified in KRS 95A.200 to 95A.300* [~~The resources of the fund shall be paid into the state treasury and shall be drawn out or appropriated only in accordance with the provisions of KRS 95A.200 to 95A.300~~].

Section 11. KRS 95A.250 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local government shall be entitled to receive *annually a supplement of two thousand five hundred dollars ($2,500) for each qualified professional firefighter it employs. Beginning July 1, 1984, this amount shall increase at the rate of five percent (5%) compounded annually.*

(2) Each qualified professional firefighter, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by that local government the supplement which his qualifications brought to the local government. The supplement paid each qualified firefighter shall be in addition to his regular salary [~~an amount equal to fifteen percent (15%) of each fire fighter's total annual compensation from the fund to be paid to each fire fighter in addition to his regular salary~~].

Section 12. KRS 95A.290 is amended to read as follows:

(1) If funds appropriated by the general assembly and otherwise made available to the fund are insufficient to provide the amount of money required by KRS 95A.250, the commission shall make a uniform percentage reduction in the allotment of funds available.

(2) Funds [~~appropriated by the general assembly and~~] unexpended by the commission at the close of the fiscal year for which the funds were appropriated *and otherwise made available to this fund pursuant to Sections 6, 7 and 10 of this Act* shall not lapse, but shall be carried forward into the following fiscal year.

Section 13. KRS 15.430 is amended to read as follows:

(1) There is hereby established the Law Enforcement Foundation Program Fund consisting of appropriations *from the general fund of the Commonwealth of Kentucky for the fiscal year beginning July 1, 1982; then, beginning July 1, 1983, and thereafter, the fund shall consist of tax proceeds and earnings on the investments of those proceeds which accrue to this fund pursuant to Sections 6 and 7 of this Act.* [~~and~~] Any other funds, gifts, or grants made available to the state for distribution to local units of government in accordance with the provisions of KRS 15.410 to 15.510 *also shall be made a part of this fund.*

(2) *All monies remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, and shall not lapse, and shall be continuously appropriated for the purposes specified in KRS 15.410 to 15.500* [~~The resources of the Law Enforcement Foundation Program Fund shall be paid into the state treasury and shall be drawn out or appropriated only as provided hereinafter~~].

Section 14. KRS 15.460 is amended to read as follows:

(1) *Beginning July 1, 1982,* an eligible local unit of government shall be entitled to receive *annually* a supplement *of two thousand five hundred dollars ($2,500) for* [~~to~~] each qualified police *officer it employs. Beginning July 1, 1984, this amount shall be increased at the rate of five percent (5%) compounded annually* [~~officer's annual salary from the law enforcement foundation program fund, to be paid to each officer in addition to his regular salary. The state supplement for each qualifying officer shall be a percentage of that portion of each officer's annual base salary which does not exceed twenty thousand dollars ($20,000). The percentage shall be determined by the department of justice in accordance with available funding. The same percentage shall be utilized for all officers~~].

(2) *Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary* [~~An eligible local unit of government shall also be entitled to receive, from the law enforcement foundation program fund, fifty percent (50%) of any salary increase paid to police officers solely because of college credits attained; provided, however, that the local unit shall file an educational incentive plan consistent with the guidelines and standards set down by the department of justice; provided further, that the contribution from the law enforcement foundation program fund under this subsection shall not exceed five hundred dollars ($500) per year for any one police officer. Funding for this program shall be suspended beginning July 1, 1980 through the period ending June 30, 1982 for the purpose of evaluation and review~~].

Section 15. KRS 15.500 is amended to read as follows:

(1) If funds appropriated by the general assembly and otherwise made available to the law enforcement foundation program fund are insufficient to provide the amount of money required by KRS 15.460, the department of justice shall establish the rate of assistance to be paid to eligible local units of governments [~~and a schedule of percentage supplements to categorically specified wage rates within each local unit~~].

(2) Funds [~~appropriated by the general assembly and~~] unexpended by the department of justice at the close of the fiscal year for which the funds were appropriated *and otherwise made available to this fund pursuant to Sections 6, 7 and 13 of this Act,* shall not lapse as provided by KRS 45.230, but shall be carried forward into the following fiscal year.

SECTION 16. A NEW SECTION OF KRS CHAPTER 304.1 IS CREATED TO READ AS FOLLOWS:

Where a local government participates in the professional firefighters foundation program fund as provided by KRS 95A.200 through 95A.990 or the law enforcement foundation program fund as provided by KRS 15.410 through 15.510, the premiums paid by policyholders for property and casualty insurance for which a premium tax is paid as provided by Section 1 through 5 of this Act, shall be reduced by one and one-half percent (1 ½%).

Section 17. Whereas, the general fund appropriations for fiscal year 1981-1982 for the professional firefighters foundation program fund as provided by KRS 95A.200 through 95A.990, and the law enforcement foundation program fund as provided by KRS 15.410 through 15.510 will lapse on June 30, 1982, an emergency is declared to exist, and this Act shall become effective on July 1, 1982.

Committee Substitute to **HB 525** is as follows:

HB 525, AN ACT relating to the funding of law enforcement and professional firefighters foundation programs, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.340 is amended to read as follows:

Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the department of revenue a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall at the same time pay a tax of *three dollars fifty cents ($3.50)* [~~two dollars ($2.00)~~] upon each one hundred dollars ($100) of such amounts paid to the company, less amounts returned on canceled policies and policies not taken.

Section 2. KRS 136.350 is amended to read as follows:

(1) All mutual companies other than life doing business under this law shall pay to the department of revenue on or before the first day of March in each year, a tax of *three and one-half percent (3 ½%)* [~~two percent (2%)~~] of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, including amounts paid for membership or policy dues or fees, on property or risks in this state during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies.

(2) In addition to the foregoing tax, mutual insurance companies and Lloyd's insurers shall pay an annual tax as prescribed for stock insurance companies by KRS 136.360 and for like purposes.

(3) In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on canceled policies and policies not taken, and dividends paid or credited to policyholders.

(4) The provisions of this section *also* shall [~~not~~] apply to domestic mutual companies, cooperative or assessment fire insurance companies.

Section 3. KRS 136.370 is amended to read as follows:

Each attorney, for the exchange of reciprocal or interinsurance contracts, under KRS chapter 304, shall pay to the department of revenue on or before March 1 of each year a tax of *three and one-half percent (3 ½%)* [~~two percent (2%)~~] of the gross premiums or deposits collected from subscribers in this state during the preceding calendar year, less all amounts returned to subscribers or accredited to their account as savings. In addition, the attorney shall pay an annual premium tax of three-fourths of one per cent (.75%) of all amounts as prescribed for every stock insurer by and for the purposes specified in KRS 136.360.

Section 4. KRS 136.377 is amended to read as follows:

(1) Any company whose tax, as provided in KRS 136.330, 136.340, 136.350, 136.370, *136.390* and 342.445 or 304.3-270 was five thousand dollars ($5,000) or more in the previous year shall file a declaration of estimated tax and remit one third of such amount on or before June 1, 1965, provided that if any taxpayer uses the amount of the tax liability for the previous calendar year as the estimate for such declaration no penalties or interest shall apply to any subsequent adjustments. The remainder of the tax shall be due on or before March 1, 1966.

(2) As provided in subsection (1) of this section, but beginning in 1966, and each year thereafter, the tax due shall be paid in three installments, one third on or before June 1, one third on or before October 1, and the remainder on or before the following March 1. Provided, however, if any taxpayer uses the amount

of the tax liability for the previous calendar year as the estimate for such declaration no penalties or interest shall apply to any subsequent adjustments.

(3) Any adjustments may be made on or before October 1. All adjustments shall be made on or before March 1.

(4) All such taxes not paid when due may be subject to a penalty of five percent per month, but not more than twenty-five percent penalty shall be assessed on any one report, and interest at the rate of one-half of one percent per month from the date the report was due.

Section 5. KRS 136.390 is amended to read as follows:

(1) All associations of underwriters authorized under KRS 304.3-040, 304.3-140, 304.28-010, 304.28-030, 304.28-040, and 304.28-050, and their representatives, shall make the same reports as are required of foreign stock insurance companies and their representatives transacting the same or similar kinds of insurance business in this state, and shall pay the same taxes as are required to be paid by such companies.

(2) All foreign mutual assessment companies, associations, individual firms, underwriters or Lloyd's, having resident members doing business in this state, who shall enter into contracts of insurance with each other or into agreements to indemnify each other against losses by fire, lightning, windstorm or other casualties for which there is no premium charged or collected at the time insurance is made, shall be deemed to be doing an insurance business in this state, and shall annually, by July 30, pay to the department of revenue a license tax of *three dollars fifty cents ($3.50)* [~~two dollars ($2.00)~~] upon each one hundred dollars ($100) of assessments paid or collected in any one (1) year. Each resident member shall be liable to the state for the license tax and all interest and penalties.

(3) No person shall fail or refuse to make a report giving all the data and information necessary to determine the amount of revenue due under subsection (2) of this section, or fail to make the report provided for in subsection (2) of this section, or fail to pay the tax due thereon.

SECTION 6. A NEW SECTION OF KRS 136.340 TO 136.400 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, one dollar fifty cents ($1.50) of every three dollars fifty cents ($3.50) in taxes collected by the state pursuant to KRS 136.340, 136.350, 136.370 and 136.390 shall be deposited in the state treasury, and shall constitute a fund allocated for the uses and purposes of the professional firefighters foundation program fund (KRS 95A.220) and the law enforcement foundation program fund (KRS 15.430).

(2) One dollar and fifty cents ($1.50) out of every three dollars and fifty cents ($3.50) in taxes collected from any domestic mutual company, cooperative or assessment fire insurance company as provided in subsection (4) of Section 2 of this Act, shall be deposited in the state treasury, and shall be paid monthly by the state treasurer into the volunteer fire department aid fund as provided in Section 16 of this Act.

(3) Within five (5) days at the end of each month, all tax proceeds deposited in the state treasury as set forth in subsection (1) of this section, shall be paid by the state treasurer into the professional firefighters foundation program fund trust and agency account and the law enforcement foundation program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to Section 7 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) On June 1, 1982, and then on or before the first day of each December, March, June and September thereafter, the department shall request in writing of the administrator of the professional firefighters foundation program fund, which is established by KRS 95A.220, and of the administrator of the law enforcement foundation program fund, which is established by KRS 15.430, costs projections of their respective funds for the next quarter. Based on these projections, the department shall determine the proportionate share of total tax proceeds, prescribed in Section 6 of this Act, to accrue to each fund.

(2) On or before the first day of each quarter, the department shall certify to the state treasurer a distribution schedule describing the proportionate share of total tax proceeds accruing to each fund during such quarter, and the state treasurer shall pay into each fund's trust and agency account its proportionate share of all deposited tax monies as set forth and in the manner as prescribed in subsections (1) and (3) of Section 6 of this Act.

(3) Monies deposited in the professional firefighters foundation program fund's trust and agency account, and in the law enforcement foundation program fund's trust and agency account, shall be invested by the state in accordance with state investment practices, and all earning from such investments shall accrue to, and be paid into the respective account from which such investments are made. All monies remaining on deposit at the close of the state's fiscal year in the professional firefighters foundation program fund's account and the law enforcement foundation program fund's account and all earnings from investments made from monies in these accounts, shall not lapse, and shall be used for the purposes as specified by law pertaining to the fund in which said deposits and earnings remain.

SECTION 8. A NEW SECTION OF KRS 15.410 TO 15.510 IS CREATED TO READ AS FOLLOWS:

Upon receipt of a written request by the department of finance for costs projections of the law enforcement foundation program fund as prescribed in Section 7 of this Act, the administrator of the fund shall, within twenty-one (21) calendar days, certify in writing said projections to the department of finance.

SECTION 9. A NEW SECTION OF KRS 95A.200 TO 95A.990 IS CREATED TO READ AS FOLLOWS:

Upon receipt of the written request by the department of finance for costs projections of the professional firefighters foundation program fund as prescribed in Section 7 of this Act, the administrator of the fund shall certify, within twenty-one (21) calendar days, in writing said projections to the department of finance.

Section 10. KRS 95A.220 is amended to read as follows:

(1) There is established the professional fire fighters foundation program fund consisting of appropriations from the general fund of the Commonwealth of Kentucky, *and tax proceeds and earnings on the investments of those proceeds which accrue to this fund pursuant to Sections 6 and 7 of this Act* [~~in amounts sufficient to carry out the provisions of KRS 95A.200 to 95A.300~~]. The fund may also receive any other funds, gifts or grants made available to the state for distribution to local governments in accordance with the provisions of KRS 95A.200 to 95A.300.

(2) *All monies remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, and shall not lapse, and shall be continuously appropriated for the purposes specified in KRS 95A.200 to 95A.300* [~~The resources of the fund shall be paid into the state treasury and shall be drawn out or appropriated only in accordance with the provisions of KRS 95A.200 to 95A.300~~].

Section 11. KRS 95A.250 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local government shall be entitled to receive *annually a supplement of two thousand five hundred dollars ($2,500) for each qualified professional firefighter it employs.*

(2) Each qualified professional firefighter, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by that local government the supplement which his qualifications brought to the local government. The supplement paid each qualified firefighter shall be in addition to his regular salary [~~an amount equal to fifteen percent (15%) of each fire fighter's total annual compensation from the fund to be paid to each fire fighter in addition to his regular salary~~].

Section 12. KRS 95A.290 is amended to read as follows:

(1) If funds appropriated by the general assembly and otherwise made available to the fund are insufficient to provide the amount of money required by KRS 95A.250, the commission shall make a uniform percentage reduction in the allotment of funds available.

(2) Funds [~~appropriated by the general assembly and~~] unexpended by the commission at the close of the fiscal year for which the funds were appropriated *and otherwise made available to this fund pursuant to Sections 6, 7 and 10 of this Act* shall not lapse, but shall be carried forward into the following fiscal year.

Section 13. KRS 15.430 is amended to read as follows:

(1) There is hereby established the Law Enforcement Foundation Program Fund consisting of appropriations *from the general fund of the Commonwealth of Kentucky, and tax proceeds and earnings on the investments of those proceeds which accrue to this fund pursuant to Sections 6 and 7 of this Act.* [~~and~~] Any other funds, gifts, or grants made available to the state for distribution to local units of government in accordance with the provisions of KRS 15.410 to 15.510 *also shall be made a part of this fund.*

(2) *All monies remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, and shall not lapse, and shall be continuously appropriated for the purposes specified in KRS 15.410 to 15.500* [~~The resources of the Law Enforcement Foundation Program Fund shall be paid into the state treasury and shall be drawn out or appropriated only as provided hereinafter~~].

Section 14. KRS 15.460 is amended to read as follows:

(1) *Beginning July 1, 1982,* an eligible local unit of government shall be entitled to receive *annually* a supplement *of two thousand five hundred dollars ($2,500) for* [~~to~~] each qualified police *officer it employs* [~~officer's annual salary from the law enforcement foundation program fund, to be paid to each officer in addition to his regular salary. The state supplement for each qualifying officer shall be a percentage of that portion of each officer's annual base salary which does not exceed twenty thousand dollars ($20,000). The percentage shall be determined by the department of justice in accordance with available funding. The same percentage shall be utilized for all officers~~].

(2) *Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary* [~~An eligible local unit of government shall also be entitled to receive, from the law enforcement foundation program fund, fifty percent (50%) of any salary increase paid to police officers solely because of college~~

~~credits attained; provided, however, that the local unit shall file an educational incentive plan consistent with the guidelines and standards set down by the department of justice; provided further, that the contribution from the law enforcement foundation program fund under this subsection shall not exceed five hundred dollars ($500) per year for any one police officer. Funding for this program shall be suspended beginning July 1, 1980 through the period ending June 30, 1982 for the purpose of evaluation and review~~].

Section 15. KRS 15.500 is amended to read as follows:

(1) If funds appropriated by the general assembly and otherwise made available to the law enforcement foundation program fund are insufficient to provide the amount of money required by KRS 15.460, the department of justice shall establish the rate of assistance to be paid to eligible local units of governments [~~and a schedule of percentage supplements to categorically specified wage rates within each local unit~~].

(2) Funds [~~appropriated by the general assembly and~~] unexpended by the department of justice at the close of the fiscal year for which the funds were appropriated *and otherwise made available to this fund pursuant to Sections 6, 7 and 13 of this Act,* shall not lapse as provided by KRS 45.230, but shall be carried forward into the following fiscal year.

Section 16. KRS 17.250 is amended to read as follows:

(1) There is created and established within the department of housing, buildings and construction a volunteer fire department aid fund consisting of tax proceeds as provided in subsection (2) of Section 6 of this Act. All monies remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, and shall not lapse, and shall be continuously appropriated for the purposes specified herein and Section 17 of this Act.

(2) Except as provided in subsection (3) of this section and Section 17 of this Act, the *state fire marshal* [~~commissioner of insurance~~] shall allot on an annual basis *an equal share of* the funds *accruing to and* appropriated for *volunteer* fire department aid [~~in the amounts not to exceed $2,000~~] to *volunteer* [~~the~~] fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and all other organized *volunteer* fire departments recognized by the *department of housing, buildings and construction* [~~commissioner of insurance~~] as fire departments operated and maintained on a nonprofit basis in the interest of the health, safety, prosperity and security of the inhabitants of the Commonwealth. He shall prescribe regulations and standards for determining the amounts to be granted. Such standards shall be based on the number of both paid fire fighters and volunteer firemen *within a volunteer fire department,* the amount of equipment, housing facilities available and such other matters or standards as will best effect the purposes of the *volunteer* fire department aid law. No allotment shall exceed the total value of the funds, equipment, lands and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance *and workers' compensation insurance,* and the remaining funds shall be distributed as set forth in this section.

(3) For the biennium beginning July 1, 1982 and ending June 30, 1984, two hundred thousand dollars ($200,000) of the tax proceeds accruing to the volunteer fire department aid fund shall be allocated to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the commission on fire protection personnel standards and education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding of firefighters training center funds shall be submitted to the commission on fire protection personnel standards and education for their recommendation, approval, disapproval or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of seventy-five percent (75%) of its personnel certified as recognized by the commission on fire protection personnel standards and education.

(6) Upon the written request of any department, the commission on fire protection personnel standards and education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the department for administering these funds shall be determined by the commission and shall not exceed five percent (5%) of the total amount of monies accruing to the volunteer fire department aid fund during any fiscal year.

SECTION 17. A NEW SECTION OF KRS 61.315 TO 61.320 IS CREATED TO READ AS FOLLOWS:

(1) "Volunteer firefighter", as used in this section, means any person who is a member of or employed by a volunteer fire department of any county, city, fire district or other organized volunteer fire department recognized, pursuant to KRS 17.250, as a fire department operated and maintained on a nonprofit basis in the interest of health and safety of the inhabitants of the Commonwealth.

(2) The spouse of any volunteer firefighter whose death occurs as a direct result of an act in the line of duty shall receive a lump sum payment of twenty-five thousand dollars ($25,000), which sum shall be paid by the state treasurer from the tax monies provided in subsection (2) of Section 6 of this Act. If there is no surviving spouse, the payment shall be made to the surviving children.

SECTION 18. A NEW SECTION OF KRS CHAPTER 304.1 IS CREATED TO READ AS FOLLOWS:

Where a local government participates in the professional firefighters foundation program fund as provided by KRS 95A.200 through 95A.990 or the law enforcement foundation program fund as provided by KRS 15.410 through 15.510, or the state volunteer fire department aid fund as provided in Section 16 of this Act, the premiums paid by policyholders for property and casualty insurance for which a premium tax is paid as provided by Section 1 through 5 of this Act, shall be reduced by one and one-half percent (1 ½%).

Section 19. The first seven million eight hundred ninety three thousand and four hundred dollars ($7,893,400) of tax monies collected as provided in subsection (1) of Section 6 of this Act shall be paid into the general fund of the Commonwealth; thereafter, all tax monies as provided in subsection (1) of Section 6 of this Act shall accrue to the law enforcement foundation program and the professional firefighters foundation program as provided in this Act.

Section 20. Whereas, the general fund appropriations for fiscal year 1981-1982 for the professional firefighters foundation program fund as provided by KRS 95A.200 through 95A.990, and the law enforcement foundation program fund as provided by KRS 15.410 through 15.510 will lapse on June 30, 1982, and since any company or insurer whose tax as provided in Sections 1 through 5 of this Act is required by KRS 136.377 to file a declaration of estimated tax on or before June 1, 1982, an emergency is declared to exist, and Sections 11 and 14 of this Act, shall become effective on July 1, 1982, and all other sections of this Act shall become effective upon its passage and approval by the Governor.

Committee Title Amendment to **HB 525** is as follows:

Amend printed copy of **HB 525**, page 1, title, by deleting, in the Title, after the word "to" the following: "the funding of law enforcement and professional firefighters foundation programs, and making an appropriation therefor"; and by inserting in leiu thereof the following: "the collection and expenditure of public funds, and declaring an emergency".

The Speaker announced the arrival of the Honorable Martha Layne Collins, Lieutenant Governor of the Commonwealth of Kentucky and the members of the Senate.

The Speaker vacated the Chair.

Joint Session

The Honorable Martha Layne Collins, Lieutenant Governor and President of the Senate, assumed the Chair and called the Joint Session to order.

Representative LeMaster moved that the Joint Session dispense with a call of the roll. Agreed.

Prayer by Dr. Billy G. Hurt, First Baptist Church, Frankfort.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort him to the House to address the Joint Session, appeared with the Governor.

Lieutenant Governor Martha Layne Collins introduced The Honorable John Y. Brown, Jr., Governor of the Commonwealth of Kentucky.

Governor Brown delivered the State of the Commonwealth Message.

Representative LeMaster moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair and called the House to order.

Calendar

HB 421, HB 438, HB 477, HB 516, HB 578, HB 314, HB 574, SB 100, HB 188, HB 363, SB 35, HB 450, HB 281, HB 581, HB 611, HB 468, HB 469, HB 508, HB 512, HB 545, SB 28, SB 82, and **SB**

56 taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative LeMaster moved that the House recess for fifteen minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 478,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 478, AN ACT relating to the department of revenue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 365.270 is amended to read as follows:

When used in any part of KRS 365.260 to 365.380, the following words, terms and phrases and any variations thereof required by the context, shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning:

(1) "Person" shall mean and include any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the Commonwealth of Kentucky and any municipal corporation or other political subdivision of this State, trust, receiver, trustee, fiduciary, conservator.

(2) [~~"Commissioner" shall mean the Commissioner of Revenue of the Commonwealth of Kentucky.~~
~~(3) "Department" shall mean the Department of Revenue.~~
~~(4)~~] "Cigarettes" shall mean and include any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(3)[~~(5)~~] "Wholesaler" shall mean any person, wherever resident or located, who sells cigarettes at wholesale or distributes cigarettes to be sold at retail, and it includes any manufacturer, distributor, jobber, broker, agent or other person, whether or not enumerated in this subsection, who so sells or so distributes cigarettes.

(4)[~~(6)~~] "Retailer" shall mean and include any person who sells cigarettes in this State to a consumer or to any person for any purpose other than resale.

(5)[~~(7)~~] "Sale" or "sell" shall mean any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes and distribution in any manner or by any means whatsoever.

(6)[~~(8)~~] "Sell at wholesale," "sale at wholesale" and "wholesale sales" shall mean and include any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

(7)[~~(9)~~] "Sell at retail," "sale at retail," or "retail sales" shall mean and include any sale for consumption or use made in the ordinary course of trade or usual conduct of the seller's business.

(8)[~~(10)~~] "Basic cost of cigarettes" shall mean whichever of the two following amounts is lower, namely, (a) the invoice cost of cigarettes to the wholesaler or retailer, as the case may be, or (b) the lowest replacement cost of cigarettes to the wholesaler or retailer, as the case may be, within thirty days prior to the date of sale, in the quantity last purchased (whether within or before the said thirty-day period), less, in either of said two cases, all trade discounts except customary discounts for cash, plus the full face value of any stamps or any tax which may be required by any cigarette tax act of this State or political subdivision thereof, now in effect or hereafter enacted, if not already included in the invoice cost of the cigarettes to the wholesaler or retailer, as the case may be.

(9)[~~(11)~~] (a) "Cost to wholesaler" shall mean the basic cost of the cigarettes involved to the wholesaler plus the cost of doing business by the wholesaler, as evidenced by the standards and methods of accounting regularly employed by him, and must include, without limitation, labor costs (including salaries of

executives and officers) rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising.

(b) In the absence of proof of a lesser or higher cost of doing business by the wholesaler making the sale, the cost of doing business by the wholesaler shall be presumed to be two per centum of the basic cost of the said cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer, which cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one per centum of the basic cost of the said cigarettes to the wholesaler.

(10)[~~(12)~~] (a) "Cost to the retailer" shall mean the basic cost of cigarettes involved to the retailer plus the cost of doing business by the retailer as evidenced by the standards and methods of accounting regularly employed by him and must include, without limitation, labor (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising.

(b) In the absence of proof of a lesser or higher cost of doing business by the retailer making the sale, the cost of doing business by the said retailer shall be presumed to be eight per centum of the basic cost of cigarettes to the said retailer.

(c) In the case of any retailer who in connection with the said retailers purchase of any cigarettes shall receive not only the discounts ordinarily allowed upon purchases by a retailer, but also in whole or in part, the discounts ordinarily allowed upon purchases by a wholesaler, the cost of doing business by the said retailer with respect to the said cigarettes shall be, in the absence of proof of a lesser or higher cost of doing business by the said retailer, the sum of the cost of doing business by the retailer and, to the extent that he shall have received the full discounts ordinarily allowed to a wholesaler, the cost of doing business by a wholesaler as [~~hereinabove~~] defined in subsection *(9)* [~~(11)~~] (b) *of this section.*

Section 2. KRS 365.290 is amended to read as follows:

In all advertisements, offers for sale or sales involving two or more items, at least one of which items is cigarettes, at a combined price, and in all advertisements, offers for sale, or sales, involving the giving of any gift or concession of any kind whatsoever (whether it be coupons or otherwise), the wholesaler's or retailer's combined selling price shall not be below the cost to the wholesaler or the cost to the retailer, respectively, of the total of all articles, products, commodities, gifts and concessions included in such transactions, except that if any such articles, products, commodities, gifts or concessions, shall not be cigarettes, the basic cost thereof shall be determined in like manner as provided in subsection *(8)* [~~(10)~~] of KRS 365.270.

Section 3. KRS 365.350 is amended to read as follows:

(1) [~~The State Department of Revenue, or~~] Any person injured by any violation, or who would suffer injury from any threatened violation of KRS 365.260 to 365.380, may maintain an action in any court of equitable jurisdiction to prevent, restrain, or enjoin such violation or threatened violation. If in such action a violation or threatened violation of KRS 365.260 to 365.380 shall be established the court shall enjoin and restrain, or otherwise prohibit, such violations or threatened violation, and in addition thereto, the court shall assess in favor of the plaintiff and against the defendant the cost of suit including reasonable attorney's fees. In such action it shall not be necessary that actual damages to the plaintiff be alleged or proved, but where alleged and proved, the plaintiff in said action, in addition to such injunctive relief and costs of suit, including reasonable attorney's fees, shall be entitled to recover from the defendant the actual damages sustained by him.

(2) In the event that no injunctive relief is sought or required, any person injured by a violation of KRS 365.260 to 365.380 may maintain an action for damages and costs of suit in any court of general jurisdiction.

Section 4. KRS 131.990 is amended to read as follows:

(1) Any person who fails or refuses to obey a subpoena or order of the Kentucky board of tax appeals made pursuant to KRS 131.350 shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).

(2) In addition to the civil liability for interest and penalty provided in KRS 131.180, any person who wilfully fails to file any tax report or return within the specified time, for which failure a specific criminal penalty is not provided, shall, for the first offense, be fined not more than five hundred dollars ($500) or imprisoned in the county jail for not more than six (6) months, or both. For any subsequent offense he shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than twelve (12) months, or both.

(3) Any person who violates any of the provisions of KRS 131.190, except subsection *(6)* [~~(4)~~] thereof, shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both, and shall be disqualified and removed from office or employment. Any person who violates the provisions of KRS 131.190*(6)*[~~(4)~~] shall be fined not more than five thousand dollars ($5,000) or imprisoned for not more than five (5) years or both.

(4) Any person who wilfully fails to comply with the rules and regulations promulgated by the department of revenue for the administration of delinquent tax collections shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(5) Any person who fails to do any act required or does any act forbidden by KRS 131.210 or 131.220 shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

Section 5. KRS 365.370 - Power and duties of department - Appeals from orders of department - is repealed.

Committee Substitute to **HB 478** is as follows:

HB 478, AN ACT relating to department of revenue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) To provide for the enforcement of KRS 138.146 and KRS 365.260 to 365.380, every cigarette wholesaler licensed under KRS 138.195 shall pay an enforcement and administration fee to the department of revenue on a monthly basis for each package of twenty (20) cigarettes to which evidence of Kentucky cigarette tax was affixed during the month as required by KRS 138.146. The enforcement and administration fee to recover applicable costs shall be calculated annually by the commissioner of revenue who shall give notice thereof to licensed wholesalers who shall be liable for its payment. Payments to the department of revenue shall be made according to provisions of KRS 138.195 and shall be subject to the same penalties and interest as levied on Kentucky cigarette tax not paid on or before the due date.

(2) There is hereby created within the department of revenue a cigarette enforcement and administration account, which will be subject to the provisions of the restricted fund group, as provided in KRS 45.322(1)(e), and all funds collected under subsection (1) of this section shall be credited thereto with only the expenses of the department of revenue related to the administration and enforcement of KRS 138.146 and KRS 365.260 to 365.380 to be paid therefrom.

(3) The enforcement and administration fee levied in subsection (1) above shall be deemed to be an additional cost to be included in the basic cost of cigarettes as defined in KRS 365.270.

Section 2. KRS 138.130 is amended to read as follows:

As used in KRS 138.130 to 138.205, unless the context requires otherwise:

(1) "Department" means the department of revenue.

(2) "Manufacturer" means any person who manufactures or produces cigarettes within or without this state.

(3) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale.

(4) "Sale at retail" shall mean a sale to any person for any other purpose other than resale.

(5) "Cigarettes" shall mean and include any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(6) "Sale" or "sell" shall mean any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes, and distribution in any manner or by any means whatsoever.

(7) "Tax evidence" shall mean and include any stamps, metered impressions or other indicia prescribed by the department by regulation as a means of denoting the payment of tax.

(8) "Person" shall mean and include any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, commonwealth of Kentucky or any of its political subdivisions, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular.

(9) "Resident wholesaler" shall mean any person who purchases at least seventy-five per cent (75%) of all cigarettes purchased by him directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state where he attaches cigarette tax evidence, or receives untaxed cigarettes.

(10) "Nonresident wholesaler" shall mean any person who purchases cigarettes directly from the manufacturer and maintains a permanent location or locations outside this state where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is reported and paid.

(11) "Sub-jobber" shall mean any person who purchases cigarettes from a wholesaler licensed under KRS 138.195 on which the Kentucky cigarette tax has been paid and makes them available to retailers for resale. No person shall be deemed to make cigarettes available to retailers for resale unless such person certifies and establishes to the satisfaction of the department that firm arrangements have been made to regularly

supply at least five (5) retail locations with Kentucky tax-paid cigarettes for resale in the regular course of business.

(12) "Vending machine operator" shall mean any person who operates one or more cigarette vending machines.

(13) "Transporter" shall mean any person transporting untax-paid cigarettes obtained from any source to any destination within this state, other than cigarettes transported by the manufacturer thereof.

(14) "Unclassified acquirer" shall mean any person in this state who acquires cigarettes from any source on which the Kentucky cigarette tax has not been paid, and who is not a person otherwise *required to be* licensed under the provisions of KRS 138.195.

Section 3. KRS 138.146 is amended to read as follows:

(1) The cigarette tax imposed by KRS 138.130 to 138.205 shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.

(2) The tax shall be paid by affixing evidence of tax payment in the manner and at the time set forth in this section. The evidence of tax payment shall be affixed to each individual package of cigarettes by a resident wholesaler within seventy-two (72) hours after the cigarettes are received by him. The evidence of tax payment shall be affixed to each individual package of cigarettes by a nonresident wholesaler prior to the introduction or importation of the cigarettes into the territorial limits of this state. The evidence of tax payment shall be affixed by an unclassified acquirer within twenty-four (24) hours after the cigarettes are received by him.

(3) The department shall by regulation prescribe the form of cigarette tax evidence, the method and manner of the sale and distribution of such cigarette tax evidence, and the method and manner that such evidence shall be affixed to the cigarettes.

(4) Units of cigarette tax evidence shall be sold at their face value, but the department shall allow as compensation to any licensed wholesaler an amount of tax evidence equal to *thirty cents (30¢)* [~~eighteen cents (18¢)~~] face value for each three dollars ($3.00) of tax evidence purchased at face value. The department shall have the power to withhold compensation from any licensed wholesaler for failure to abide by any provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder. Any refund or credit for unused cigarette tax evidence shall be reduced by the amount allowed as compensation at the time of purchase.

(5) No tax evidence may be affixed, or used in any way, by any person other than the person purchasing such evidence from the department. Such tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded or loaned to any other person. Unaffixed tax evidence may be returned to the department for credit or refund for any reason satisfactory to the department.

(6) In the event any retailer shall receive into his possession cigarettes to which evidence of Kentucky tax payment is not properly affixed, he shall within twenty-four (24) hours notify the department of such fact. Such notice shall be in writing, and shall give the name of the person from whom such cigarettes were received, and the quantity of such cigarettes, and such written notice may be given to any field agent of the department. The written notice may also be directed to the commissioner of revenue, Frankfort, Kentucky. If such notice is given by means of the United States mail, it shall be sent by certified mail. Any such cigarettes shall be retained by such retailer, and not sold, for a period of fifteen (15) days after giving the notice provided in this subsection. The retailer may, at his option, pay the tax due on any such cigarettes according to rules and regulations to be prescribed by the department, and proceed to sell the same after such payment.

(7) Cigarettes stamped with the cigarette tax evidence of another state shall at no time be commingled with cigarettes on which the Kentucky cigarette tax evidence has been affixed, but any licensed wholesaler, licensed sub-jobber or licensed vending machine operator may hold cigarettes stamped with the tax evidence of another state for any period of time, subsection (2) of this section notwithstanding.

Section 4. KRS 138.195 is amended to read as follows:

(1) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the department as set out in this section.

(2) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received. Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid. Such a license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of *five hundred dollars ($500)* [~~twenty-five dollars ($25.00)~~] for each such year or portion thereof for which such license is secured.

(3) Each sub-jobber shall secure a separate license for each place of business from which Kentucky tax-paid cigarettes are made available to retailers, whether such place of business is located within or without this state. Such license or licenses shall be secured on or before July 1 of each year, and each licensee shall

pay the sum of *five hundred dollars ($500)* [~~twenty-five dollars ($25.00)~~] for each such year or portion thereof for which such license is secured.

(4) Each vending machine operator shall secure a license for the privilege of dispensing Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of *twenty-five dollars ($25.00)* [~~five dollars ($5.00)~~] for each year or portion thereof for which such license is secured. No vending machine shall be operated within this commonwealth without having prominently affixed thereto the name of its operator, together with the license number assigned to such operator by the department. The department shall prescribe by regulation the manner in which the information shall be affixed to the vending machine.

(5) Each transporter shall secure a license for the privilege of transporting cigarettes within this state. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of *fifty dollars ($50.00)* [~~five dollars ($5.00)~~] for each such year or portion thereof for which such license is secured. No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing the name and address of the consignor and consignee, the date acquired by the transporter, the name and address of the transporter, the quantity of cigarettes being transported, together with the license number assigned to such transporter by the department.

(6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the Kentucky cigarette tax has not been paid. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of *fifty dollars ($50.00)* [~~five dollars ($5.00)~~] for each such year or portion thereof for which such license is secured.

(7) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the department from requiring a person to purchase more than one (1) license if the nature of such person's business is so diversified as to justify such requirement.

(8) The department may by regulation require any person licensed under the provisions of this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of such licensees, and to protect the revenues of the state. Failure on the part of such licensee to comply with the provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder, or to permit an inspection of premises, machines or vehicles by an authorized agent of the department at any reasonable time shall be grounds for the revocation of any license issued by the department, after due notice and a hearing by the department. The commissioner of revenue may assign a time and place for such hearing and may appoint a conferee who shall conduct a hearing, receive evidence and hear arguments. Such conferee shall thereupon file a report with the commissioner together with a recommendation as to the revocation of such license. From any revocation made by the commissioner of revenue on such report, the licensee may prosecute an appeal to the Kentucky board of tax appeals as provided by law. Any person whose license has been revoked for the wilful violation of any provision of KRS 138.130 to 138.205 shall not be entitled to any license provided for in this section, or have any interest in any such license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of one (1) year after such revocation.

(9) No license issued pursuant to the provisions of this section shall be transferable or negotiable.

(10) Every manufacturer located or doing business in this state shall keep written records of all shipments of cigarettes to persons within this state, and shall submit reports of such shipments as the department may require by regulation.

(11) No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.

Committee Title Amendment to Committee Substitute to **HB 478** is as follows:

Amend printed copy of Committee Substitute to **HB 478,** title, by deleting the title in its entirety and inserting in its place the following: AN ACT relating to revenue and taxation.

The Committee on Cities reported **HB 565,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 565, AN ACT relating to property assessment and reassessment moratoriums.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

(1) "Administering agency" means the agency delegated responsibility by the legislative body to implement the provisions of this Act.

(2) "Commercial facility" means any structure the primary purpose and use of which is the operation of a commercial business enterprise and which is twenty-five (25) years old or older.

(3) "Existing residential building" means a residential building which has been in existence for at least twenty-five (25) years and use of which is to provide independent living facilities for one (1) or more persons.

(4) "Legislative body" means the board of aldermen in a city of the first class operating under KRS Chapter 83, the city council in a city operating pursuant to KRS 83A.130, the city commission in a city operating pursuant to KRS 83A.140, the board of commissioners in a city operating pursuant to KRS 83A.150, the fiscal court in a county, and the legislative body in an urban-county government operating pursuant to KRS Chapter 67A.

(5) "Local government" means a county, municipal or urban-county government.

(6) "Rehabilitation" means the process of returning an existing structure to a state of utility through repair or alteration which makes possible an efficient contemporary use.

(7) "Repair" means the reconstruction or renewal of any part of an existing structure for the purpose of maintenance.

(8) "Restoration" means the process of accurately recovering the form and details of a structure and its setting as it appeared at a particular period of time by removal of later work or by the replacement of missing earlier work.

(9) "Stabilization" means the process of applying measures designed to re-establish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists.

(10) "Assessment or reassessment moratorium" means the act of deferring the value of the improvements from the taxable assessment of qualifying units of real property for a maximum period of five (5) years.

SECTION 2. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

(1) Any county, municipal or urban-county government may by ordinance establish a program granting property assessment or reassessment moratoriums for existing residential properties or commercial facilities for the purpose of encouraging the repair, rehabilitation, restoration or stabilization of existing improvements thereon. Any such program shall be established pursuant to the provisions of this Act and shall specify the duration of effect for such assessment or reassessment moratoriums provided that any moratorium for an individual property certified by a county, municipal or urban-county government shall not exceed five (5) years. The amount of assessment deferred by the moratorium shall not exceed the actual cost of such improvement and shall not be granted for any improvement which does not represent at least ten percent (10%) of the total value of the property excluding land.

(2) The assessment or reassessment moratorium shall become effective on the assessment date next following the issuance of the moratorium certificate by the administering agency.

(3) The taxable assessment of property qualifying for an assessment or reassessment moratorium shall be that assessment provided for in subsection (2) of Section 3 of this Act.

(4) On the assessment date next following the expiration, cancellation or revocation of an assessment or reassessment moratorium, property shall be assessed on the basis of its full fair cash value.

(5) Any property granted an assessment or reassessment moratorium may be eligible for a subsequent moratorium certification provided that reapplication be made no sooner than ten (10) years following the expiration of the original moratorium, or any other moratorium, and provided that such property shall otherwise meet the requirements for the assessment or reassessment moratorium.

SECTION 3. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

(1) Any owner of an existing residential building, or any owner or lessee of a commercial facility, may make application to the administering agency for a property assessment or reassessment moratorium certificate. The application shall be filed within thirty (30) days of commencing restoration, repair, rehabilitation or stabilization and shall be filed in a manner prescribed by the administering agency and on a form prescribed by the department of revenue. The application shall contain or be accompanied by a general description of the property and a general description of the proposed use of the property, the general nature and extent of the restoration, repair, rehabilitation or stabilization to be undertaken and a time schedule for undertaking and completing the project. If the property is a commercial facility, the application shall in addition, be accompanied by a descriptive list of the fixed building equipment which will be a part of the facility and a statement of the economic advantages expected from the moratorium, including expected construction employment.

(2) Except as otherwise provided herein, the property valuation administrator, or other assessing official, and the administering agency shall maintain a record of all applications for a property assessment

or reassessment moratorium and shall assess or reassess the property within thirty (30) days of receipt of the application. The administering agency shall issue a moratorium certificate only after completion of the project and only after the applicant has presented proof of actual expenditures. Such proof shall include a building permit, if required for the proposed improvement, and an affidavit from the applicant as to the amount of expenditures made. The applicant shall notify the administering agency when the project is complete and the administering agency shall then conduct an on-site inspection of the property for purposes of verifying improvements.

(3) The applicant shall have two (2) years in which to complete the improvement unless granted an extension by the administering agency. In no case shall the application be extended beyond two (2) additional years. This provision shall not preclude normal reassessment of the subject property as required by statute until such time as the assessment or reassessment moratorium certificate becomes effective.

(4) Any application for an assessment or reassessment moratorium not acted upon by the applicant shall become void two (2) years from the date of application and shall be purged from the files of the administering agency.

(5) An assessment or reassessment moratorium certificate may be transferred or assigned by the holder of the certificate to a new owner or lessee of the property with the approval of the administering agency provided that the moratorium certificate for the property has not expired.

SECTION 4. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

A county, municipal or urban-county government may declare property assessment or reassessment moratoriums for qualifying units of real property subject to the provisions of KRS Chapter 99, KRS 132.010 and 132.190.

Section 5. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Department" means the department of revenue.

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent per one hundred dollars of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference in the total valuation of property subject to taxation by the county, city, school district or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and the total valuation of property subject to taxation by the county, city, school district or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction, however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided;

(i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least ten contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government, where such activities produced an average annual gross income including payments under a state or federal program according to the following scale:

Acres	Annual Gross Income+	Income Per Acre
10 to 30	$1,000+	$60.00 per acre, or a fraction thereof, over 10 acres.
30 to 60	$2,200+	$40.00 per acre, or a fraction thereof, over 30 acres.
60 to 100	$3,400+	$25.00 per acre, or a fraction thereof, over 60 acres.
100 to 250	$4,400+	$10.00 per acre, or a fraction thereof, over 100 acres.
Over 250	$5,900+	$5.00 per acre, or a fraction thereof, over 250 acres.

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there must be an annual gross income of these amounts within two (2) years of purchase. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(10) "Horticultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least five contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers or ornamental plants, where such activities produced an average annual gross income according to the following scale:

Acres	Annual Gross Income +	Income Per Acre
5 to 30	$1,000 minimum, or	$100.00 per acre, or a fraction thereof, over 5 acres, or whichever amount is greater.
30 to 60	$3,000+	$50.00 per acre, or a fraction thereof, over 30 acres.
60 to 100	$4,500+	$25.00 per acre, or a fraction thereof, over 60 acres.
100 to 250	$5,500+	$10.00 per acre, or a fraction thereof, over 100 acres.
Over 250	$7,000+	$5.00 per acre, or a fraction thereof, over 250 acres.

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there is evidence of anticipated annual gross income of these amounts. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

Section 6. KRS 132.190 is amended to read as follows:

(1) The property subject to taxation, unless exempted by the constitution, shall be as follows:

(a) All real and personal property within this state, including intangible personal property of nonresidents and corporations not organized under the laws of this state that has acquired a business situs within this state, except that twenty-five (25) domestic fowls to each family shall be exempt from taxation for any purpose.

(b) All intangible personal property of individuals residing in this state and of corporations organized under the laws of this state unless it has acquired a business situs without this state.

(2) The property enumerated in paragraph (b) of subsection (1) of this section shall be considered and estimated in fixing the valuation of corporate franchises.

(3) Property shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale, *except the following: real property qualifying for an assessment moratorium shall not have its fair cash value assessment changed while under the assessment moratorium unless the assessment moratorium expires or is otherwise cancelled or revoked.*

(4) The situs of intangible personal property for purposes of taxation shall be at the residence of the real or beneficial owner, and not at the residence of the fiduciary or agent having custody or possession. Any intangible property owned by a resident shall be taxable in this state, unless by the date of assessment he has changed his place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state. The fact that a person again abides within this state within six (6) months from so changing his actual place of abode shall be prima facie evidence that he did not intend permanently to have his actual place of abode without this state. A person so changing his actual place of abode and not intending permanently to continue it without this state and not having listed his property for taxation as a resident of this state shall, for the purpose of having his property assessed for taxation within this state, be deemed to have resided, on the day when his property should have been so assessed, at his last actual or habitual place of abode within this state. The fact that a person does not claim or exercise the right to vote at public elections within this state shall not of itself constitute him a nonresident of this state.

(5) An administrator, executor, trustee, committee, curator, or agent residing in this state shall not be liable for taxes on intangible personal property held by him if the real or beneficial owner of the property resides outside of this state. This exemption shall not apply in the case of an executor or administrator in the exercise of his office as personal representative while the estate of a deceased person is in process of settlement and before the share of the nonresident legatee or beneficiary is set apart to him, or before the legatee or beneficiary is entitled to be paid his share.

(6) Nothing contained in this section shall affect the liability for franchise taxes payable by corporations organized under the laws of this state; nor the method of taxation of banks and trust companies provided

in KRS 136.270; nor the method of taxation of savings and loan associations provided in KRS 136.300; and nothing contained in this section shall alter or repeal KRS 136.030.

Section 7. KRS 132.190, Acts 1980, Chapter 396, Section 63, effective July 1, 1982, is amended to read as follows:

(1) The property subject to taxation, unless exempted by the constitution, shall be as follows:

(a) All real and personal property within this state, including intangible personal property of nonresidents and corporations not organized under the laws of this state that has acquired a business situs within this state, except that twenty-five (25) domestic fowls to each family shall be exempt from taxation for any purpose.

(b) All intangible personal property of individuals residing in this state and of corporations organized under the laws of this state unless it has acquired a business situs without this state.

(2) The property enumerated in paragraph (b) of subsection (1) of this section shall be considered and estimated in fixing the valuation of corporate franchises.

(3) Property shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale, *except the following: real property qualifying for an assessment moratorium shall not have its fair cash value assessment changed while under the assessment moratorium unless the property is transferred or sold or the assessment moratorium expires or is otherwise cancelled or revoked.*

(4) The situs of intangible personal property for purposes of taxation shall be at the residence of the real or beneficial owner, and not at the residence of the fiduciary or agent having custody or possession. Any intangible property owned by a resident shall be taxable in this state, unless by the date of assessment he has changed his place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state. The fact that a person again abides within this state within six (6) months from so changing his actual place of abode shall be prima facie evidence that he did not intend permanently to have his actual place of abode without this state. A person so changing his actual place of abode and not intending permanently to continue it without this state and not having listed his property for taxation as a resident of this state shall, for the purpose of having his property assessed for taxation within this state, be deemed to have resided, on the day when his property should have been so assessed, at his last actual or habitual place of abode within this state. The fact that a person does not claim or exercise the right to vote at public elections within this state shall not of itself constitute him a nonresident of this state.

(5) An administrator, executor, trustee, guardian, conservator, curator, or agent residing in this state shall not be liable for taxes on intangible personal property held by him if the real or beneficial owner of the property resides outside of this state. This exemption shall not apply in the case of an executor or administrator in the exercise of his office as personal representative while the estate of a deceased person is in process of settlement and before the share of the nonresident legatee or beneficiary is set apart to him, or before the legatee or beneficiary is entitled to be paid his share.

(6) Nothing contained in this section shall affect the liability for franchise taxes payable by corporations organized under the laws of this state; nor the method of taxation of banks and trust companies provided in KRS 136.270; nor the method of taxation of savings and loan associations provided in KRS 136.300; and nothing contained in this section shall alter or repeal KRS 136.030.

Committee Substitute to **HB 565** is as follows:

HB 565, AN ACT relating to property assessment and reassessment moratoriums.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

(1) "Administering agency" means the agency delegated responsibility by the legislative body to implement the provisions of this Act.

(2) "Commercial facility" means any structure the primary purpose and use of which is the operation of a commercial business enterprise and which is twenty-five (25) years old or older.

(3) "Existing residential building" means a residential building which has been in existence for at least twenty-five (25) years and use of which is to provide independent living facilities for one (1) or more persons.

(4) "Legislative body" means the board of aldermen in a city of the first class operating under KRS Chapter 83, the city council in a city operating pursuant to KRS 83A.130, the city commission in a city operating pursuant to KRS 83A.140, the board of commissioners in a city operating pursuant to KRS 83A.150, the fiscal court in a county, and the legislative body in an urban-county government operating pursuant to KRS Chapter 67A.

(5) "Local government" means a county, municipal or urban-county government.

(6) "Rehabilitation" means the process of returning an existing structure to a state of utility through repair or alteration which makes possible an efficient contemporary use.

(7) "Repair" means the reconstruction or renewal of any part of an existing structure for the purpose of maintenance.

(8) "Restoration" means the process of accurately recovering the form and details of a structure and its setting as it appeared at a particular period of time by removal of later work or by the replacement of missing earlier work.

(9) "Stabilization" means the process of applying measures designed to re-establish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists.

(10) "Assessment or reassessment moratorium" means the act of deferring the value of the improvements from the taxable assessment of qualifying units of real property for a maximum period of five (5) years.

SECTION 2. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

(1) Any local government may by ordinance establish a program granting property assessment or reassessment moratoriums for existing residential properties or commercial facilities for the purpose of encouraging the repair, rehabilitation, restoration or stabilization of existing improvements thereon. Any such program shall be established pursuant to the provisions of this Act and shall specify the duration of effect for such assessment or reassessment moratoriums provided that any moratorium for an individual property certified by a local government shall not exceed five (5) years.

(2) The assessment or reassessment moratorium shall become effective on the assessment date next following the issuance of the moratorium certificate by the administering agency.

(3) The taxable assessment of property qualifying for an assessment or reassessment moratorium shall be that assessment provided for in subsection (2) of Section 3 of this Act.

(4) On the assessment date next following the expiration, cancellation or revocation of an assessment or reassessment moratorium, property shall be assessed on the basis of its full fair cash value.

(5) Any property granted an assessment or reassessment moratorium may be eligible for a subsequent moratorium certification provided that reapplication be made no sooner than three (3) years following the expiration of the original moratorium, or any other moratorium, and provided that such property shall otherwise meet the requirements for the assessment or reassessment moratorium.

SECTION 3. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

(1) Any owner of an existing residential building, or any owner or lessee of a commercial facility, may make application to the administering agency for a property assessment or reassessment moratorium certificate. The application shall be filed within thirty (30) days before commencing restoration, repair, rehabilitation or stabilization and shall be filed in a manner prescribed by the administering agency and on a form prescribed by the department of revenue. The application shall contain or be accompanied by a general description of the property and a general description of the proposed use of the property, the general nature and extent of the restoration, repair, rehabilitation or stabilization to be undertaken and a time schedule for undertaking and completing the project. If the property is a commercial facility, the application shall in addition, be accompanied by a descriptive list of the fixed building equipment which will be a part of the facility and a statement of the economic advantages expected from the moratorium, including expected construction employment.

(2) Except as otherwise provided herein, the property valuation administrator, or other assessing official, and the administering agency shall maintain a record of all applications for a property assessment or reassessment moratorium and shall assess or reassess the property within thirty (30) days of receipt of the application. The administering agency shall issue a moratorium certificate only after completion of the project. The applicant shall notify the administering agency when the project is complete and the administering agency shall then conduct an on-site inspection of the property for purposes of verifying improvements.

(3) The applicant shall have two (2) years in which to complete the improvement unless granted an extension by the administering agency. In no case shall the application be extended beyond two (2) additional years. This provision shall not preclude normal reassessment of the subject property.

(4) Any application for an assessment or reassessment moratorium not acted upon by the applicant shall become void two (2) years from the date of application and shall be purged from the files of the administering agency.

(5) An assessment or reassessment moratorium certificate may be transferred or assigned by the holder of the certificate to a new owner or lessee of the property with the approval of the administering agency provided that the moratorium certificate for the property has not expired.

SECTION 4. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

A county, municipal or urban-county government may declare property assessment or reassessment moratoriums for qualifying units of real property subject to the provisions of KRS Chapter 99, KRS 132.010 and 132.190.

Section 5. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Department" means the department of revenue.

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent per one hundred dollars of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference in the total valuation of property subject to taxation by the county, city, school district or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and the total valuation of property subject to taxation by the county, city, school district or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction, however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided;

(i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least ten contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government, where such activities produced an average annual gross income including payments under a state or federal program according to the following scale:

Acres	Annual Gross Income +	Income Per Acre
10 to 30	$1,000+	$60.00 per acre, or a fraction thereof, over 10 acres.

Acres	Annual Gross Income +	Income Per Acre
30 to 60	$2,200+	$40.00 per acre, or a fraction thereof, over 30 acres.
60 to 100	$3,400+	$25.00 per acre, or a fraction thereof, over 60 acres.
100 to 250	$4,400+	$10.00 per acre, or a fraction thereof, over 100 acres.
Over 250	$5,900+	$5.00 per acre, or a fraction thereof, over 250 acres.

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there must be an annual gross income of these amounts within two (2) years of purchase. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(10) "Horticultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least five contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers or ornamental plants, where such activities produced an average annual gross income according to the following scale:

Acres	Annual Gross Income +	Income Per Acre
5 to 30	$1,000 minimum, or	$100.00 per acre, or a fraction thereof, over 5 acres, or whichever amount is greater.
30 to 60	$3,000+	$50.00 per acre, or a fraction thereof, over 30 acres.
60 to 100	$4,500+	$25.00 per acre, or a fraction thereof, over 60 acres.
100 to 250	$5,500+	$10.00 per acre, or a fraction thereof, over 100 acres.
Over 250	$7,000+	$5.00 per acre, or a fraction thereof, over 250 acres.

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there is evidence of anticipated annual gross income of these amounts. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;
(b) Degree of productivity of the soil;
(c) Risk of flooding;
(d) Improvements to and on the land that relate to the production of income;
(e) Row crop capability including allotted crops;
(f) Accessibility to all-weather roads and markets; and
(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

Section 6. KRS 132.190 is amended to read as follows:

(1) The property subject to taxation, unless exempted by the constitution, shall be as follows:

(a) All real and personal property within this state, including intangible personal property of nonresidents and corporations not organized under the laws of this state that has acquired a business situs within this state, except that twenty-five (25) domestic fowls to each family shall be exempt from taxation for any purpose.

(b) All intangible personal property of individuals residing in this state and of corporations organized under the laws of this state unless it has acquired a business situs without this state.

(2) The property enumerated in paragraph (b) of subsection (1) of this section shall be considered and estimated in fixing the valuation of corporate franchises.

(3) Property shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale, *except the following: real property qualifying for an assessment moratorium shall not have its fair cash value assessment changed while under the assessment moratorium unless the assessment moratorium expires or is otherwise cancelled or revoked.*

(4) The situs of intangible personal property for purposes of taxation shall be at the residence of the real or beneficial owner, and not at the residence of the fiduciary or agent having custody or possession. Any intangible property owned by a resident shall be taxable in this state, unless by the date of assessment he has changed his place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state. The fact that a person again abides within this state within six (6) months from so changing his actual place of abode shall be prima facie evidence that he did not intend permanently to have his actual place of abode without this state. A person so changing his actual place of abode and not intending permanently to continue it without this state and not having listed his property for taxation as a resident of this state shall, for the purpose of having his property assessed for taxation within this state, be deemed to have resided, on the day when his property should have been so assessed, at his last actual or habitual place of abode within this state. The fact that a person does not claim or exercise the right to vote at public elections within this state shall not of itself constitute him a nonresident of this state.

(5) An administrator, executor, trustee, committee, curator, or agent residing in this state shall not be liable for taxes on intangible personal property held by him if the real or beneficial owner of the property resides outside of this state. This exemption shall not apply in the case of an executor or administrator in the exercise of his office as personal representative while the estate of a deceased person is in process of settlement and before the share of the nonresident legatee or beneficiary is set apart to him, or before the legatee or beneficiary is entitled to be paid his share.

(6) Nothing contained in this section shall affect the liability for franchise taxes payable by corporations organized under the laws of this state; nor the method of taxation of banks and trust companies provided in KRS 136.270; nor the method of taxation of savings and loan associations provided in KRS 136.300; and nothing contained in this section shall alter or repeal KRS 136.030.

Section 7. KRS 132.190, Acts 1980, Chapter 396, Section 63, effective July 1, 1982, is amended to read as follows:

(1) The property subject to taxation, unless exempted by the constitution, shall be as follows:

(a) All real and personal property within this state, including intangible personal property of nonresidents and corporations not organized under the laws of this state that has acquired a business situs within this state, except that twenty-five (25) domestic fowls to each family shall be exempt from taxation for any purpose.

(b) All intangible personal property of individuals residing in this state and of corporations organized under the laws of this state unless it has acquired a business situs without this state.

(2) The property enumerated in paragraph (b) of subsection (1) of this section shall be considered and estimated in fixing the valuation of corporate franchises.

(3) Property shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale, *except the following: real property qualifying for an assessment moratorium shall not have its fair cash value assessment changed while under the assessment moratorium unless the assessment moratorium expires or is otherwise cancelled or revoked.*

(4) The situs of intangible personal property for purposes of taxation shall be at the residence of the real or beneficial owner, and not at the residence of the fiduciary or agent having custody or possession. Any intangible property owned by a resident shall be taxable in this state, unless by the date of assessment

he has changed his place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state. The fact that a person again abides within this state within six (6) months from so changing his actual place of abode shall be prima facie evidence that he did not intend permanently to have his actual place of abode without this state. A person so changing his actual place of abode and not intending permanently to continue it without this state and not having listed his property for taxation as a resident of this state shall, for the purpose of having his property assessed for taxation within this state, be deemed to have resided, on the day when his property should have been so assessed, at his last actual or habitual place of abode within this state. The fact that a person does not claim or exercise the right to vote at public elections within this state shall not of itself constitute him a nonresident of this state.

(5) An administrator, executor, trustee, guardian, conservator, curator, or agent residing in this state shall not be liable for taxes on intangible personal property held by him if the real or beneficial owner of the property resides outside of this state. This exemption shall not apply in the case of an executor or administrator in the exercise of his office as personal representative while the estate of a deceased person is in process of settlement and before the share of the nonresident legatee or beneficiary is set apart to him, or before the legatee or beneficiary is entitled to be paid his share.

(6) Nothing contained in this section shall affect the liability for franchise taxes payable by corporations organized under the laws of this state; nor the method of taxation of banks and trust companies provided in KRS 136.270; nor the method of taxation of savings and loan associations provided in KRS 136.300; and nothing contained in this section shall alter or repeal KRS 136.030.

The Committee on State Government reported **HB 543,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 543, AN ACT relating to death benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every full-time police officer, sheriff, or deputy sheriff, who works not less than forty (40) hours per week, elected to office or employed by any county or city or by the state; "fire fighter" means every *paid fire fighter or volunteer fire fighter who is employed by or volunteers his services to the state, or any county, city, fire district or any other organized fire department recognized, pursuant to KRS 17.250, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth* [~~full-time fire fighter who works not less than forty (40) hours per week, employed by any county or city or by the state~~].

(2) The spouse of any police officer, sheriff, deputy sheriff or fire fighter whose death occurs as a direct result of an act in the line of duty shall receive a lump sum payment of twenty-five thousand dollars ($25,000), which sum shall be paid by the state treasurer from the general expenditure fund of the state treasury. If there is no surviving spouse, the payment shall be made to the surviving children.

(3) The benefits payable under this section are in addition to any benefits now or hereafter prescribed under any police, sheriff or fire fighter's retirement or benefit fund established by the state, county, or any municipality.

Committee Substitute to **HB 543** is as follows:

HB 543, AN ACT relating to death benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every full-time police officer, sheriff, or deputy sheriff, who works not less than forty (40) hours per week, elected to office or employed by any county or city or by the state; "fire fighter" means every *paid fire fighter or volunteer fire fighter who is employed by or volunteers his services to the state, or any county, city, fire district or any other organized fire department recognized, pursuant to KRS 17.250, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth* [~~full-time fire fighter who works not less than forty (40) hours per week, employed by any county or city or by the state~~].

(2) The spouse of any police officer, sheriff, deputy sheriff or fire fighter whose death occurs as a direct result of an act in the line of duty shall receive a lump sum payment of twenty-five thousand dollars ($25,000), which sum shall be paid by the state treasurer from the general expenditure fund of the state treasury. If there is no surviving spouse, the payment shall be made to the surviving children. *If there are no surviving children, the payment shall be made to any dependent parents of the deceased.*

(3) The benefits payable under this section are in addition to any benefits now or hereafter prescribed under any police, sheriff or fire fighter's retirement or benefit fund established by the state, county, or any municipality.

(4) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section, shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 141, SB 224, SB 47, SB 67,** and **SB 11** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:05 p.m.)

Orders of the Day

HB 383, as amended by Committee Amendment No. 1 and with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative Brown moved the adoption of the Floor Amendment No. 2 to **HB 383.**

On the roll call the vote was yeas 48-Bendl, Bennett, Blevins, Boswell, Brinkley, Brown, Bruce, Burnette, Caldwell, Clark, Cline, Crupper, Curd, Cyrus, Deskins, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Gray, Guenthner, Hancock, Handy, Head, Holbrook, Holloway, Layman, Lefevers, Little, Long, Maggard, Morris, Noland, Overstreet, Pearman, Perkins, Priddy, Rapier, Richards, P. Richardson, B. Smith, Stone, Todd, Van Horn, White, Worthington. Nays 38-Barrows, Blandford, Bronger, Burch, Clapp, Clarke, Cowan, Craddock, Freibert, Fryman, Haering, Harper, Heleringer, T. Jones, LeMaster, Lile, List, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noe, O'Brien, Petty, Rattliff, Riner, Schmidt, Seum, F. Smith, Stumbo, Thomas, Thomason, Tobin, Williams.

Floor Amendment No. 2 to **HB 383** was adopted.

Representative Brown moved that **HB 383,** as amended, be passed.

Representative Moore moved the adoption of the Floor Amendment No. 1 to **HB 383.**

On the roll call the vote was yeas 26-Cowan, Freibert, Fryman, Guenthner, Harper, Heleringer, R. Jones, T. Jones, Lile, Mann, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Petty, Rattliff, Robinson, Schmidt, Seum, F. Smith, Stumbo, Thomas, Thomason. Nays 46-Arnold, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Dunn, Ellington, Endicott, Farrow, Foster, Gray, Hancock, Handy, Head, Holbrook, Holloway, Layman, Lefevers, Little, Long, Maggard, McBee, Overstreet, Pearman, Perkins, Priddy, Rapier, B. Smith, Stone, Todd, Van Horn, White, Worthington.

Floor Amendment No. 1 to **HB 383** was rejected.

On the roll call the vote was yeas 53-Arnold, Bennett, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Cline, Crupper, Curd, Cyrus, Dawahare, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Gray, Guenthner, Haering, Hancock, Handy, Heleringer, Holbrook, Holloway, Kidd, Layman, Lefevers, Little, Long, McBee, Morris, Overstreet, Pearman, Perkins, Priddy, Rapier, Richards, P. Richardson, Riner, Seum, B. Smith, Stone, Stumbo, Todd, Van Horn, White. Nays 26-Barrows, Clarke, Cowan, Donnermeyer, Freibert, Fryman, Johnson, R. Jones, T. Jones, Lile, List, Mann, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Petty, Schmidt, F. Smith, Thomas, Thomason, Tobin, Worthington.

HB 383, as amended, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 383,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 378, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burnette moved the adoption of the Committee Amendment No. 1 to **HB 378.** Agreed.

Representative Burnette moved the adoption of the Floor Amendment No. 1 to **HB 378.** Agreed.

Representative Kenton moved the adoption of the Floor Amendment No. 2 to **HB 378.** Agreed.

Representative Burnette moved that **HB 378,** as amended, be passed.

On the roll call the vote was yeas 80-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gray, Haering, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, McBee, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Van Horn, White, Williams, Worthington. Nays 7-Barrows, Caldwell, Clarke, Harper, Meyer, Perkins, Petty.

HB 378, as amended, was passed and the title agreed to.

Representative Burnette moved that the vote by which **HB 378,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 200 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomason moved that **SB 200** be passed.

On the roll call the vote was yeas 87-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams. Nays 4-Guenthner, Layman, Mann, Stumbo.

SB 200 was passed and the title agreed to.

Representative Thomason moved that the vote by which **SB 200** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 80, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Floor Amendment No. 2 to **HB 80.** Agreed.

Representative Clarke moved the adoption of the Floor Amendment No. 1 to **HB 80.** Agreed.

Representative Hines moved that **HB 80,** as amended, be passed.

On the roll call the vote was yeas 36-Arnold, Burnette, Caldwell,Clarke, Cowan, Craddock, Crupper, Donnermeyer, Freibert, Fryman, Guenthner, Haering, Hancock, Holbrook, Johnson, R. Jones, LeMaster, List, Long, Lundergan, Mann, McBee, Meyer, Nett, O'Brien, Overstreet, Perkins, Petty, Rapier, Riner, Seum, F. Smith, Thomason, Tobin, Van Horn, White. Nays 47-Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Clark, Curd, Cyrus, Dawahare, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Gray, Handy, Head, Heleringer, Hines, Holloway, Kenton, Layman, Lefevers, Lile, Little, Maggard, Moberly, Moore, Noe, Noland, Pearman, Priddy, Rattliff, Richards, P. Richardson, Robinson, Schmidt, B. Smith, Stone, Stumbo, Thomas, Todd, Williams.

HB 80, as amended, was defeated.

Representative Hines moved that the vote by which **HB 80,** as amended, was defeated be reconsidered and said motion be placed on the table. Agreed.

HB 103, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Speaker Pro Tempore Thomason presiding.

Representative Stone moved the adoption of the Committee Substitute to **HB 103.** Agreed.

Representative Stone moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 103.** Agreed.

Representative Stone moved that **HB 103,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 68-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Caldwell, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Hancock, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Layman, Lefevers, Lile, Little, Long, Maggard, McBee, Moberly, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington. Nays 4-R. Jones, List, Meyer, Pearman.

HB 103, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Stone moved that the vote by which **HB 103,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 396 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that **HB 396** be passed.

On the roll call the vote was yeas 75-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Fryman, Gray, Guenthner, Haering, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Layman, Lefevers, Lile, Little, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington. Nays 11-Clarke, Endicott, Freibert, Hancock, Head, R. Jones, T. Jones, List, Long, Overstreet, P. Richardson.

HB 396 was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 396** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 3 to Committee Substitute to **HB 106,** by Representative Thomason:

Amend printed copy of Committee Substitute to **HB 106,** page 11, line 12, by deleting "or a" and inserting in lieu thereof the following: "and creates substantial"

Floor Amendment No. 4 to Committee Substitute to **HB 106,** by Representative Burnette:

Amend printed copy of Committee Substitute to **HB 106,** on page 13, line 17, delete lines 17, 18, 19, and 20 in their entirety and insert in lieu thereof the following: "*department under this Act shall be deposited in the general fund of the Commonwealth of Kentucky.*"

Floor Amendment No. 5 to Committee Substitute to **HB 106,** by Representative Schmidt:

Amend printed copy of Committee Substitute to **HB 106,** page 3, line 23, by adding after the words "*individual residents*" the following words: "*or the administrator*"

Floor Amendment No. 6 to Committee Substitute to **HB 106,** by Representative Freibert:

Amend printed copy of Committee Substitute to **HB 106,** page 2, line 24, after the word "*whose*" by inserting the word "*primary*"

and on line 25, after the word "*purposes*" by inserting the words "*for visiting*"

Floor Amendment No. 7 to Committee Substitute to **HB 106,** by Representative Overstreet:

Amend printed copy of Committee Substitute to **HB 106,** page 20, lines 1 thru 14, by deleting lines 1 through 14 on page 20 in their entirety.

Floor Amendment No. 8 to Committee Substitute to **HB 106,** by Representative Ellington:

Amend printed copy of Committee Substitute to **HB 106,** page 19, line 4, after the word "*facility;*" by adding the word "*or*", and on line 7, by deleting the word "*or*", and by deleting lines 8 through 10 in their entirety, and on line 11, by deleting Sections 19 through 24 in their entirety, and by renumbering the remaining sections to conform.

Floor Amendment No. 9 to Committee Substitute to **HB 106,** by Representative Overstreet:

Amend printed copy of Committee Substitute to **HB 106,** page 19, line 11, by deleting Sections 19, 20, 21, 22, 23, and 24 in their entirety.

Floor Amendment No. 10 to Committee Substitute to **HB 106,** by Representative Schmidt:

Amend printed copy of CommitteeSubstitute to **HB 106,** page 3, line 23, following the word "residents" add the following: "*or the administrator for good cause*"

Floor Amendment No. 1 to **HB 290,** by Representative Barrows:

Amend printed copy of **HB 290,** on page 1, line 18, by deleting all of line 18 after "*ment*" and by substituting therefor: "*for sale to the public.*"; and

on page 1, line 19, by deleting all of line 19; and

on page 5, line 17, by inserting after "*provided*" the following: "*that a division of land for agricultural use*"; and

on page 5, line 17, by deleting the closing bracket after "[providing]", and by inserting a closing bracket after "that", and by deleting "*the commission*"; and on page 5, line 18, by deleting all underscored material, and by inserting an opening bracket before "a"; and

on page 5, line 19, by deleting all underscored material; and

on page 5, line 20, by deleting all underscored material and brackets.

Floor Amendment No. 3 to **HB 312,** by Representative Farrow:

Amend printed copy of **HB 312,** page 1, line 3, after the word "shall" delete "be operated" and insert in lieu thereof "tow a vehicle"

Floor Amendment No. 1 to the Committee Substitute to **HB 498,** by Representative Arnold:

Amend printed copy of Committee Substitute to **HB 498,** page 6, line 13, by adding the following:

Section 6. KRS 382.520 is amended to read as follows:

(1) In all cases where a loan is secured by a real estate mortgage, the mortgage originally executed and delivered by the borrower to the lender shall secure payment of all renewals and extensions of the loan and the note evidencing it, whether so provided in the mortgage or not.

(2) The mortgage referred to in subsection (1) of this section may secure any additional indebtedness, whether direct, indirect, existing, future, contingent or otherwise, to the extent expressly authorized by the mortgage, if the mortgage by its terms stipulates the maximum additional indebtedness which may be secured thereby. The mortgage lien authorized by this subsection shall be superior to any liens or encumbrances of any kind created after recordation of such mortgage, even to the extent of sums advanced by a lender with actual or constructive notice of a subsequently created lien, provided, however, any mortgagee upon request of a mortgagor must release that amount of a lien to secure additional indebtedness as exceeds the balance of such *additional* indebtedness at the time of such request.

Floor Amendment No. 11 to Committee Substitute to **HB 106,** by Representative Haering:

Amend printed copy of Committee Substitute to **HB 106,** page 36, line 3, by adding the following: Section 32. This Act shall be repealed on July 15, 1986.

Representative O'Brien moved that **HB 394** be recommitted to the Committee on Business Organizations and Professions. Agreed.

Representative Todd moved the adoption of the following Legislative Citations No. 36, 37, 38, 39, 40, 41, and 42. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends the Future Farmers of America, Pulaski County Chapter for your admirable contribution to the welfare of our nation as exemplified in your wise selection of the very vital vocation of agriculture. As you celebrate National Future Farmers of America Week, we are highly honored to know that you have shared and participated in such an indispensable endeavor. Your philosophy as expressed "We believe in the future of farmers because Kentucky's future depends on the success of agriculture" is paramount. We as a state and nation will be the great beneficiaries of your dedication, hard work and great sacrifices.

This body salutes you for your courage and determination reflected in your being most useful and deserving citizens. (Sponsored by Representative Todd)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Somerset Fire Department Number One of Pulaski County for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Todd)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Somerset Fire Department Number Two of Pulaski County for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Todd)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Burnside Fire Department of Pulaski County for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Todd)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Parkers Mill Fire Department of Pulaski County for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Todd)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Ferguson Fire Department of Pulaski County for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Todd)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Shopville-Stab Fire Department of Pulaski County for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Todd)

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Clark, **HB 148, HB 149, HB 489**; Representative Fryman, **HB 803**; Representative Holbrook, **HR 42, HB 565**; Representative Maggard, **HB 505**; Representative Noe, **HR 66**; Representative Schmidt, **HR 2**; Representative White, **HB 396.**

Representative Barrows requested that his name be withdrawn from **HB 635.**

Representative Blandford requested that his name be withdrawn from **HB 661, HB 662.**

The following meetings were announced.

Committee on Rules: On adjournment, Room 316.

Transportation: On adjournment, Room 104.

Budget Review: Education, Friday, 8:00 a.m.

Business Organizations and Professions: Special meeting, Friday, 9:00 a.m., Room 109.

Education: Cancelled today.

Counties and Special Districts: Friday, 8:00 a.m.

Energy: On adjournment, Room 103.

Subcommittee on Transportation: Friday, 8:30 a.m.

Representative LeMaster moved that no other business be conducted on this day other than Introduction of Bills and Resolutions and Report of Committees. Agreed.

Representative LeMaster moved that when the House adjourns, it do so by voice vote. Agreed.

Representative LeMaster moved that when the House adjourns it do so until 10:00 a.m., Friday, March 5, 1982. Agreed.

Introduction of Bills and Resolutions

HCR 74, by Representatives Burnette, Haering and Seum: A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study relating to the motor vehicle usage tax.

HJR 75, by Representatives O'Brien and Burnette: A JOINT RESOLUTION urging the United States to adopt a National Strategy of Peace Through Strength.

HR 76, by Representatives Handy, Craddock, Barrows, Moore, Ellington, Brinkley, Head, Noe, Holbrook, Worthington, McNutt, Bruce, and Kenton: A RESOLUTION recognizing the service performed by the University of Kentucky Community College System through its faculty and staff, and expressing a reaffirmation of commitment to the role of the University of Kentucky Community College System to higher education, as mandated in the legislative acts of 1962.

HJR 77, by Representativ McBee: A JOINT RESOLUTION correcting the name of Laughery Island.

HR 78, by Representative Noe: A RESOLUTION requesting the President of the United States to direct the Secretary of the Army to comply with congressional mandate to fund the construction of flood control projects on the Levisa and Tug Forks of the Big Sandy and the Upper Cumberland River by the Corps of Engineers; and the Chairman of both the House and Senate Appropriations Subcommittees that review water projects to investigate the Secretary of the Army's actions.

HCR 79, by Representative Morris: A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study to determine the fiscal impact on the feed and grain industry and the administrative cost to the Department of Revenue of the record keeping requirements associated with the tax-exempt sale of feed and seed.

HCR 80, by Representatives McNutt, Tobin, Brinkley, Noland, Craddock, Cowan, Dawahare, O'Brien, Moberly, Johnson, Burnette, Seum, Haering, Kenton, Freibert, Pearman, Petty, Thomas, F. Smith, Little, Maggard, Richards, Morris, and Robinson: A CONCURRENT RESOLUTION commemorating the Golden Anniversary of Paducah Junior College/Paducah Community College.

HR 81, by Representative Donnermeyer: A RESOLUTION requesting the legislative research commission to appoint a subcommittee of the interim joint committee on business organizations and professions to study cable television.

HCR 82, by Representatives Burnette and B. Smith: A CONCURRENT RESOLUTION requesting that the Governor appoint an advisory committee to study farm credit and other economic problems of farmers in the state.

HB 787, by Representative Lundergan: AN ACT relating to the regulation of health facilities and health services.

HB 788, by Representatives Van Horn and Bennett: AN ACT relating to occupational safety and health of employes.

HB 789, by Representative Gray: AN ACT relating to transfer of teachers.

HB 790, by Representative Burch: AN ACT relating to public accountancy.

HB 791, by Representatives Lundergan and P. Richardson: AN ACT relating to insurance.

HB 792, by Representative Gray: AN ACT relating to liability of owners of dams.

HB 793, by Representatives Head, Hines, Stone, Brinkley, and Boswell: AN ACT relating to registration of confidential law enforcement vehicles.

HB 794, by Representatives Endicott, Patrick, Stone, Cyrus, Noland, Ford, Fryman, Maggard, Lefevers, Todd, and White: AN ACT relating to condemnation.

HB 795, by Representatives Hering, Burnette, Bronger, and Moore: AN ACT relating to the public school curriculum.

HB 796, by Representative Perkins: AN ACT relating to fire insurance premium reduction.

HB 797, by Representatives Noe and Barrows: AN ACT relating to disaster, establishing the Kentucky disaster loan authority, and making an appropriation therefor.

HB 798, by Representatives Harper and Caldwell: AN ACT relating to alcoholic beverage control.

HB 799, by Representatives Clapp, Boswell and Burnette: AN ACT relating to agriculture.

HB 800, by Representative T. Jones: AN ACT relating to group self insurance.

HB 801, by Representatives Stumbo and Boswell: AN ACT relating to the railroad commission.

HB 802, by Representatives Ellington, Burnette, Blandford, Boswell, Blevins, Clapp, and B. Smith: AN ACT relating to grain.

HB 803, by Representatives Ellington and Turner: AN ACT relating to purchasing.

HB 804, by Representative LeMaster: AN ACT relating to public employes.

HB 805, by Representative Bruce: AN ACT relating to the governor's mansion.

HB 806, by Representatives P. Richardson, Lundergan, and Arnold: AN ACT relating to insurance.

HB 807, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 808, by Representatives LeMaster and Nett: AN ACT relating to the Kentucky Development Finance Authority.

HB 809, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 810, by Representative Clarke: AN ACT relating to motor vehicle taxes.

HB 811, by Representative Clarke: AN ACT relating to surface coal mining.

HB 812, by Representative Clarke: AN ACT relating to unmined minerals.

HB 813, by Representatives LeMaster, B. Richardson, Clarke, Dunn, Thomason, and Donnermeyer: AN ACT relating to fees and costs for utilizing state services.

HB 814, by Representatives Perkins, Blevins, Cyrus, Brinkley, Stumbo, Bronger, Mann, and Cline: AN ACT relating to the establishment of certificate of need, licensing and regulation of health facilities and health services.

HB 815, by Representative Deskins: AN ACT relating to mobile homes.

HB 816, by Representatives Hancock, List, Arnold, Barrows, Bendl, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Ellington, Farrow, Freibert, Guenthner, Haering, Handy, Harper, Heleringer, Holloway, R. Jones, T. Jones, Kenton, Lile, Long, Lundergan, Mann, McBee, McNutt, Meyer, Nett, O'Brien, Pearman, Petty, Priddy, Rapier, Riner, Schmidt, Seum, B. Smith, F. Smith, Van Horn: AN ACT relating to the local government economic assistance fund and the disbursement of monies therefrom.

HB 817, by Representative Thomason: AN ACT relating to crimes and punishments.

HB 818, by Representative Donnermeyer: AN ACT relating to school district finance.

HB 819, by Representatives Blandford and Priddy: AN ACT relating to long term care facilities.

HB 820, by Representatives Stumbo, Boswell, Brinkley, Perkins, B. Richardson, LeMaster, Blandford, Deskins, Bruce, and Mann: AN ACT relating to the energy development and demonstration projects.

HB 821, by Representative Williams: AN ACT relating to cooperative corporations.

HB 822, by Representative Deskins: AN ACT relating to aviation safety.

HB 823, by Representative Deskins: AN ACT relating to the Kentucky board of claims.

HB 824, by Representative Williams: AN ACT relating to gasoline dealership.

HB 825, by Representatives Donnermeyer and Clarke: AN ACT relating to local school district finances.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: **HB 676, HB 416, SB 10.**

Appropriations and Revenue: **HB 208.**

Banking and Insurance: **HB 731, HB 703.**

Counties and Special Districts: **HB 621, HB 632, HR 46, HR 49, HB 176, HB 567.**

Education: **HB 242, HB 700, HB 753.**

Business Organizations and Professions: **SB 293, HB 631, HB 587, HB 670, HB 704, HB 714, HB 711, SB 283.**

Report of Committees

The Committee on Judiciary-Criminal reported **HB 596,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at legnth for the first time and ordered placed in the Calendar.

HB 596, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 530 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of unlawful transaction with a minor in the first degree when he knowingly induces, assists, or causes a minor to engage in illegal sexual activity except those offenses involving minors in KRS Chapter 531 and KRS 529.040(1)(b), illegal controlled substances activity, illegal gambling activity, or any other criminal activity.

(2) Unlawful transaction with a minor in the first degree is a Class D felony.

Section 2. KRS 530.070 is amended to read as follows:

(1) A person is guilty of unlawful transaction with a minor *in the second degree* when:

(a) Acting other than as a retail licensee, he knowingly sells, gives, purchases or procures any alcoholic or malt beverage in any form to or for a minor. The defendant may prove in exculpation that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. This subsection does not apply to a parent or guardian of the minor; or

(b) [~~He knowingly induces, assists, or causes a minor to engage in illegal sexual activity except those offenses involving minors in KRS Chapter 531 and KRS 529.040(1)(b), illegal controlled substances activity, illegal gambling activity or any other criminal activity; or~~

~~(c)~~] He knowingly induces, assists or causes a minor to become a habitual truant; or

(c)[~~(d)~~] He persistently and knowingly induces, assists or causes a minor to disobey his parent or guardian.

(2) Unlawful transaction with a minor *in the second degree* is a Class A misdemeanor.

Committee Amendment No. 1 to **HB 596** is as follows:

Amend printed copy of **HB 596,** on page 1, line 7, by deleting "*, illegal controlled*" and by inserting after "*(b)*" a "."

and on page 1, lines 8 and 9, by deleting same in their entirety

and on page 1, line 11, by deleting "*D*" and by inserting in lieu thereof "*C*"

and on page 1, after line 11, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 530 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of unlawful transaction with a minor in the second degree when he knowingly induces, assists, or causes a minor to engage in illegal controlled substances activity or any other criminal activity which constitutes a felony.

(2) Unlawful transaction with a minor in the second degree is a Class D felony."

and on page 1, line 15, by deleting "*second*" and by inserting in lieu thereof "*third*"

and on page 2, line 7, by deleting the bracket and by deleting the strike through for the remainder of the line

and on page 2, line 8, by deleting the strike through from "minor to engage in" and by inserting the following: "*any other criminal activity constituting a misdemeanor or violation;*"

and on page 2, line 8, by placing a bracket before "sexual"

and on page 2, line 11, by placing a bracket after the word "activity"

and on page 2, lines 12 and 13, by deleting the strike through

and on page 2, line 13, by deleting the bracket

and on page 2, line 15, by deleting "*(c)*" and by deleting the brackets and strike through of "(d)"

and on page 2, line 18, by deleting "*second*" and by inserting in lieu thereof "*third*"

The Committee on State Government reported **HB 415,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 415, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 18A IS ESTABLISHED AND KRS 18.110 IS REPEALED AND RE-ENACTED AS A NEW SECTION THEREOF AND AMENDED TO READ AS FOLLOWS:

As used in *this Act* [~~KRS 18.110 to 18.360~~], unless the context indicates otherwise:

(1) "Appointing officer" means the officer or employe or group of officers or employes authorized by law to make appointments;

(2) "Board" means the personnel board created by *Section 9 of this Act* [~~KRS 18.160~~];

(3) *"Career employe" shall mean a state employe with twenty (20) or more years of permanent full-time state service, or the part-time employment equivalent of at least twenty (20) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof.*

(4) "Certification" means the referral of the name of one or more qualified prospective employes by the commissioner [~~of personnel~~] on request of an appointing officer for consideration in filling a position in the classified service;

(5)[~~(4)~~] "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(6)[~~(5)~~] "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in *Section 23 of this Act* [~~KRS 18.140~~]; a "classified position" is a position in the classified service;

(7) "Commissioner" means the commissioner of the department of personnel as provided for in Section 3 of this Act.

(8)[~~(6)~~] "Demotion" means a change in the rank of an employe from a position in one (1) class to a position in another class having a lower minimum salary range and less discretion or responsibility;

(9)[~~(7)~~] "Department" means the department of personnel provided for in *Section 3 of this Act* [~~KRS 18.160~~] unless the context indicates otherwise;

(10)[~~(8)~~] "Eligible" refers to a person who has made a passing score on any examination required under *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] and who has qualified to be placed on a register;

(11)[~~(9)~~] "Emergency employe" means an employe appointed without regard to the examination requirements of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] to any position by reason of a governmental emergency, whose appointment is not to exceed thirty (30) working days in duration and is nonrenewable;

(12)[~~(10)~~] "Employe" means a person regularly appointed to a position in the state service for which he is compensated on a full-time or part-time basis;

(13)[~~(11)~~] "Position" means an office or employment in an agency (whether part-time, full-time, permanent, temporary, seasonal, federally funded time-limited, or emergency, occupied or vacant) involving duties requiring the services of one (1) person;

(14)[~~(12)~~] "Probation" means the period of service following appointment to any position under *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] which requires special observation and evaluation of an employe's work and which must be passed successfully before status may be conferred as provided in *Section*

22 of this Act [~~KRS 18.210~~]. An employe serving the probationary period is known as a "probationary employe";

(15)[~~(13)~~] "Promotion" means a change of rank of an employe from a position in one (1) class to a position in another class having a higher minimum salary and carrying a greater scope of discretion or responsibility;

(16)[~~(14)~~] "Provisional employe" means any employe appointed on a temporary or interim basis to a permanent position under *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] without examination, such appointment being made necessary by the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in *Section 22 of this Act* [~~KRS 18.210~~];

(17) "Rank and file employe" means a person employed by the state in either a classified or unclassified position and compensated on a full-time basis by the executive branch of government currently employed below the level of director.

(18)[~~(15)~~] "Reemployment list" means the separate list of names of persons reduced in force by reason of lack of appropriations, curtailment of program or abolishment of position or of organizational unit, and through no fault of their own, who have requested the opportunity for further consideration of state employment. Reemployment lists are used as provided in *Section 22 of this Act* [~~KRS 18.210~~] and subject to *Sections 26 and 27 of this Act* [~~KRS 18.216 and 18.217~~];

(19)[~~(16)~~] "Register" means any official list of eligibles for a particular class placed in rank order according to the examination records, maintained for use in making original appointments or promotions to positions in the classified service;

(20)[~~(17)~~] "Status" means the acquisition of tenure with all rights and privileges appertaining thereunto after satisfactory completion of the probationary period by an employe in the classified service;

(21)[~~(18)~~] A "temporary position" is one created for a defined period of time not to exceed six (6) months and not renewable; a "temporary employe" is one (1) appointed to such a temporary position. A "seasonal position," although temporary in duration in the foregoing sense, coincides in duration with a particular season or seasons of the year, but may not exceed eleven (11) months duration, and may recur regularly from year to year; a "seasonal employe" is one appointed to such a seasonal position from an existing eligible list or without reference to an eligible list;

(22)[~~(19)~~] A "federally funded time-limited position" is one created for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided. A "federally funded time-limited" employe is one appointed to such position and, except as provided in *Section 23 of this Act* [~~KRS 18.140~~], may in all other respects be entitled to the benefits provided permanent, full-time regular employes as defined in *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~];

(23)[~~(20)~~] "Transfer" means a movement of any employe from one (1) position to another of the same grade having the same salary ranges and the same level of responsibility within the classified service;

(24)[~~(21)~~] A "war veteran" is a person who served on active duty in the United States armed forces during any war, or in a campaign or expedition for which a campaign badge or service medal has been authorized, or between April 28, 1952, and July 1, 1955 or between August 6, 1964 and May 7, 1975.

SECTION 2. KRS 18.120 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The general purpose of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] is to establish for the state a system of personnel administration based on merit principles and scientific methods governing the recruitment, examination, appointment, promotion, transfer, lay-off, removal, discipline, and welfare of its *classified* [~~civil~~] employes and other incidents of state employment. All appointments and promotions to positions in the state *classified* [~~civil~~] service shall be made solely on the basis of merit and fitness, to be ascertained by competitive examination, except as hereinafter specified. The general assembly finds that this chapter is necessary in order to improve the morale and motivation of state employes and to gain the maximum utilization of human resources in order to provide better service to the citizens of this Commonwealth.

SECTION 3. KRS 18.160 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) There shall be created by *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] a department of personnel headed by a commissioner who shall be appointed by the governor *subject to the approval of a majority of the full board.*

(2) Appropriations shall be made from the general expenditure fund to the department to meet the estimated pro rata share of the cost of administering the provisions of this chapter for departments, commissions, boards or agencies which receive their sole support from the general expenditure fund.

(3) The commissioner shall maintain accurate records reflecting the cost of administering the provisions of this chapter. At the close of each quarter year period he shall summarize the cost and shall bill each department, commission, board or agency which receives support from sources other than the general expenditure fund, except the department of fish and wildlife resources, for a pro rata share of the administrative cost based on the relationship between the quarterly average number of employes in the service of

such department, commission, board or agency and the quarterly average number of employes in the service of all the departments, commissions, boards and agencies for the appropriate calendar quarter.

(4) All departments, commissions, boards or agencies which receive support from other than the general expenditure fund, except the department of fish and wildlife resources, shall include in their budgets sufficient amounts to meet their pro rata shares of the cost of administering Sections 1 to 40 of this Act and shall remit such shares quarterly to the department in the manner provided by law.

(5) The department is authorized and directed to accept on behalf of the state any grant or contribution, federal or otherwise, made to assist in meeting the cost of carrying out the purposes of Sections 1 to 40 of this Act [~~There shall also be created a personnel board in which shall be vested the constitutional powers and responsibilities of officers of the Commonwealth. The personnel board shall consist of five (5) members appointed by the governor for four (4) year terms, and the governor shall select citizens of Kentucky known for their devotion to the merit principle in government employment and the improvement of management and professional development of the public service of the state. No member of the personnel board shall be otherwise an employe or officer of the Commonwealth except faculty or staff members of the state universities or colleges. No member of the personnel board shall be a member of any local, state, or national committee of a political party, or an officer or member of a committee in any partisan political club or organization, or shall be or have been a candidate for any elective office within one (1) year prior to appointment. Members of the personnel board shall receive compensation of sixty-five dollars ($65) per diem and reimbursements of travel expenses and other special expenses for each called meeting of the board or hearing which they attend. If any board member misses three (3) consecutive meetings for any reason other than illness or temporary absence from the Commonwealth, he shall be deemed to have vacated his office and the governor shall proceed forthwith to appoint a successor to his unexpired term.~~

~~(2) The members of the first board shall be appointed by the governor within thirty (30) days of July 1, 1960. Of the members first appointed, one (1) shall serve until January 1, 1961, one (1) until January 1, 1962, one (1) until January 1, 1963, and two (2) until January 1, 1964. Thereafter, each term shall run for four (4) years from the date of expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. Each member of the board shall hold office until his successor is appointed and qualifies.~~

~~(3) Members of the personnel board may be removed by the governor only for cause after being given a copy of charges against them and an opportunity to be heard publicly, with the advice of counsel, on such charges against them before the governor and a finding of fact by the governor. A copy of the charges and transcript of the record of the hearing and findings of fact shall be filed with the secretary of state.~~

~~(4) The personnel board shall annually elect one (1) of its members chairman. It shall meet at such time and place as shall be specified by call of the chairman or the commissioner of personnel. At least one (1) meeting shall be held each month. All meetings shall be open to the public. Notice of each meeting shall be given in writing to each member by the commissioner of personnel at least three (3) days in advance of the meeting. Three (3) voting members shall constitute a quorum for the transaction of business. The personnel board shall keep records and minutes of its business and official actions, with the commissioner of personnel serving as secretary. Such minutes shall be public records open to public inspection, subject to such reasonable rules as to hours and conditions of inspection as the board may establish. It shall be the duty of the officer or officers charged by law with the custody of the state buildings, upon written request of the personnel board, to assign suitable office space for executing the duties charged to it and to the commissioner of personnel~~].

SECTION 4. KRS 18.290 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The records of the department[~~, except such records as the rules may properly require to be held confidential for reasons of public policy,~~] shall be public records and shall be open to public inspection, *as provided in KRS 61.870 to 61.884* [~~subject to such reasonable regulations as to the time and manner of inspection as may be prescribed by the commissioner~~].

SECTION 5. KRS 18.180 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The Governor shall appoint the commissioner of personnel *as provided in Section 3 of this Act*, who shall be considered an employe of the state. He shall be a *graduate of an accredited college or university and have at least ten (10) years experience in personnel administration or in related fields,* [~~person who has had extensive training and experience in personnel administration or in allied fields, shall~~] have known sympathies with the merit principle in government *and shall be dedicated to the preservation of this principle* [~~service, and shall evidence such other qualifications as are essential to the performance of the duties of the position~~].

SECTION 6. KRS 18.190 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The commissioner [~~of personnel~~] shall be the executive and administrative head of the department [~~of personnel~~] and shall supervise and control all examinations and work of the department. He shall act as the [~~personnel~~] board's adviser on all matters pertaining to the *classified* [~~civil~~] service of this state. Within the limitations of the budget, the commissioner [~~of personnel~~] shall appoint and supervise such staff as may be needed in the department [~~of personnel~~] to carry out the purposes of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~]. It shall be the duty of the commissioner [~~of personnel~~], with the aid of his staff to:

(1) Attend all meetings of the [~~personnel~~] board;

(2) Prepare and recommend to the [~~personnel~~] board rules and regulations for the purpose of carrying out the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~]. Such rules shall provide, among other things, the manner of completing appointments and promotions, including multiple and simultaneous certifications; rejection of ineligible candidates; competitive examinations; creation of eligible lists with successful candidates ranked according to their rating in the examination; leaves of absence with and without pay; transfers, reinstatements, lay-offs; public notice of examinations; procedures for changes in rates of pay; and other conditions of employment;

(3) Establish general procedures for personnel recruitment, for certification, for improving the efficiency of employed personnel, and for the separation of employes deemed unsatisfactory or excessive by agency or department heads subject to the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~];

(4) Appoint such examiners and technicians as are necessary for the conduct of the personnel program, whether on a permanent or temporary basis;

(5) Prepare and maintain a record of all employes, showing for each employe his name, [~~post-office~~] address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make such data and the class specifications for all positions available to the press and public;

(6) Prepare, in accordance with the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] and the rules adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;

(7) Make certification for appointment or promotion within the classified service, in accordance with the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~];

(8) Make investigations concerning all matters touching the enforcement and effect of the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] and rules and regulations prescribed thereunder;

(9) Prepare, in cooperation with appointing authorities and others, programs for appraising employe work performance and collaborate with the several departments of the commonwealth in the development of programs for employe training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department [~~of personnel~~] to this end;

(10) Provide personnel services to unclassified employes in agreement with the agencies involved not otherwise provided for herein;

(11) Present, in accordance with the provisions of KRS 45.070, budget estimates for the support of the personnel system created by *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~];

(12) Make a report and submit the same to the [~~personnel~~] board and to the governor not later than October first of each year; [~~and~~]

(13) Discharge such other duties as are imposed upon him by *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], or by the board. The commissioner [~~of personnel~~] on behalf of the department may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration*; and*

(14) Keep records relative to employe turnover and report to the board, the governor and the legislative research commission quarterly. The report shall reflect employe turnover rates by cabinet, department, bureau, division and section. If any cabinet, department, bureau, division or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the commissioner shall conduct an investigation into the reasons for the turnover and report the findings to the board, the governor and the legislative research commission.

SECTION 7. KRS 18.200 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A TO READ AS FOLLOWS:

(1) The commissioner may from time to time designate in writing an employe of the department to act for him in case of his absence or inability from any cause to discharge the powers and duties of his position. In such case, the powers and duties of the commissioner shall devolve upon his designee.

(2) The commissioner may request appropriate persons, including officers and employes in the state service, to assist in the preparation and rating of tests. Department heads shall cooperate to the fullest extent possible in making the services of their employes available for such work.

(3) The commissioner of personnel shall serve ex officio as a member of the board of trustees of the Kentucky employes' retirement system.

SECTION 8. KRS 18.340 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The [~~personnel~~] board and the commissioner shall see that rules, regulations and practices meeting federal merit system standards shall, where such standards apply as a prerequisite for federal grants-in-aid, be in effect continuously, notwithstanding any other provision of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~].

SECTION 9. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a personnel board in which shall be vested the constitutional powers and responsibilities of officers of the Commonwealth. The board shall consist of seven (7) members, five (5) of whom shall be appointed by the governor as provided in Section 10 of this Act. Two (2) members of the board shall be rank and file employes elected by classified and unclassified employes as provided in Section 11 of this Act.

(2) Of the five (5) members of the board appointed by the Governor:

(a) One (1) member shall be a citizen at large not associated with state government in any manner;

(b) One (1) member shall be selected from a list of three (3) names submitted by the commission on human rights;

(c) One (1) member shall be selected from a list of three (3) names submitted by the commission on women; and

(d) Two (2) members shall be selected from a list of five (5) names submitted by the legislative research commission. The appointees shall not be from the same political party.

(3) The two (2) members of the board elected by classified and unclassified employes, as provided in Section 11 of this Act, shall be rank and file employes. Any person retaliating in any manner and any person ordering the retaliation of a classified or unclassified employe or a member of his family because he has participated in the election of a rank and file employe to the board, either by being a candidate or voting for a candidate, shall be subject to the provisions of Section 56 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) Initial appointments to the board by the governor, as provided in Section 9 of this Act, shall be made on or before September 15, 1982. Of the members appointed to the board, the legislative research commission appointees shall serve until July 1, 1983; the commission on women and commission on human rights appointees shall serve until July 1, 1984; and the citizen at large appointee shall serve until July 1, 1985. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of such term shall be appointed in the same manner as provided in Section 9 of this Act and for the remainder of such term.

(2) The initial election of rank and file employes to the board by classified and unclassified employes shall be held as provided in Section 11 of this Act. The two (2) rank and file employes initially elected to the board shall serve until July 1, 1986. Subsequent elections shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was elected, except that a person elected to fill a vacancy prior to the expiration of such term shall be elected, as provided in Section 12 of this Act, to fill the remainder of such term.

(3) If an elected board member accepts a position with state government above that of a rank and file employe, his membership on the board shall be terminated immediately and the vacancy shall be filled as provided in Section 12 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) The initial election of a rank and file employe to the board by classified and unclassified employes shall be held on or before September 15, 1982. Subsequent elections shall be held every four (4) years on or before July 1.

(2) The department shall provide written notification of the date of the initial election to all classified and unclassified employes on or before August 1, 1982. In subsequent elections, written notification shall be provided to all classified and unclassified employes on or before May 15.

(3) Rank and file employes wishing to serve on the initial board shall notify the department on or before August 15, 1982, or their intent. The notification shall be notarized and include the candidate's name, address, social security number, job classification and length of state employment. The notification shall also include the name and address of his employer. In subsequent elections all candidates to the board shall notify the department of their intent to run, in the same manner, on or before June 1.

(4) The department shall provide ballots for the initial election to the board to all classified and unclassified employes on or before September 1, 1982. Ballots shall contain the name, address, job classification and length of state employment of all candidates as well as the names and addresses of their employers. In subsequent elections, ballots shall be provided to all classified and unclassified employes, in the same manner, on or before June 15.

(5) All returned ballots for the initial election to the board shall be signed and postmarked no later than midnight, September 15, 1982. In subsequent elections, all returned ballots shall be signed and postmarked no later than midnight, July 1.

(6) The department shall tabulate all returned ballots for the initial election and subsequent elections to the board and notify all successful candidates within five (5) working days of the elections. The two (2) candidates receiving the largest number of votes shall be declared the successful candidates. In the event of a tie vote, the tie shall be broken by a coin toss in the presence of the candidates in question. Successful candidates shall take office immediately upon notification.

(7) All ballots for the initial and all subsequent elections shall be public record and open to public inspection for at least sixty (60) days after the elections.

(8) State employes shall not use state materials or equipment for any purpose related to the election of rank and file employes to the board, nor shall any activity related to the election of a rank and file employe to the board be conducted during working hours.

SECTION 12. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) If an elected member of the board vacates his seat for any reason other than the normal expiration of his term, the department shall provide written notification of the vacancy to all classified and unclassified employes within fifteen (15) days of the vacancy.

(2) Rank and file employes wishing to fill the vacancy shall notify the department within ten (10) days of the department's notification of the vacancy.

(3) A majority of the remaining members of the board shall make the appointment to fill the vacancy from the list of those employes who have notified the board under subsection (2) of this section.

SECTION 13. KRS 18.280 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The [~~personnel~~] board, each member of the [~~personnel~~] board, and the commissioner shall have the power to administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~]. Any person who shall fail to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation or hearing or who shall knowingly give false testimony therein shall be *subject to the provisions of Section 56 of this Act* [~~guilty of a misdemeanor~~].

SECTION 14. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) The board shall annually elect one (1) of its members chairman and one (1) of its members vice-chairman.

(2) At least one (1) meeting shall be held each month.

(3) All meetings shall be open to the public as provided in KRS 61.870 to 61.884. Any head of the department or agency employing an elected member of the board or any other person shall not prohibit him from attending meetings of the board, conducting the business of the board, influence or attempt to influence any decision made by that person, discipline the individual for attending the meeting; or, take any other action inimical to the interests of the employe or his family. Any person violating the provisions of this subsection shall be subject to the provisions of Section 56 of this Act.

(4) Notice of each regular meeting shall be given in writing to each member of the board at least seven (7) days in advance of the meeting. Four (4) voting members shall constitute a quorum for the transaction of business. The board shall keep records and minutes of its business and official actions.

(5) All records of the board shall be public records and open to public inspection as provided in KRS 61.870 to 61.884.

SECTION 15. KRS 18.170 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

It shall be the duty of the [~~personnel~~] board to:

(1) Adopt comprehensive rules consistent with the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;

(2) Present to the governor, through the secretary of the department of finance, for his adoption such classification and compensation plans for the state service, provision for vacation, sick and special leave and hours of work, together with rules for their administration, as recommended by the commissioner [~~of personnel~~] and the board after a thorough survey of the personnel and departmental organizations included in such plan or plans;

(3) Make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], and to require observance of its provisions and the rules and regulations made pursuant thereto; and to make such investigation as may be requested by the general assembly or the governor and to report thereon;

(4) Hear appeals from applicants for positions for which examinations are being or have been conducted, from eligibles on examination registers, [~~and~~] from *unclassified employes who have been dismissed, demoted, suspended, or otherwise penalized for cause, and from* officers or employes serving under the personnel system created by *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], as hereinafter provided, subject to the procedural rules which the board may adopt pursuant to the provisions of this section;

(5) Promote public understanding of merit principles in government service;

(6) Make annual reports to the governor and biennial reports to the general assembly, which reports shall be a public record freely available to those persons interested in obtaining a copy;

(7) Advise the governor and the commissioner [~~of personnel~~] with respect to the administration of the personnel system created by *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~];

(8) Consider and act on such matters as may be referred to the board by the commissioner [~~of personnel~~]; and

(9) Represent the public interest in the improvement of personnel administration in the state service, and advise and assist the commissioner [~~of personnel~~] in fostering the interest of institutions of learning and of civic, professional, and employe organizations in the improvement of personnel standards in the state service.

SECTION 16. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 40 of this Act, members of the board shall receive compensation of sixty-five dollars ($65) per diem and reimbursement for travel and other expenses in accordance with state regulations and standards applicable to state employes.

(2) Any board member missing three (3) consecutive regular meetings shall be deemed to have vacated his office. Replacements to the board shall be made as provided in Sections 9(2) and 12 of this Act.

SECTION 17. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) Members of the board may be removed by the governor for cause after being given a copy of charges against them and an opportunity to be heard publicly, with the advice of counsel, on such charges against them before the governor and a finding of fact by the governor. A copy of charges shall be furnished to the board member being removed.

(2) Any member of the board removed by the governor may within thirty (30) days appeal the governor's order removing him from the board to the Franklin Circuit Court. If the court finds the governor's action to be arbitrary, capricious or contrary to the weight of the evidence in the case, it shall void the governor's order.

SECTION 18. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

As provided by the budget enacted by the general assembly and other laws applicable to state personnel, the board may employ and discharge any personnel as may be necessary to administer and enforce provisions of this Act and shall outline the duties and fix the compensation of such persons.

SECTION 19. KRS 18.270 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Any classified employe who is dismissed, demoted, suspended, or otherwise penalized after completing his probationary period of service may, within thirty (30) days after such dismissal, demotion, suspension, or other form of penalization, appeal to the [~~personnel~~] board for review thereof. Upon such review, both the appealing employe and the appointing authority whose action is reviewed shall have the right to be heard publicly and to be represented by counsel to present evidentiary facts. At the hearing of such appeals, technical rules of evidence shall not apply. If the [~~personnel~~] board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or handicap, the appointing authority shall, not later than thirty (30) days after receipt of such findings and recommendations, reinstate the employe to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employe whole. If the [~~personnel~~] board finds that the action complained of was taken without just cause, the [~~personnel~~] board shall order the employe reinstated to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employe whole. In all other cases, if the [~~personnel~~] board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the [~~personnel~~] board shall alter, modify or rescind the disciplinary action. The appointing authority shall, not later than thirty (30) days after receipt of the final order of the [~~personnel~~] board, comply with such final order. When any employe is dismissed and not ordered reinstated after such appeal, the [~~personnel~~] board in its discretion may direct that his name be placed on an appropriate re-employment list, for employment in any similar position other than the one from which he had been removed.

(2) Any unclassified employe who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after such dismissal, demotion, suspension, or other form of penalization for cause, appeal to the board for review thereof as provided in this section. Any unclassified employe who is dismissed without cause shall not have the right of appeal as provided in this section.

(3) The board shall, within sixty (60) days after an appeal is filed, hear the appeal, and shall, within ninety (90) days after an appeal is filed, issue a final determination for the disposition thereof.

SECTION 20. KRS 18.272 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Any final order of the [~~personnel~~] board either upholding or invalidating the dismissal, demotion, suspension, or other penalization of *a classified or an unclassified* [~~an~~] employe with status may be appealed either by the employe or by the appointing authority.

(2) The party aggrieved may, within thirty (30) days after the entry of the final order with which he is dissatisfied, appeal that order by filing a petition with the clerk of the Franklin Circuit Court. The petition shall state completely the grounds upon which the review is sought and shall specify the alleged errors in the board's conclusion and order. The appellant shall furnish a copy of the petition to the opposing party and the board. Summons shall be issued by the circuit court clerk upon the petition directing the adverse party or parties to file an answer within twenty (20) days after service of summons. Service on the board shall be had by serving the attorney general or any assistant attorney general. The secretary of the personnel board shall within thirty (30) days after service of the summons file an attested copy of the order with the circuit court clerk, and of all the steps taken by the board relative to the attested order. If either party requests a transcript of the evidence, the requesting party shall bear the cost of the original copy of the transcript and it shall be furnished within ninety (90) days.

(3) The board, the employe, and the appointing authority shall be necessary parties to such appeals. It shall not be necessary for the board to file responsive pleadings unless it so desires. If the appeal is from an order upholding the dismissal, demotion, suspension, or other penalization, the burden of appearing and defending the action of the board shall be upon the appointing authority. If the appeal is from an order refusing to uphold the dismissal, demotion, suspension, or other penalization, the burden of appearing and defending the action of the board shall be upon the employe.

(4) The case shall be set down by the court for as early a day as possible for a hearing, and shall in all respects be expedited.

(5) No new or additional evidence shall be introduced in the Franklin Circuit Court except as to fraud or misconduct affecting the outcome of the case, but the court shall otherwise hear the case upon the record as attested by the secretary of the personnel board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:

(a) The board acted without or in excess of its power;

(b) The order appealed from was procured by fraud or misconduct;

(c) Substantial evidence supports the order appealed from;

(d) The board's decision is supported by the law.

(6) The court shall enter judgment affirming, modifying, or setting aside the order or, in its discretion, remanding the case to the board for proceedings in conformity with the directions of the court.

(7) Any party may appeal from the circuit court to the Court of Appeals in accordance with the Rules of Civil Procedure.

SECTION 21. KRS 18.275 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) (a) When a classified *or unclassified* employe has been finally ordered reinstated by the board without loss of pay, pursuant to the provisions of *Section 19 of this Act* [~~KRS 18.270~~], the commissioner shall forward a certified copy of said order to the department of finance, which shall process proper payment to the employe for the period of suspension, said payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the "judgments" section of the general fund of the biennial state budget.

(b) Gross monies which were earned by the employe from other sources during the period of suspension shall be set off against the gross sum due the employe, to the extent that the monies were earned in a number of hours comparable to the length of time the employe would have worked in the job from which he was dismissed. The department finance shall by regulation provide an administrative procedure for determining reasonable earnings to be so set off.

(c) All other deductions shall be deducted as required by law or by department of finance regulation.

(2) (a) Both the employe's and employer's contributions to the Kentucky employes' retirement system shall be based upon the gross amount due the employe, before set off or deduction, except for set off caused by earnings on which employe and employer contributions to the Kentucky employes' retirement system, county employes' retirement system, state police retirement system or Kentucky teachers' retirement system, have been paid.

(b) Member and employer contributions paid into the system in which the employe participated after dismissal shall be transferred to the system in which he participated prior to his illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system in which he participated before reinstatement by the [~~personnel~~] board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which he would have participated had he not been dismissed.

SECTION 22. KRS 18.210 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The commissioner [~~of personnel~~] shall prepare and submit to the [~~personnel~~] board proposed rules for the classified service. Such rules shall have the force and effect of law, when approved by the board, after public notice and public hearing, and after filing with the legislative research commission in accordance with KRS Chapter 13 and procedures adopted thereunder. If not disapproved by the board within forty-five (45) days after the submission thereof, they shall have the same force and effect as if approved. Amendments thereto may be made in the same manner, or on the initiative of the board. The rules shall provide:

(1) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification has been approved by the board, the commissioner shall allocate the position of every employe in the classified service to one (1) of the classes in the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner of personnel a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(2) For a pay plan for all employes in the classified service, after consultation with appointing authorities and the secretary of the department of finance. The plan shall take into account such factors as (a) the relative levels of duties and responsibilities of various classes of positions; (b) rates paid for comparable positions elsewhere; and (c) the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the board. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed;

(3) For open competitive examinations to test the relative fitness of applicants for the respective positions. Such examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service, and shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgment serves the need to discover the relative fitness of applicants;

(4) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct and seniority. Vacancies shall be filled by promotion whenever practicable and in the best interest of the service;

(5) For the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Eligibility lists shall expire automatically at the end of two (2) years, unless the life of a list is extended by action of the personnel board for a period not to exceed one (1) additional year;

(6) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training and experience, or who have been guilty of infamous or disgraceful conduct; who are addicted to alcohol to excess or to narcotics, or who have attempted any deception or fraud in connection with an examination;

(7) For the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(8) For a period of probation not to exceed one (1) year before appointment or promotion may be made complete, and during which period a probationer may be discharged or reduced in class or rank, or replaced on the eligible list. Unless the appointing authority notifies the employe prior to the end of the probationary period that the employe's services are not satisfactory, the employe shall have status in the classified service. The notice shall be in writing and as provided by personnel rules;

(9) For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;

(10) For provisional employment without competitive examination when there is no appropriate eligible list available. No such provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;

(11) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(12) For reinstatement within not more than five (5) years, only with the approval of the commissioner, of persons who resign in good standing or who are laid off from their positions without fault or delinquency on their part;

(13) For developing, in cooperation with the appointing authorities, uniform standards and methods of appraising work performance of all employes and for the use of such methods of appraisal in personnel actions;

(14) For lay-offs by reasons of lack of funds or work, or abolishment of a position, or material change in duties or organization, and for reinstatement of employes so laid off. *Lay-offs* [~~, giving consideration in both lay-offs~~] and re-employment *shall be determined by seniority* [~~to qualifications, performance records, conduct and seniority in service~~];

(15) For imposition as disciplinary measures of a fine of not more than ten (10) working days' pay or for suspension from the service without pay for not longer than thirty (30) working days and for the manner of notification of the employe of the discipline and his right of appeal;

(16) For discharge or reduction in rank or grade only for cause, after the person to be discharged or reduced has been presented with the reasons for such discharge or reduction stated in writing, and has been allowed a reasonable time to reply thereto in writing, or, upon request, to appear personally with counsel and reply to the head of the department or his deputy. The statement of reasons and the reply shall be filed as a public record with the commissioner;

(17) For establishment of a plan for resolving employe grievances and complaints;

(18) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in *subsection (2) of Section 15 of this Act* [~~KRS 18.170(2)~~];

(19) For the development and operation of programs to improve the work effectiveness of employes in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, and employe relations;

(20) For promotion of career employes to positions in the unclassified service without loss of status to the individual employes so promoted;

(21) For such other rules and administrative regulations not inconsistent with *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], as may be proper and necessary for its enforcement.

SECTION 23. KRS 18.140 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) The classified service to which *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employes of the general assembly including the employes of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employes on the staff of the governor, the lieutenant governor, the office of the secretary of the governor's cabinet, and the office of program administration;

(e) Cabinet secretaries, commissioners, department heads, bureau commissioners and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(g) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the commissioner of personnel approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the personnel board may approve such an addition or additions on petition of the department head approved by the commissioner of personnel;

(h) Division directors subject to the provisions of *Section 34 of this Act.* [~~KRS 18.150;~~] *Division directors in the classified service as of January 1, 1980, shall remain in the classified service;*

(i) Physicians employed as such;

(j) One (1) private secretary for each person exempted under subsections (1)(e), (1)(f) and (1)(g) of this section;

(k) The judicial department, referees, receivers, jurors, and notaries public;

(l) Officers and members of the staffs of state universities and colleges and student employes of such institutions; and officers, teachers, and employes of local boards of education;

(m) Patients or inmates employed in state institutions;

(n) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services *under the provisions of KRS 45.700 to 45.720* [~~who are retained pursuant to application procedures, lists of eligibles, and classification and compensation systems developed by the commissioner of personnel and approved by the professional employment commission under the provisions of KRS 45.535~~];

(o) Seasonal, temporary, and emergency employes;

(p) Federally funded time-limited employes;

(q) Officers and members of the state militia;

(r) State police troopers and sworn officers in the bureau of state police, department of justice;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and commonwealth's attorneys and their respective appointees.

(2) Nothing in KRS 18.110 to 18.360 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and KRS 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Classified employes with status promoted to positions exempted from classified service *shall* [~~may~~], upon termination of their employment in the exempted service, revert to *a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to the provisions in Sections 26 and 27 of this Act* [~~their classified status, but not necessarily to a particular position in the classified service~~].

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

SECTION 24. KRS 18.250 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Except as hereinafter provided, all hiring for the classified service shall be on the basis of competitive examinations and certification by the [~~personnel~~] department in accordance with the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~].

(2) As of February 29, 1976, when an entity and its employes, either initially or subsequently, is brought into state service, all employes of that entity required to be covered under the classified service shall be required to meet the minimum qualifications for the positions to which they are assigned and to satisfactorily complete a probationary period, except that in the discretion of the commissioner they shall not be required to take an examination. The commissioner shall equitably assign such employes to any *rate* [~~step~~] within the salary range of an appropriate pay grade.

SECTION 25. KRS 18.260 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) No disbursing or auditing officer of the Commonwealth shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the classified or unclassified service unless the payroll voucher or account of such pay bears the certification of the commissioner, or of his authorized agent, that the persons named therein have been appointed and employed in accordance with the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] and the rules, regulations, and orders thereunder. The commissioner may for proper cause withhold certification from an entire payroll or from any specific item or items thereon. The commissioner may, however, provide that certification of payrolls may be made once every six (6) months, and such certification shall remain in effect except in the case of any officer or employe whose status has changed after the last certification of his payroll. In the latter case no voucher for payment of salary to such employe shall be issued or payment of salary made without the further certification of the commissioner.

(2) Any citizen, including public officers, may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], or of any rule, regulation or order thereunder. Any sum paid contrary to any provision of *Sections*

1 to 40 of this Act [~~KRS 18.110 to 18.360~~] or of any rule, regulation, or order thereunder may be recovered in an action maintained by any citizen, from any officer who made, approved, or authorized such payment or who signed or countersigned a voucher, payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer. All moneys recovered in any such action shall be paid into the treasury.

(3) Any person appointed or employed in contravention of any provision of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] or of any rule, regulation, or order thereunder, who performs service for which he is not paid, may maintain an action against the officer or officers, employe or employes, who purported so to appoint or employ him, to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No such officer or employe shall be reimbursed by the Commonwealth at any time for any sum paid to such person on account of such services.

(4) If the commissioner wrongfully withholds certification of the payroll voucher or account of any employe, such employe may maintain a proceeding in the circuit court in the county in which he resides to compel the commissioner to certify such payroll voucher or account.

SECTION 26. KRS 18.216 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) [~~Except as provided in subsection (2) of KRS 18.215,~~] A career employe whose employment is terminated on or after January 1, 1980, by layoff, dismissal, other than for cause, and, in the case of an unclassified management employe, resignation other than resignation in lieu of dismissal for cause, shall, upon his written request, be reemployed or placed on reemployment lists in accordance with this section and *Section 27 of this Act* [~~KRS 18.217~~].

(2) If the career employe has previously attained status in a position in the classified service, he shall revert to a position in that class in the agency from which he was terminated if a vacancy in that class exists. If no such vacancy exists, he shall be considered for employment in any vacant position for which he is qualified pursuant to the reemployment procedures.

(3) If the career employe has not previously attained status in the classified service or if he has attained status but no vacancy exists in a position to which subsection (2) of this section applies, the employe shall be placed on reemployment lists for any positions for which he is qualified.

SECTION 27. KRS 18.217 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Any career employe who has been laid off or dismissed, other than for cause, and, in the case of an unclassified management employe, resignation other than resignation in lieu of dismissal for cause, shall *automatically* be placed on *the reemployment list for the class from which he was terminated. If a career employe wishes to be on the remployment list for other* [~~reemployment lists for those~~] classes of positions for which he is qualified and passes the appropriate selection method, *he* [~~. Such career employe~~] shall notify the department [~~of personnel~~] in writing [~~that he desires reemployment in order to be eligible for placement on reemployment lists~~].

(2) If more than one (1) career employe requests to be placed on the reemployment list for any job classification, the department [~~of personnel~~] shall list the names of such career employes in the order of their seniority.

(3) No vacancy may be filled from a competitive register until all career employes on the reemployment list for that class of position have *denied employment in that class* [~~been given full consideration for reemployment~~]. An appointing authority may refuse to reemploy a qualified employe on the reemployment list only for cause. The commissioner of personnel and the employe shall be furnished with a written statement of the specific reasons for the refusal within ten (10) days following the appointing authority's refusal. The employe may appeal the appointing authority's action in accordance with *Sections 19 and 20 of this Act* [~~KRS 18.270 to 18.272~~].

SECTION 28. KRS 18.310 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified services because of his political or religious opinions or affiliations or ethnic origin or sex or handicap. No person between the ages of forty (40) and seventy (70) shall be discriminated against because of age.

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) No employe in the classified service or member of the [~~personnel~~] board or commissioner shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employe in the classified service.

(4) No employe in the classified service shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employes of the classified service may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis.

SECTION 29. KRS 18.320 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) No person shall make any false statement, certificate, mark, rating, or report with regard to any test, certification, or appointment made under any provision of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] or in any manner commit or attempt to commit any fraud preventing the impartial execution of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] and the rules, regulations or orders thereunder.

(2) No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the classified service.

(3) No employe of the department, examiner, or other person shall defeat, deceive, or obstruct any person in his right to examination, eligibility, certification, or appointment under *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

(4) No person shall make any false statement, record or report regarding hours, days, or other time worked by any employe. No person shall falsely prepare any payroll document or record relating to the pay for any employe.

SECTION 30. KRS 18.212 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) An honorably discharged war veteran shall have five (5) points added to his entrance examination score for *classified* [~~merit system~~] positions.

(2) Any honorably discharged war veteran whom the veterans administration or any branch of the armed forces of the United States determines has service-connected disabilities shall have ten (10) points added to his entrance examination score for a *classified* [~~merit system~~] position.

(3) The spouse of an honorably discharged war veteran who would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies him for positions along the general line of his usual occupation shall have ten (10) preference points added to his entrance examination score for a *classified* [~~merit system~~] position. In such a case, the spouse loses the right to preference if the disabled war veteran recovers.

(4) Until remarriage, the surviving spouse of an honorably separated war veteran shall have ten (10) preference points added to his entrance examination score for a *classified* [~~merit system~~] position. This includes the surviving spouse of a war veteran who died while in the armed forces, unless circumstances surrounding the death would have been cause for other than honorable separation.

(5) A parent totally or partially dependent on a war veteran who lost his life under honorable conditions while on active duty or active duty for training purposes or who became permanently and totally disabled as a result of a service-connected disability, shall have ten (10) preference points added to his examination score for a *classified* [~~merit system~~] position.

(6) War veterans and their spouses, widows, widowers, and parents eligible for preference points shall have them added to their entrance examination scores for *classified* [~~merit system~~] positions only if the score is determined by the commissioner [~~of personnel~~] to be a passing score and after verification of the required service.

SECTION 31. KRS 18.220 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) The commissioner [~~of personnel~~] shall prepare and submit proposed rules to the governor for employes in *unclassified* [~~non-merit system~~] positions enumerated in paragraphs (f), (g), (h), (i), (j), (o), (t), and (u) of *subsection (1) of Section 23 of this Act* [~~KRS 18.140(1)~~]. Such rules shall become effective after approval by the governor and promulgation in accordance with KRS Chapters 12 and 13. The rules shall provide:

(a) For the preparation, maintenance and revision of a position classification plan for all aforementioned positions in the unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the governor, the commissioner shall allocate the positions of every employe in the unclassified service to one (1) of the classes of the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner [~~of personnel~~] a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(b) For a pay plan for all aforementioned employes in the unclassified service, after consultation with appointing authorities and the secretary of the department of finance, and taking into account such factors as 1. the relative levels of duties and responsibilities of various classes of positions; 2. rates paid for comparable positions elsewhere; and 3. the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the commissioner [~~of personnel~~] through the secretary of the department of finance. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;

(c) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(d) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in *subsection (2) of Section 15 of this Act* [~~KRS 18.170(2)~~];

(e) For the development and operation of programs to improve the work effectiveness and morale of employes in the unclassified service, including training, safety, health, welfare, counseling, recreation, and employe relations;

(f) For such other rules and administrative regulations, not inconsistent with *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], as may be proper and necessary for its enforcement.

(2) Nothing herein shall be construed to preclude the optional use of rules promulgated under this section on behalf of employes enumerated in paragraphs (a), (d), (e) and (p) of subsection (1) of *Section 23 of this Act* [~~KRS 18.140~~] and on behalf of members of state boards and commissions who work on a full-time, salaried basis.

SECTION 32. KRS 18.230 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

All officers and employes of the commonwealth and of all its municipalities and political subdivisions shall allow the department the reasonable use of public buildings under their control, and furnish heat, light and furniture for any examination, hearing, or investigation authorized by *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~]. The department shall pay to a municipality or political subdivision the reasonable cost of any such facilities furnished by it.

SECTION 33. KRS 18.240 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) All officers and employes of the commonwealth shall comply with, and aid in all proper ways in carrying out, the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] and the rules, regulations, and orders thereunder. All officers and employes shall furnish any records or information pertaining to the administration of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] which the commissioner may request. The commissioner or the board may require the attorney general to institute and maintain such legal action as the commissioner or the board may consider necessary or appropriate to secure compliance with *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] and the rules and orders thereunder.

(2) The secretary of the department of finance may review and approve all proposed position establishments and abolishments. Reclassifications and reallocations may also be reviewed and approved by the secretary of the executive department for finance and administration on the basis of the availability of funds.

SECTION 34. KRS 18.150 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

It is further provided that the responsible departmental, board, commission or agency head shall at the time at which he elects to come under the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], certify to the [~~personnel~~] board the positions of those division directors or heads under their jurisdiction whose duties are nonpolicy making together with a sufficient statement of their duties to enable the board to determine whether or not, as a matter of fact, such duties are nonpolicy making in their nature. He shall, at any time subsequent to coming under the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] certify to the [~~personnel~~] board additional division directors or heads whose duties are nonpolicy making. At the time of certification notice thereof shall be given to the interested division director or head in the form of a copy of the statement certifying the duties of his office. The board may conduct such hearings as it may deem necessary, and shall conduct hearings pursuant to the administrative provisions of *Sections 19 of this Act* [~~KRS 18.270~~] in the event of a difference of opinion between the certifying officer and the interested division director or head, before entering its findings of fact and an order either classifying or denying classification to such position. Either the certifying officer or the division director or head may appeal the findings of fact and the final order of the board by initiating action in the Franklin Circuit Court pursuant to the provisions of KRS 418.040 et seq.

SECTION 35. KRS 18.155 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The responsible departmental, board, commission or agency head shall periodically evaluate the duties of those division directors or heads placed under the *classified service* [~~merit system~~] pursuant to the provisions of *Section 34 of this Act* [~~KRS 18.150~~], and shall determine whether the duties of such directors or heads have become policy making in their nature. If it is determined that the duties of such directors and heads are policy making, the responsible agency head shall certify that fact to the [~~personnel~~] board. At the time of certification, notice thereof shall be given to the interested division director or head in a form of a copy of the statement certifying the policy making duties of his office. The board may conduct such hearings as it may deem necessary, and shall conduct hearings pursuant to the administrative provisions of *Section 19 of this Act* [~~KRS 18.270~~] in the event of a difference of opinion between the certifying officer and the interested division director or head, before entering its findings of fact and an order either removing the position from the *classified service* [~~merit system~~] or retaining it within the *classified service* [~~merit system~~]. Either the certifying officer or the division director or head may appeal the findings of fact and the final order of the board by initiating action in the Franklin Circuit Court pursuant to the provisions of KRS Chapter 418.

SECTION 36. KRS 18.300 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Subject to the approval of the [~~personnel~~] board the commissioner may enter into agreements with any municipality or other political subdivision of the commonwealth to furnish services and facilities of the department to such municipality or political subdivision in the administration of its personnel on merit principles. Any such agreement shall provide for the reimbursement to the department, under contract, of the reasonable cost of the services and facilities furnished, as determined by the commissioner. All municipalities and political subdivisions of the commonwealth are hereby authorized to enter into such agreements.

(2) The commissioner may cooperate with the governmental agencies of other jurisdictions charged with personnel administration in conducting joint tests and establishing joint lists from which eligibles shall be certified for appointment in accordance with the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~].

(3) The commissioner may, upon the request of the secretary of the department for human resources and upon the approval of the [~~personnel~~] board, furnish merit system services to "local" departments of health.

SECTION 37. KRS 18.211 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

For the purpose of any regulation issued under *Section 22 or 31 of this Act* [~~KRS 18.210 or 18.220~~] governing entitlement to annual leave days, sick leave days or the accumulation of such leave days, any period of service as an elected state official, including but not limited to service in the general assembly, by any officer or employe to whom such regulation applies shall be considered to have been full-time employment in the state service.

SECTION 38. KRS 18.350 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) State offices shall be closed and state employes shall be given a holiday on the following days:
(a) The 1st day of January plus one extra day;
(b) The 3rd Monday in February;
(c) Good Friday, one-half day;
(d) The last Monday in May;
(e) The 4th day of July;
(f) The 1st Monday in September;
(g) *Presidential election day as required under KRS 2.190;*
(h) The 4th Thursday in November plus one extra day;
(i)[~~(h)~~] The 25th day of December plus one extra day.

(2) When any of the days enumerated in subsection (1) falls on a Saturday, the preceding Friday shall be observed as the holiday, and when any of the days enumerated in subsection (1) falls on a Sunday, the following Monday shall be observed as the holiday. When one extra day is mentioned in paragraphs (a), (g) and (h) of subsection (1), the Governor shall designate the extra day.

(3) The holidays set out in this section are in addition to vacation leave and other benefits of state employes.

SECTION 39. KRS 18.360 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) A state employe who is authorized to work one or more hours in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis. An employe who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

(2) Any employe who leaves state service shall be paid for the balance of unused compensatory time.

SECTION 40. KRS 18.370 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) No state officer or employe who is required by statute or regulation to serve on any board, commission or other body in an official capacity shall receive a per diem salary for the attendance of meetings or performance of services.

(2) Any state officer or employe who is required by statute or regulation or who is elected or appointed to serve on any board, commission or other body in an official capacity shall receive reimbursement for actual and necessary expenses in accordance with state regulations and standards.

SECTION 41. KRS 18.410 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) The secretary of the department of finance, upon the recommendation of the commissioner [~~of personnel~~], may procure from one or more life insurance companies, authorized to do business in this state, a policy or policies of group life insurance insuring the lives of all or any class or classes of state employes. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that life insurance may be made available for state employes, except that the procuring is permissive.

(2) The term "state employe," for purposes of *Sections 41 to 45 of this Act* [~~KRS 18.410 to 18.440 and KRS 18.470~~], shall mean a person who is regularly employed by any department, board, agency or branch of state government, and who is also a contributing member of any one of the retirement systems administered by the state provided, however, that any federally funded time-limited employe may receive insurance coverage.

(3) The term "premiums," for the purposes of *Sections 41 to 45 of this Act* [~~KRS 18.410 to 18.440 and KRS 18.470~~], shall mean premiums to be paid on any type of insurance authorized under *Sections 41 to 45 of this Act* [~~KRS 18.410 to 18.440 and KRS 18.470~~].

SECTION 42. KRS 18.420 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A TO READ AS FOLLOWS:

The premiums may be paid by the policyholder (a) wholly from funds contributed by the insured employe, by payroll deduction or otherwise, (b) wholly from funds contributed by the state or department or agency, or (c) partly from each. No payment of premium by the state or department, board or agency shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe; any premium or other expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

SECTION 43. KRS 18.430 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A TO READ AS FOLLOWS:

The policy or policies may also provide accidental death and dismemberment insurance and may contain such provisions with respect to the class or classes of employes covered, amounts of insurance for designated classes or groups of employes, terms of eligibility, continuation of insurance after retirement, and such other provisions as the commissioner of insurance may approve.

SECTION 44. KRS 18.440 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The secretary of the department of finance is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance under the provisions of *Sections 41 to 44 of this Act* [~~KRS 18.410 to 18.440~~].

SECTION 45. KRS 18.470 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A TO READ AS FOLLOWS:

(1) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is qualified under the requirements of the United States department of health, education and welfare except as provided in subsection (2) of this section.

(2) The secretary of the department of finance, upon the recommendation of the commissioner of personnel, may procure from one (1) or more health, hospitalization, medical, major medical and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, major medical and dental insurance or health maintenance organization coverage encompassing all or any class or classes of state employes. All state employes for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside, the state employes may annually be given the option to elect either standard insurance coverage or

coverage by a health maintenance organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employes, except that the procuring of each is permissive.

(3) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employe, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board or agency; or

(c) Partly from each; except that any premium due for health maintenance organization coverage over the premium amount contributed by the state or department, board or agency for any other insurance coverage shall be paid by the employe.

(4) If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(5) No payment of premium by the state or department, board or agency shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe. Any premium or other expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

(6) The policy or policies may contain such provisions with respect to the class or classes of employes covered, amounts of insurance or coverage for designated classes or groups of employes, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(7) The secretary of the department of finance is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance and health maintenance organization coverage under the provisions of this section.

SECTION 46. KRS 18.510 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

As used in *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~], unless the context requires otherwise:

(1) "Employe" means a person holding an office, position or employment in state government and agencies thereof and also includes persons in the public school system.

(2) "Income" means earnings of a person while an employe of the state and agencies thereof or public school system.

(3) "Asset" means any owned physical object or right having a monetary value.

(4) "Trust fund" means a fund consisting of assets received and held by a government unit or its designated custodian to be expended or invested in accordance with conditions of the trust.

(5) "Deferred compensation" means a method which allows employes to authorize income to be deducted from their current earning and set aside to be paid at a later date.

(6) "Board" means the board of trustees as established by *Section 49 of this Act* [~~KRS 18.540~~].

SECTION 47. KRS 18.520 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The Kentucky public employes deferred compensation system is established pursuant to the provisions of *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~], and shall transact all of its business and shall have the powers and privileges of a corporation.

SECTION 48. KRS 18.530 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

A state fund is hereby authorized, called "The Kentucky State Public Employes Deferred Compensation Trust Fund," which shall consist of all of the assets of the system as set forth in *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~].

SECTION 49. KRS 18.540 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) The system shall be administered by a board of trustees composed of five (5) members, who shall be as follows:

(a) Commissioner of insurance, ex officio;

(b) Secretary, department of finance, ex officio;

(c) Commissioner of personnel, ex officio;

(d) Two (2) members appointed by the governor of the Commonwealth.

(2) The members of the board appointed by the governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office.

(3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.

(4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(5) Board members who do not otherwise receive a salary or compensation from the state treasury shall receive a per diem of forty-five dollars ($45) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with [~~normal~~] state regulations and standards *applicable to state employes.*

(6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice-chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.

(7) The board may, but is not limited to the following actions:

(a) Appoint or contract for the services of an executive secretary as provided in KRS 12.050 and fix his compensation. The executive secretary shall be the chief administrative officer of the board;

(b) Appoint such other employes as it deems necessary and fix the compensation for all employes of the board, subject to the approval of the commissioner [~~of personnel~~];

(c) Require such employes as it thinks proper to execute bonds for the faithful performance of their duties;

(d) Establish a system of accounting;

(e) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~], including annual audits;

(f) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~].

(8) All employes of said board shall serve during its will and pleasure.

(9) The attorney general, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS chapter 12.

(10) The board shall prepare an annual financial report showing all receipts, disbursements, assets and liabilities and shall submit a copy to the governor and legislative research commission. All board meetings and records shall be open for inspection by the public.

SECTION 50. KRS 18.550 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A TO READ AS FOLLOWS:

Subject to the approval of the board of trustees of the Kentucky state public employes deferred compensation system, department of finance shall establish a deferred compensation plan for the employes of the state of Kentucky. Participation in such plan shall be by a specific written agreement between such employes and the state and shall provide for the deferral of such amount of compensation as requested by the employe. Participating employes must authorize that such deductions be made from their wages for the purpose of participation in such program. Amounts so deducted shall be deposited in the state treasury to the credit of the trust fund.

SECTION 51. KRS 18.560 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~], funds held for the state of Kentucky public employes deferred compensation trust fund pursuant to written deferred compensation agreement between the state and participating employes may be invested, in such investments as are deemed appropriate by the trustees including, but not limited to annuity contracts.

(2) Funds deposited to the credit of the trust fund from payroll deductions made pursuant to *Section 50 of this Act* [~~KRS 18.550~~] shall be temporarily invested as provided in KRS 41.380 until such funds are invested pursuant to the written deferred compensation agreements between the state and participating employes and actually credited to accounts for plan participants. Notwithstanding KRS 41.380(3), interest earned from such temporary investments shall be used to defray the expenses of administering the deferred compensation system.

SECTION 52. KRS 18.570 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

In no case shall such investment be other than permitted by *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~] and not prohibited by section 177 of the Kentucky constitution and must be offered by such persons or companies authorized and duly licensed by the state of Kentucky and applicable federal regulatory agencies to offer such insurance or investment programs in compliance with all relevant provisions of *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~].

SECTION 53. KRS 18.580 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A TO READ AS FOLLOWS:

Such a deferred compensation program shall be in addition to any retirement or any other benefit program provided by law for employes of this state. Any income deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the retirement and pension benefits earned by any employe. But, any sum so deducted shall not be included in the computation of any income taxes withheld on behalf of any such employe.

SECTION 54. KRS 18.590 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Any city, county, or other political subdivision or combination of these entities may establish for its employes a deferred compensation program. Participation shall be by written agreement between such employes and the legislative authority of the city, county, or other political subdivision providing for the deferral of such compensation and the subsequent investment and administration of such funds.

(2) Such subdivision, acting through its legislative authority, may appoint such agency or department as it deems appropriate to establish and administer a deferred compensation plan pursuant to *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~]. For purposes of funding such agreements between the city, county, or other such political subdivision and the participating employes, the agency or department as designated by the legislative authority to establish and administer such plans may invest such funds in such investments deemed appropriate by said agency or department, including, but not limited to annuity contracts.

(3) In no case shall such investment be other than permitted by *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~] and not prohibited by section 179 of the Kentucky constitution and must be offered by such persons or companies authorized and duly licensed by the state of Kentucky and applicable federal regulatory agencies to offer such insurance or investment programs in compliance with all relevant provisions of *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~].

(4) Such a deferred compensation program is in addition to any retirement or pension system or any other benefit program provided by law for employes of the city, county, or other political subdivision. Any income deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the retirement and pension benefits earned by any employe but any sum so deducted shall not be included in the computation of any income taxes withheld for any such employe.

(5) This section does not limit the power or authority of any municipal corporation or other political subdivision to provide other such plans or programs for deferring compensation of their officials and employes.

SECTION 55. KRS 18.600 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The state treasurer shall be the custodian of the funds collected under *Section 47 of this Act* [~~KRS 18.520~~] and shall upon warrants issued by the department of finance pay to the board the amounts so collected to be administered as provided in *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~]. The treasurer of the local unit of government shall likewise be the custodian of any funds created by *Section 54 of this Act* [~~KRS 18.590~~] and shall pay to the board the amounts so collected to be administered as provided in *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~].

SECTION 56. KRS 18.990 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Any person who wilfully violates any provision of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.340~~] or of the rules shall be guilty of a misdemeanor, and shall upon conviction be punished therefor with a sentence of from thirty (30) days to a maximum of six (6) months in jail.

(2) Any person who is convicted of a misdemeanor under *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.340~~] shall, for a period of five (5) years, be ineligible for appointment to or employment in a position by the Commonwealth, and if he is an officer or employe of the Commonwealth, shall forfeit his office or position.

(3) Any officer or employe of the classified service who wilfully violates any of the provisions of *Section 28 of this Act* [~~KRS 18.310~~] shall forfeit his office or position, and for one (1) year shall be ineligible for any office or position in the Commonwealth's service. Violation of *Section 28 of this Act* [~~KRS 18.310~~] shall constitute a misdemeanor subject to a sentence of from thirty (30) days to a maximum of six (6) months in jail.

Section 57. KRS 41.060 is amended to read as follows:

The treasurer shall appoint an assistant and may remove him at pleasure. The assistant may perform any of the duties of the treasurer, excepting the signing of checks, and shall perform the duties of clerk. If the treasurer is disabled by sickness, or if he absents himself from the seat of government, he shall notify the governor in writing of the facts, and recommend his assistant or some other person to discharge the duties of the office during his sickness or absence. If the governor approves the recommendation he shall enter his approval on the executive journal, after which the assistant or other person may perform all the duties of the treasurer until he is restored to health or returns to the seat of government. The treasurer and his sureties shall be responsible on his bond for all the acts and omissions of the assistant. The salary of the assistant shall be fixed by the treasurer, subject to the provisions of KRS 12.050, 12.060 and *Sections 4, 19 to 22, 24 to 33, 36 and 37 of this Act* [~~18.210 to 18.320~~].

Section 58. KRS 42.035 is amended to read as follows:

(1) The department of finance shall be responsible for the management, maintenance, and operation, including the purchase for all purposes of all food and related supplies, of the executive mansion, and further including the reasonable and necessary expenses of the chief executive while traveling on business of the Commonwealth outside of the state. Such personnel, including domestic and household servants, as are necessary for the operation and maintenance of the executive mansion shall be employed by the department of finance. The provisions of KRS Chapter 42 shall apply to all purchases made for the maintenance and operation of the mansion. None of the provisions of *Sections 22 and 31 of this Act* [~~KRS 18.210 and 18.220~~] shall apply to personnel employed for the maintenance and operation of the mansion.

(2) A reasonable amount shall be deducted from the salary or other allowance of the governor for the consumption by the governor and his family of such food and supplies.

(3) A reasonable amount shall be deducted from the salaries of personnel employed in operational and maintenance functions, including domestic and household servants, for the consumption by such personnel of such food and supplies.

(4) The department of finance shall maintain such records relative to the management, maintenance, and operation of the governor's mansion and travel expenses of the chief executive as may be dictated by sound accounting practices.

Section 59. KRS 42.037 is amended to read as follows:

(1) The department of finance shall be responsible for the management, maintenance, and operation, including the purchase for all purposes of all food and related supplies, of the old governor's mansion. Such personnel, including domestic and household servants, as are necessary for the operation and maintenance of the old governor's mansion shall be employed by the department of finance. The provisions of KRS Chapter 42 shall apply to all purchases made for the maintenance and operation of the old governor's mansion. None of the provisions of *Sections 22 and 31 of this Act* [~~KRS 18.210 and 18.220~~] shall apply to the personnel employed for the maintenance and operation of the old governor's mansion.

(2) A reasonable amount shall be deducted from the salary or other allowance of the lieutenant governor for the consumption by the lieutenant governor and his family of such food and supplies.

(3) A reasonable amount shall be deducted from the salaries of personnel employed in operational and maintenance functions, including domestic and household servants, for the consumption by such personnel of such food and supplies.

(4) The department of finance shall maintain such records relative to the management, maintenance, and operation of the lieutenant governor's mansion as may be dictated by sound accounting practices.

Section 60. KRS 61.569 is amended to read as follows:

(1) A reinstated employe who has been ordered reinstated by the personnel board under authority of *Section 19 of this Act* [~~KRS 18.270~~] and accepts employment by a participating employer shall tender to the retirement board the member contribution he would have paid on the creditable compensation he would have earned as defined under *Section 21 of this Act* [~~KRS 18.275~~] had he not been dismissed. The employer shall pay the employer contributions as defined under *Section 21 of this Act* [~~KRS 18.275~~] on the member's creditable compensation.

(2) No service credit shall be allowed for any time that the member contributions are not paid.

Section 61. KRS 64.640 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, and excepting officers elected by popular vote, employes of the general assembly, including employes of the legislative research commission, members of boards and commissions, those officers and employes of Kentucky Educational Television exempt from classified service as provided in *Section 23 of this Act* [~~KRS 18.140~~], presidents and employes of the state universities and the state colleges, and persons employed by the commissioner of parks on a temporary basis under KRS 148.026, the department of personnel shall prepare a schedule of compensation, payable out of the state treasury, with a minimum and maximum salary rate, and such intermediate salary rates as are deemed necessary or advisable, for the office or position of employment of every state officer and employe, including specifically the offices and positions of employment in every constitutional administrative department, statutory administrative department, independent agency, or other unit of state government. Such schedules shall be based upon studies of the duties and responsibilities of the offices and positions and upon a comparison with rates being paid for similar or comparable services elsewhere, and in the preparation of such schedules, the department of personnel shall ascertain and record the duties, responsibilities and authority pertaining to the various offices and positions in the state service, and classify such positions in the manner provided in *Sections 6, 7, 22, 26, 27 and 30 to 32 of this Act* [~~KRS 18.190 to 18.230~~]. No such schedule shall become effective until it has been approved by the governor.

(2) The governor shall set the compensation payable out of the state treasury to each officer or position in the state service, which officer or position heads a statutory administrative department, independent agency, or other unit of state government except for those excluded under subsection (1). Such compensation shall be based upon studies of the duties and responsibilities and classification of the positions by the governor and upon a comparison with compensation being paid for similar or comparable services elsewhere, provided, however, such compensation shall not exceed the amount provided for compensation to the governor in KRS 64.480, the provisions of KRS 64.660 to the contrary notwithstanding.

(3) The compensation payable out of the state treasury to officers and employes subordinate to any office or position covered by subsection (2) of this section shall not exceed the maximum rate established pursuant to subsection (2) of this section for such office or position, except with respect to physicians as provided in KRS 64.655 and employes of the *public service commission* [~~energy regulatory commission and utility regulatory commission~~] of Kentucky whose compensation shall be fixed, within constitutional limits, by the department of personnel with the approval of the governor as provided in subsection (1) of this section.

(4) Nothing in this section shall preclude the allowance of maintenance to officers and employes of the state.

Section 62. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.692 and 78.510 to 78.852 and who is reemployed as an employe by a participating agency shall have his retirement payments suspended for the duration of such reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employe contributions shall be made as provided in KRS 61.510 to 61.692 and 78.510 to 78.852 on the compensation paid during such reemployment except where monthly payments were not suspended as provided in subsection (1) of this section and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments, suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, provided he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.

(b) In the event the retired member is paid suspended payments retroactively in accordance with this section, employe contributions deducted during his period of reemployment, if any, shall be refunded to the retired employe and no service credit shall be earned for the period of reemployment.

(c) In the event the retired member is not eligible to be paid suspended payments for his period of reemployment as an employe, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined.

2. If the retired member initially retired on or subsequent to his normal retirement date his retirement allowance shall be recomputed by using the formula in subsection (1) of KRS 61.595.

3. If the retired member initially retired prior to his normal retirement date his retirement allowance shall be recomputed using the formula in subsection (2) of KRS 61.595, except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment.

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3; provided, however, the member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691.

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except such retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty (50) cents of each dollar earned during reemployment over the maximum permissible earnings.

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the personnel board under authority of *Section 19 of this Act* [~~KRS 18.270~~].

(b) A retired member who has been ordered reinstated by the personnel board under authority of *Section 19 of this Act* [~~KRS 18.270~~] and accepts employment by an agency participating in the Kentucky employes retirement system shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) In the event a retired hazardous position member or a member of the state police retirement system is receiving benefits under partial disability as provided for under KRS 16.586 and is reemployed in a nonhazardous position, the board is hereby authorized to waive or modify the foregoing provisions of this section and permit such person to receive a partial disability retirement allowance while accruing retirement benefits in a nonhazardous position.

Section 63. KRS 61.645 is amended to read as follows:

(1) The system shall be administered by the board of trustees of the Kentucky retirement systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under *Section 3 of this Act* [~~KRS 18.160~~] except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who must be members or retired from the county employes retirement system, elected by the members of the county employes retirement system;

(c) One (1) trustee, who must be a member or retired from the state police retirement system, elected by the members of the state police retirement system;

(d) Two (2) trustees, who must be members or retired from the Kentucky employes retirement system, elected by the members of the Kentucky employes retirement system;

(e) Three (3) trustees appointed by the governor of the Commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing and other professional services as its statutory purpose may require without limitations of KRS 45.360;

(e) To acquire, hold, sell, dispose of, pledge, lease or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45 and 56; provided, however, that the board is not authorized to construct a building; and

(f) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section.

(b) The trustee to be elected by the members of the county employes retirement system who replaces the attorney general on the board shall have an initial term expiring on March 31, 1977 and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the attorney general serving until such elected member has been duly qualified and administered the oath of office.

(c) The term of office of the trustee elected by the membership of the Kentucky employes retirement system which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals.

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, social security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members.

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes.

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address.

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post-office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected.

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his social security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot.

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel resign his position as trustee it shall be filled by appointment made by the governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the state treasury shall receive a per diem of sixty dollars ($60.00) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice-chairman. A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager, and fix his compensation without limitation by the provisions of KRS Chapter *18A* [~~18~~] and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Appoint such other employes as it deems necessary and fix the compensation for all employes of the board, subject to the approval of the commissioner of personnel;

(c) Require the general manager and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of KRS 61.510 to 61.692 and 16.510 to 16.652 and 78.510 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.510 to 61.692 and 16.510 to 16.652 and 78.510 to 78.852.

(10) All employes of said board shall serve during its will and pleasure.

(11) The attorney general, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes and other information distributed to trustees of the board and the attorney general may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS Chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the auditor of public accounts to perform the audit. If the audit is performed by an independent certified public accountant, the auditor of public accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The board shall make copies of the audit required by this subsection available for examination by any member, retiree or beneficiary in the office of the general manager of the Kentucky retirement systems and in such other places as may be necessary to make the audit available to all members, retirees and beneficiaries. A copy of the annual audit shall be sent to the legislative research commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed two per cent (2%) of the total employer and member contributions during such fiscal year.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852, may appeal the decision of the board to the Franklin circuit court.

Section 64. KRS 131.330 is amended to read as follows:

The Kentucky board of tax appeals, subject to the provisions of *Section 1 to 37 of this Act* [~~KRS 18.110 to 18.340~~], shall appoint a clerk of the Kentucky board of tax appeals with the qualifications hereinafter prescribed, and such clerical assistance as authorized by the department of finance. The clerk of the Kentucky board of tax appeals shall be a person holding a degree from an accredited college or university.

Section 65. KRS 132.370 is amended to read as follows:

(1) There shall be a property valuation administrator in each county in lieu of a county assessor.

(2) Property valuation administrators shall be elected in the year in which county elections are held and shall enter upon the discharge of the duties of their office on the first Monday in December after their election and continue in office for a period of four (4) years, and until the election and qualification of their successors. Property valuation administrators shall possess the qualifications required by section 100 of the constitution and by KRS 132.380 and shall be eligible for re-election.

(3) The property valuation administrators and all deputies and assistants of their offices who qualify as full time employes, shall be eligible for participation in the provisions of *Sections 41, and 46 to 55 of this Act* [~~KRS 18.410, 18.510 through 18.600~~] and 61.510 *to* [~~through~~] 61.692.

(4) A property valuation administrator may be removed from office by the circuit court of his county, upon petition of the department or any taxpayer, for wilful disobedience of any just or legal order of the department, or for misfeasance or malfeasance in office or wilful neglect in the discharge of his official duties, but he or the petitioner may appeal to the Court of Appeals.

Section 66. KRS 148.026 is amended to read as follows:

The commissioner of parks may employ or contract with such other persons, firms or corporations as he may deem necessary or desirable to accomplish the duties and functions assigned by law to the department of parks; may fix the compensation and the terms of employment or contract of those employed or contracted with; and may assign to them such duties and responsibilities as he may determine; provided, however, that any contract shall be approved by the department of finance before it shall become effective. Individuals employed by the commissioner of parks on a temporary basis for specific construction projects under KRS 56.491(5) or for maintenance projects shall be exempt from the requirements of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~].

Section 67. KRS 171.311 is amended to read as follows:

The Kentucky Historical Society created by Acts 1880, ch. 244, shall have all the powers and liabilities of a corporation and there is hereby granted to the society the following charter:

I

The Kentucky Historical Society shall collect, maintain and preserve authentic records, information, facts and relics connected with the history of the Commonwealth and the genealogy of her peoples; and promote a wider appreciation of the American heritage, with particular emphasis on the advancement and dissemination of knowledge of the history of Kentucky. The society may receive and hold by donation or devise, real or personal property to any extent and may, by gift, loan, purchase or otherwise hold books, papers, documents, historical memorials, and any other articles suited to promote the objects of the society in the Old State Capitol Building but all such property shall be held in trust for the Commonwealth of Kentucky according to the terms of acceptance.

II

All American citizens, partnerships, corporations or associations who shall evidence their dedication to the promotion of the objects and purposes of the society may become active members thereof upon their approval under regulations prescribed by the executive committee, and the payment of annual dues in a sum determined by the executive committee. Any person possessing the qualifications for membership may become a life member on the payment of a sum determined by the executive committee. The executive committee may determine classes of memberships and establish respective rates of dues. Every member in good standing, including the authorized representative of an institutional member, shall have the right to vote in person or by proxy, hold office, and otherwise take part in the proceedings of the society. Membership may be terminated by resignation or nonpayment of dues.

III

The officers of the society shall be a chancellor, who shall be the Governor of the Commonwealth of Kentucky, a president, first, second and third vice-presidents, who shall be ex-officio members of the executive committee. All officers, except the chancellor, shall be elected for a term of one year at the annual meeting of the society in a manner provided by law, and the president shall be ineligible to succeed himself if he has been elected for two (2) successive terms.

IV

There is hereby created an executive committee which shall consist of sixteen members, the officers of the society and one person designated annually by the state archives and records commission. The sixteen (16) members of the executive committee shall be divided into four (4) equal classes, so arranged that the terms of one class shall expire at each annual meeting of the society. The class whose term expires shall be ineligible to succeed itself.

V

The executive committee shall execute all the powers and duties conferred on the society, except those expressly delegated to the officers. It shall adopt bylaws at any regular or special meeting. It shall supervise and direct the financial concerns of the society, approve an annual budget and provide for and fix the salaries of employes, subject to the approval of the department of personnel. It shall provide for reimbursement of travel expenses of employes and may provide for reimbursement of expenses of officers and members of the executive committee incurred in performing specific duties assigned to them. It shall appoint a director, who shall be the management officer of the society under the direction of the president and policies established by the executive committee, and an assistant director, who shall assume the duties of the director in his absence and perform such other duties as may be assigned to him by the director. It shall establish and prescribe the duties of such other positions as are necessary to operate the society, and all persons engaged to fill such positions shall be employed by the director, subject to the approval of the executive committee, which approval shall constitute exemption from *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.370~~], and their work shall be under the director's supervision.

The committee shall provide for the publication or preservation of historical documents and manuscripts; publish an edition to be known as the "Register"; provide by contract, subject to the approval of the department of finance, for all the printing, publication and distribution of reports, books and other publications calculated to promote and advance the historical interest of Kentucky and augment the society's various collections at all times. It shall supervise and direct the ordinary affairs of the society; appoint a nominating committee; and determine other necessary committees of which the president and the director of the society shall be ex-officio members. The committee shall cooperate with, provide assistance to and coordinate its functions with those of the state archives and records commission. It may designate honorary members of the society and it shall have the power to fill any vacancies until the next annual meeting, including those occurring within its own membership.

VI

The executive committee shall hold regular meetings in January, April, July and October. Matters to be determined and discussed at such meetings shall be furnished the director at least ten (10) days prior to such meetings in order that he may prepare and distribute an agenda to each member of the committee at least three (3) days before the meeting. Special meetings shall be held at the request of the president or any three (3) members of the committee, in which case the director shall give written notice together with the agenda of such meeting at least ten (10) days in advance. In an emergency, nine (9) members of the committee may waive the provision of notice.

VII

The regular annual meeting of the society shall be held in the Old State Capitol Building on the first Friday after the first Monday in November. The meeting shall be open to all members. Special meetings may be called in Frankfort or elsewhere by the president or a majority of the executive committee or by the director upon the written request of twenty (20) members of the society. Members shall have fifteen (15) days written notice of the time, place and object of the meeting.

VIII

Twenty-five (25) members shall constitute a quorum for the transaction of all business at any meeting of the society, and one-third of the membership of the executive committee shall constitute a quorum at their respective meetings.

IX

The Chancellor of the Society, at his discretion, may preside at any meeting of the society or the executive committee, or he may participate otherwise in any meetings.

X

The president of the society shall be the chief executive officer of the society and shall preside over meetings of the society or the executive committee in the absence of the chancellor or at his request. He shall recommend the appointment of all necessary or desirable committees and he shall name persons to comprise such committees, except the nominating committee.

XI

The vice-presidents of the society shall preside in the absence of their successive superiors in office at all meetings of the society and the executive committee. They shall attend all regular and special meetings of the society and the executive committee and endeavor to familiarize themselves with the conduct and operations of the affairs of the society. They shall aid and assist the president in the performance of his duties, counsel and advise the executive committee and endeavor at all times to advance and promote the public interest in the history of Kentucky and her people.

XII

Nominations to membership on the executive committee and to the offices of president, first vice-president, second vice-president and third vice-president shall be made by a nominating committee or by any member present at the regular annual meeting. The nominating committee shall consist of five (5) members, shall be appointed at the first regular meeting of the executive committee after the annual meeting of the society and shall consider candidates to fill vacancies in the executive committee and offices which will occur at the subsequent annual meeting. The nominating committee shall meet in the office of the society forty-five (45) days prior to the annual meeting and nominate candidates to fill vacancies on the executive committee and at least one (1) candidate for the office of president, first vice-president, second vice-president, and third vice-president, and file same with the president. Upon the call for the election of officers the president shall promptly report the nomination by the nominating committee together with all other nominations. When more than the required number of candidates have been nominated for membership on the executive committee or more than one (1) candidate for the offices to be filled, the president shall call for an election by the vote of those present, together with the number of votes cast by proxy, and a plurality of all votes cast shall be sufficient to elect. Where no vote count is required the president shall cast one (1) vote for each candidate and he or she shall be declared elected.

XIII

This charter may be amended by a two-thirds vote of the members present and voting at any regular meeting or at any special meeting of the society called for the purpose, provided that written notice containing the substance of the proposed amendments shall have been mailed to members not less than thirty (30) days in advance of such meeting and the same approved as an amendment by the first General Assembly, meeting after the action of the society.

Section 68. KRS 247.140 is amended to read as follows:

(1) The state fair board:

(a) Shall have the custody and control of such property as now is under its custody and control, and of such property as may hereafter be placed under its control or transferred to it by the state property and buildings commission, for any purposes mentioned in this section and the physical properties so under its custody and control or transferred to it are hereinafter referred to in this section, and in KRS 247.150 and 247.160, as the "state fair grounds and an area in a city of the first class to be used as an exhibition center."

(b) May erect and repair buildings on the state fair grounds and exhibition center, make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objects defined in this section.

(c) Shall promote the progress of the state and stimulate public interest in the advantages and development of the state by providing the facilities of the state fair grounds for agricultural and industrial exhibitions, public gatherings, cultural activities, and other functions calculated to advance the educational, physical and cultural interests of the public and by providing the facilities of the exhibition center for conventions, trade shows, public gatherings and other functions calculated to advance and enhance the visitor industry, economy, entertainment, cultural and educational interests of the public.

(d) May hold an annual fair on the state fair grounds, for the exhibition of agricultural, mechanical, horticultural, dairy, forestry, poultry, livestock, mineral, and all other industrial interests of the state, and prepare premium lists and establish rules of exhibition for the fair.

(e) May purchase liability insurance for the members and executive officers exempted from the classified service of the state by *Section 23 of this Act* [~~KRS 18.140~~].

(2) The state fair board may take, acquire and hold property, and all interest therein, by deed, gift, devise, bequest, lease, or eminent domain, or by transfer from the state property and buildings commission, and may dispose of any property so acquired in the manner provided by law. In the exercise of its power of eminent domain it shall proceed in the manner provided in the Eminent Domain Act of Kentucky.

Section 69. KRS 278.115 is amended to read as follows:

The commissions by regulation shall organize their offices for administration and management under the executive director to reflect their functions. The organization may be changed from time to time and may include division directors subject to the exemption from the classified service as provided in *Section 23(1)(h) of this Act* [~~KRS 18.140(1)(h)~~].

Section 70. KRS 506.120 is amended to read as follows:

(1) No person, with the purpose to establish or maintain a criminal syndicate or to facilitate any of its activities, shall do any of the following:

(a) Organize or participate in organizing a criminal syndicate or any of its activities;

(b) Provide material aid to a criminal syndicate or any of its activities, whether such aid is in the form of money or other property, or credit;

(c) Manage, supervise, or direct any of the activities of a criminal syndicate, at any level of responsibility;

(d) Knowingly furnish legal, accounting, or other managerial services to a criminal syndicate;

(e) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of, any offense of a type in which a criminal syndicate engages on a continuing basis;

(f) Commit, or conspire or attempt to commit or act as an accomplice in the commission of, any offense of violence;

(g) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of bribery in violation of KRS Chapters 518 or 521, or KRS 119.205, 121.025, 121.055, 524.070, 156.465, 45A.340, 63.090, 6.080, *Section 29 of this Act* [~~18.320~~], 244.390 or 244.600.

(2) Whoever violates this section is guilty of engaging in organized crime, which shall be a class B felony.

(3) As used in this section "criminal syndicate" means five (5) or more persons collaborating to promote or engage in any of the following on a continuing basis:

a. Extortion or coercion in violation of KRS 514.080, 276.280, 276.310, or 521.020;

b. Engaging in, promoting, or permitting prostitution in violation of KRS Chapter 529;

c. Any theft offense as defined in KRS Chapter 514;

d. Any gambling offense as defined in KRS 411.090, KRS Chapter 528, or section 226 of the Constitution;

e. Illegal trafficking in controlled substances as prohibited by KRS Chapter 218A, in intoxicating or spirituous liquor as defined in KRS Chapters 242 or 244, or in destructive devices or booby traps as defined in KRS Chapter 237;

f. Lending at usurious interest, and enforcing repayment by illegal means in violation of KRS Chapter 360.

Section 71. The following KRS sections are repealed:

18.215 Definition — Applicabilty.

18.330 Provision for administrative costs.

Section 72. The reviser of statutes is directed to change references from KRS Chapter 18 to KRS Chapter 18A in the following statutes:

KRS 16.140, 16.505, 56.491, 57.031, 61.371, 61.510, 151.370, 153.220, 161.153, 161.340, 164.020, 171.381, 187.300, 199.420, 227.660, 247.130, and 337.010.

Committee Substitute to **HB 415** is as follows:

HB 415, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 18A IS ESTABLISHED AND KRS 18.110 IS REPEALED AND RE-ENACTED AS A NEW SECTION THEREOF AND AMENDED TO READ AS FOLLOWS:

As used in *this Act* [~~KRS 18.110 to 18.360~~], unless the context indicates otherwise:

(1) "Appointing officer" means the officer or employe or group of officers or employes authorized by law to make appointments;

(2) "Board" means the personnel board created by *Section 9 of this Act* [~~KRS 18.160~~];

(3) *"Career employe" shall mean a state employe with twenty (20) or more years of permanent full-time state service, or the part-time employment equivalent of at least twenty (20) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof.*

(4) "Certification" means the referral of the name of one or more qualified prospective employes by the commissioner [~~of personnel~~] on request of an appointing officer for consideration in filling a position in the classified service;

(5)[~~(4)~~] "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(6)[~~(5)~~] "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in *Section 23 of this Act* [~~KRS 18.140~~]; a "classified position" is a position in the classified service;

(7) "Commissioner" means the commissioner of the department of personnel as provided for in Section 3 of this Act.

(8)[~~(6)~~] "Demotion" means a change in the rank of an employe from a position in one (1) class to a position in another class having a lower minimum salary range and less discretion or responsibility;

(9)[~~(7)~~] "Department" means the department of personnel provided for in *Section 3 of this Act* [~~KRS 18.160~~] unless the context indicates otherwise;

(10)[~~(8)~~] "Eligible" refers to a person who has made a passing score on any examination required under *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] and who has qualified to be placed on a register;

(11)[~~(9)~~] "Emergency employe" means an employe appointed without regard to the examination requirements of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] to any position by reason of a governmental emergency, whose appointment is not to exceed thirty (30) working days in duration and is nonrenewable;

(12)[~~(10)~~] "Employe" means a person regularly appointed to a position in the state service for which he is compensated on a full-time or part-time basis;

(13)[~~(11)~~] "Position" means an office or employment in an agency (whether part-time, full-time, permanent, temporary, seasonal, federally funded time-limited, or emergency, occupied or vacant) involving duties requiring the services of one (1) person;

(14)[~~(12)~~] "Probation" means the period of service following appointment to any position under *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] which requires special observation and evaluation of an employe's work and which must be passed successfully before status may be conferred as provided in *Section 22 of this Act* [~~KRS 18.210~~]. An employe serving the probationary period is known as a "probationary employe";

(15)[~~(13)~~] "Promotion" means a change of rank of an employe from a position in one (1) class to a position in another class having a higher minimum salary and carrying a greater scope of discretion or responsibility;

(16)[~~(14)~~] "Provisional employe" means any employe appointed on a temporary or interim basis to a permanent position under *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] without examination, such appointment being made necessary by the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in *Section 22 of this Act* [~~KRS 18.210~~];

(17)[~~(15)~~] "Reemployment list" means the separate list of names of persons reduced in force by reason of lack of appropriations, curtailment of program or abolishment of position or of organizational unit, and through no fault of their own, who have requested the opportunity for further consideration of state employment. Reemployment lists are used as provided in *Section 22 of this Act* [~~KRS 18.210~~] and subject to *Sections 26 and 27 of this Act* [~~KRS 18.216 and 18.217~~];

(18)[~~(16)~~] "Register" means any official list of eligibles for a particular class placed in rank order according to the examination records, maintained for use in making original appointments or promotions to positions in the classified service;

(19)[~~(17)~~] "Status" means the acquisition of tenure with all rights and privileges appertaining thereunto after satisfactory completion of the probationary period by an employe in the classified service;

(20)[~~(18)~~] A "temporary position" is one created for a defined period of time not to exceed six (6) months and not renewable; a "temporary employe" is one (1) appointed to such a temporary position. A "seasonal position," although temporary in duration in the foregoing sense, coincides in duration with a particular season or seasons of the year, but may not exceed eleven (11) months duration, and may recur regularly from year to year; a "seasonal employe" is one appointed to such a seasonal position from an existing eligible list or without reference to an eligible list;

(21)[~~(19)~~] A "federally funded time-limited position" is one created for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided. A "federally funded time-limited" employe is one appointed to such position and, except as provided in *Section 23 of this Act* [~~KRS 18.140~~], may in all other respects be entitled to the benefits provided permanent, full-time regular employes as defined in *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~];

(22)[~~(20)~~] "Transfer" means a movement of any employe from one (1) position to another of the same grade having the same salary ranges and the same level of responsibility within the classified service;

(23)[~~(21)~~] A "war veteran" is a person who served on active duty in the United States armed forces during any war, or in a campaign or expedition for which a campaign badge or service medal has been authorized, or between April 28, 1952, and July 1, 1955 or between August 6, 1964 and May 7, 1975.

SECTION 2. KRS 18.120 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The general purpose of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] is to establish for the state a system of personnel administration based on merit principles and scientific methods governing the recruitment, examination, appointment, promotion, transfer, lay-off, removal, discipline, and welfare of its *classified* [~~civil~~] employes and other incidents of state employment. All appointments and promotions to positions in the state *classified* [~~civil~~] service shall be made solely on the basis of merit and fitness, to be ascertained by competitive examination, except as hereinafter specified. The general assembly finds that this chapter is necessary in order to improve the morale and motivation of state employes and to gain the maximum utilization of human resources in order to provide better service to the citizens of this Commonwealth.

SECTION 3. KRS 18.160 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) There shall be created by *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] a department of personnel headed by a commissioner who shall be appointed by the governor *subject to the approval of a majority of the full board.*

(2) Appropriations shall be made from the general expenditure fund to the department to meet the estimated pro rata share of the cost of administering the provisions of this chapter for departments, commissions, boards or agencies which receive their sole support from the general expenditure fund.

(3) The commissioner shall maintain accurate records reflecting the cost of administering the provisions of this chapter. At the close of each quarter year period he shall summarize the cost and shall bill

each department, commission, board or agency which receives support from sources other than the general expenditure fund, except the department of fish and wildlife resources, for a pro rata share of the administrative cost based on the relationship between the quarterly average number of employes in the service of such department, commission, board or agency and the quarterly average number of employes in the service of all the departments, commissions, boards and agencies for the appropriate calendar quarter.

(4) All departments, commissions, boards or agencies which receive support from other than the general expenditure fund, except the department of fish and wildlife resources, shall include in their budgets sufficient amounts to meet their pro rata shares of the cost of administering Sections 1 to 40 of this Act and shall remit such shares quarterly to the department in the manner provided by law.

(5) The department is authorized and directed to accept on behalf of the state any grant or contribution, federal or otherwise, made to assist in meeting the cost of carrying out the purposes of Sections 1 to 40 of this Act [~~There shall also be created a personnel board in which shall be vested the constitutional powers and responsibilities of officers of the Commonwealth. The personnel board shall consist of five (5) members appointed by the governor for four (4) year terms, and the governor shall select citizens of Kentucky known for their devotion to the merit principle in government employment and the improvement of management and professional development of the public service of the state. No member of the personnel board shall be otherwise an employe or officer of the Commonwealth except faculty or staff members of the state universities or colleges. No member of the personnel board shall be a member of any local, state, or national committee of a political party, or an officer or member of a committee in any partisan political club or organization, or shall be or have been a candidate for any elective office within one (1) year prior to appointment. Members of the personnel board shall receive compensation of sixty-five dollars ($65) per diem and reimbursements of travel expenses and other special expenses for each called meeting of the board or hearing which they attend. If any board member misses three (3) consecutive meetings for any reason other than illness or temporary absence from the Commonwealth, he shall be deemed to have vacated his office and the governor shall proceed forthwith to appoint a successor to his unexpired term.~~

~~(2) The members of the first board shall be appointed by the governor within thirty (30) days of July 1, 1960. Of the members first appointed, one (1) shall serve until January 1, 1961, one (1) until January 1, 1962, one (1) until January 1, 1963, and two (2) until January 1, 1964. Thereafter, each term shall run for four (4) years from the date of expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. Each member of the board shall hold office until his successor is appointed and qualifies.~~

~~(3) Members of the personnel board may be removed by the governor only for cause after being given a copy of charges against them and an opportunity to be heard publicly, with the advice of counsel, on such charges against them before the governor and a finding of fact by the governor. A copy of the charges and transcript of the record of the hearing and findings of fact shall be filed with the secretary of state.~~

~~(4) The personnel board shall annually elect one (1) of its members chairman. It shall meet at such time and place as shall be specified by call of the chairman or the commissioner of personnel. At least one (1) meeting shall be held each month. All meetings shall be open to the public. Notice of each meeting shall be given in writing to each member by the commissioner of personnel at least three (3) days in advance of the meeting. Three (3) voting members shall constitute a quorum for the transaction of business. The personnel board shall keep records and minutes of its business and official actions, with the commissioner of personnel serving as secretary. Such minutes shall be public records open to public inspection, subject to such reasonable rules as to hours and conditions of inspection as the board may establish. It shall be the duty of the officer or officers charged by law with the custody of the state buildings, upon written request of the personnel board, to assign suitable office space for executing the duties charged to it and to the commissioner of personnel~~].

SECTION 4. KRS 18.290 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The records of the department[~~, except such records as the rules may properly require to be held confidential for reasons of public policy,~~] shall be public records and shall be open to public inspection, *as provided in KRS 61.870 to 61.884* [~~subject to such reasonable regulations as to the time and manner of inspection as may be prescribed by the commissioner~~].

SECTION 5. KRS 18.180 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The Governor shall appoint the commissioner of personnel *as provided in Section 3 of this Act,* who shall be considered an employe of the state. He shall be a *graduate of an accredited college or university and have at least ten (10) years experience in personnel administration or in related fields,* [~~person who has had extensive training and experience in personnel administration or in allied fields, shall~~] have known sympathies with the merit principle in government *and shall be dedicated to the preservation of this principle. These qualifications may be waived by the initial board created by Section 9 of this Act* [~~service, and shall evidence such other qualifications as are essential to the performance of the duties of the position~~].

SECTION 6. KRS 18.190 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The commissioner [~~of personnel~~] shall be the executive and administrative head of the department [~~of personnel~~] and shall supervise and control all examinations and work of the department. He shall act as the [~~personnel~~] board's adviser on all matters pertaining to the *classified* [~~civil~~] service of this state. Within the limitations of the budget, the commissioner [~~of personnel~~] shall appoint and supervise such staff as may be needed in the department [~~of personnel~~] to carry out the purposes of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~]. It shall be the duty of the commissioner [~~of personnel~~], with the aid of his staff to:

(1) Attend all meetings of the [~~personnel~~] board;

(2) Prepare and recommend to the [~~personnel~~] board rules and regulations for the purpose of carrying out the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~]. Such rules shall provide, among other things, the manner of completing appointments and promotions, including multiple and simultaneous certifications; rejection of ineligible candidates; competitive examinations; creation of eligible lists with successful candidates ranked according to their rating in the examination; leaves of absence with and without pay; transfers, reinstatements, lay-offs; public notice of examinations; procedures for changes in rates of pay; and other conditions of employment;

(3) Establish general procedures for personnel recruitment, for certification, for improving the efficiency of employed personnel, and for the separation of employes deemed unsatisfactory or excessive by agency or department heads subject to the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~];

(4) Appoint such examiners and technicians as are necessary for the conduct of the personnel program, whether on a permanent or temporary basis;

(5) Prepare and maintain a record of all employes, showing for each employe his name, [~~post-office~~] address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make such data and the class specifications for all positions available to the press and public;

(6) Prepare, in accordance with the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] and the rules adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;

(7) Make certification for appointment or promotion within the classified service, in accordance with the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~];

(8) Make investigations concerning all matters touching the enforcement and effect of the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] and rules and regulations prescribed thereunder;

(9) Prepare, in cooperation with appointing authorities and others, programs for appraising employe work performance and collaborate with the several departments of the commonwealth in the development of programs for employe training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department [~~of personnel~~] to this end;

(10) Provide personnel services to unclassified employes in agreement with the agencies involved not otherwise provided for herein;

(11) Present, in accordance with the provisions of KRS 45.070, budget estimates for the support of the personnel system created by *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~];

(12) Make a report and submit the same to the [~~personnel~~] board and to the governor not later than October first of each year; [~~and~~]

(13) Discharge such other duties as are imposed upon him by *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], or by the board. The commissioner [~~of personnel~~] on behalf of the department may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration*; and*

(14) Keep records relative to employe turnover and report to the board, the governor and the legislative research commission quarterly. The report shall reflect employe turnover rates by cabinet, department, bureau, division and section. If any cabinet, department, bureau, division or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the commissioner shall conduct an investigation into the reasons for the turnover and report the findings to the board, the governor and the legislative research commission.

SECTION 7. KRS 18.200 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A TO READ AS FOLLOWS:

(1) The commissioner may from time to time designate in writing an employe of the department to act for him in case of his absence or inability from any cause to discharge the powers and duties of his position. In such case, the powers and duties of the commissioner shall devolve upon his designee.

(2) The commissioner may request appropriate persons, including officers and employes in the state service, to assist in the preparation and rating of tests. Department heads shall cooperate to the fullest extent possible in making the services of their employes available for such work.

(3) The commissioner of personnel shall serve ex officio as a member of the board of trustees of the Kentucky employes' retirement system.

SECTION 8. KRS 18.340 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The [~~personnel~~] board and the commissioner shall see that rules, regulations and practices meeting federal merit system standards shall, where such standards apply as a prerequisite for federal grants-in-aid, be in effect continuously, notwithstanding any other provision of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~].

SECTION 9. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a personnel board in which shall be vested the constitutional powers and responsibilities of officers of the Commonwealth. The board shall consist of seven (7) members, five (5) of whom shall be appointed by the governor as provided in Section 10 of this Act. Two (2) members of the board shall be elected by classified employes as provided in Section 11 of this Act.

(2) Of the five (5) members of the board appointed by the Governor:

(a) Three (3) members shall be citizens at large not associated with state government in any manner.

(b) Two (2) members shall be selected from a list of four (4) names submitted by the legislative research commission. The appointees shall not be from the same political party.

(3) The three (3) citizen at large appointees, initially appointed by the Governor, shall be the three (3) members of the current board who were appointed prior to July 1, 1981.

(4) Any person retaliating in any manner and any person ordering retaliation against a classified employe or a member of his family because he has participated in an election to the board, either by being a candidate or voting for a candidate, shall be subject to the provisions of Section 56 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) Initial appointments to the board by the governor, as provided in Section 9 of this Act, shall be made on or before September 15, 1982. Of the members appointed to the board, the legislative research commission appointees shall serve until July 1, 1983; the two (2) citizen at large appointees shall serve until July 1, 1984; and one (1) citizen at large appointee shall serve until July 1, 1985. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of such term shall be appointed in the same manner as provided in Section 9 of this Act and for the remainder of such term.

(2) The initial election of classified employes to the board shall be held as provided in Section 11 of this Act. The two (2) classified employes initially elected to the board shall serve until July 1, 1986. Subsequent elections shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was elected, except that a person elected to fill a vacancy prior to the expiration of such term shall be elected, as provided in Section 12 of this Act, to fill the remainder of such term.

(3) If an elected board member accepts an unclassified position with state government, his membership on the board shall be terminated immediately and the vacancy shall be filled as provided in Section 12 of this Act.

(4) If an elected board member accepts a classified position in a cabinet employing another board member or if, through no fault of his own, he is placed in that cabinet, his membership on the board shall not be terminated for the remainder of his term.

SECTION 11. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) The initial election of a classified employe shall be held on or before September 15, 1982. Subsequent elections shall be held every four (4) years on or before July 1.

(2) The department shall provide written notification of the date of the initial election to all classified employes on or before August 1, 1982. In subsequent elections, written notification shall be provided to all classified employes on or before May 15.

(3) Classified employes wishing to serve on the initial board shall notify the department on or before August 15, 1982, or their intent. The notification shall be notarized and include the candidate's name, address, social security number, job classification and length of state employment. The notification shall also include the name and address of his employer. In subsequent elections all candidates to the board shall notify the department of their intent to run, in the same manner, on or before June 1.

(4) The department shall provide ballots for the initial election to the board to all classified employes on or before September 1, 1982. Ballots shall contain the name, address, job classification and length of state employment of all candidates as well as the names and addresses of their employers. In subsequent elections, ballots shall be provided to all classified employes, in the same manner, on or before June 15.

(5) All returned ballots for the initial election to the board shall be signed and postmarked no later than midnight, September 15, 1982. In subsequent elections, all returned ballots shall be signed and postmarked no later than midnight, July 1.

(6) The department shall tabulate all returned ballots for the initial election and subsequent elections to the board and notify all successful candidates within five (5) working days of the elections. The two (2) candidates receiving the largest number of votes shall be declared the successful candidates. In the event of a tie vote, the tie shall be broken by a coin toss in the presence of the candidates in question. Successful candidates shall take office immediately upon notification.

(7) All ballots for the initial and all subsequent elections shall be public record and open to public inspection for at least sixty (60) days after the elections.

(8) State employes shall not use state materials or equipment for any purpose related to the election of classified employes to the board, nor shall any activity related to the election of a classified employe to the board be conducted during working hours.

SECTION 12. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) If an elected member of the board vacates his seat for any reason other than the normal expiration of his term, the department shall provide written notification of the vacancy to all classified and unclassified employes within fifteen (15) days of the vacancy.

(2) Classified employes wishing to fill the vacancy shall notify the department within ten (10) days of the department's notification of the vacancy.

(3) A majority of the remaining members of the board shall make the appointment to fill the vacancy from the list of those employes who have notified the board under subsection (2) of this section.

SECTION 13. KRS 18.280 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The [~~personnel~~] board, each member of the [~~personnel~~] board, and the commissioner shall have the power to administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~]. Any person who shall fail to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation or hearing or who shall knowingly give false testimony therein shall be *subject to the provisions of Section 56 of this Act* [~~guilty of a misdemeanor~~].

SECTION 14. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) The board shall annually elect one (1) of its members chairman and one (1) of its members vice-chairman.

(2) At least one (1) meeting shall be held each month.

(3) All meetings shall be open to the public as provided in KRS 61.870 to 61.884. Any head of the department or agency employing an elected member of the board or any other person shall not prohibit him from attending meetings of the board, conducting the business of the board, influence or attempt to influence any decision made by that person, discipline the individual for attending the meeting; or, take any other action inimical to the interests of the employe or his family. Any person violating the provisions of this subsection shall be subject to the provisions of Section 56 of this Act.

(4) Notice of each regular meeting shall be given in writing to each member of the board at least seven (7) days in advance of the meeting. Four (4) voting members shall constitute a quorum for the transaction of business. The board shall keep records and minutes of its business and official actions.

(5) All records of the board shall be public records and open to public inspection as provided in KRS 61.870 to 61.884.

SECTION 15. KRS 18.170 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

It shall be the duty of the [~~personnel~~] board to:

(1) Adopt comprehensive rules consistent with the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;

(2) Present to the governor, through the secretary of the department of finance, for his adoption such classification and compensation plans for the state service, provision for vacation, sick and special leave and hours of work, together with rules for their administration, as recommended by the commissioner [~~of personnel~~] and the board after a thorough survey of the personnel and departmental organizations included in such plan or plans;

(3) Make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], and to require observance of its provisions and the rules and regulations made pursuant thereto; and to make such investigation as may be requested by the general assembly or the governor and to report thereon;

(4) Hear appeals from applicants for positions for which examinations are being or have been conducted, from eligibles on examination registers, [~~and~~] from *unclassified employes who have been dismissed,*

demoted, suspended, or otherwise penalized for cause, and from officers or employes serving under the personnel system created by *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], as hereinafter provided, subject to the procedural rules which the board may adopt pursuant to the provisions of this section;

(5) Promote public understanding of merit principles in government service;

(6) Make annual reports to the governor and biennial reports to the general assembly, which reports shall be a public record freely available to those persons interested in obtaining a copy;

(7) Advise the governor and the commissioner [~~of personnel~~] with respect to the administration of the personnel system created by *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~];

(8) Consider and act on such matters as may be referred to the board by the commissioner [~~of personnel~~]; and

(9) Represent the public interest in the improvement of personnel administration in the state service, and advise and assist the commissioner [~~of personnel~~] in fostering the interest of institutions of learning and of civic, professional, and employe organizations in the improvement of personnel standards in the state service.

SECTION 16. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 40 of this Act, members of the board shall receive compensation of sixty-five dollars ($65) per diem and reimbursement for actual and necessary expenses in accordance with state regulations and standards applicable to state employes.

(2) Any board member missing three (3) consecutive regular meetings shall be deemed to have vacated his office. Replacements to the board shall be made as provided in Sections 9(2) and 12 of this Act.

SECTION 17. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) Members of the board may be removed by the governor for cause after being given a copy of charges against them and an opportunity to be heard publicly, with the advice of counsel, on such charges against them before the governor and a finding of fact by the governor. A copy of charges shall be furnished to the board member being removed.

(2) Any member of the board removed by the governor may within thirty (30) days appeal the governor's order removing him from the board to the Franklin Circuit Court. If the court finds the governor's action to be arbitrary, capricious or contrary to the weight of the evidence in the case, it shall void the governor's order.

SECTION 18. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

As provided by the budget enacted by the general assembly and other laws applicable to state personnel, the board may employ and discharge any personnel as may be necessary to administer and enforce provisions of this Act and shall outline the duties and fix the compensation of such persons.

SECTION 19. KRS 18.270 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Any classified employe who is dismissed, demoted, suspended, or otherwise penalized after completing his probationary period of service *or any unclassified employe who is dismissed, demoted, suspended, or otherwise penalized for cause* may, within thirty (30) days after such dismissal, demotion, suspension, or other form of penalization, appeal to the [~~personnel~~] board for review thereof. Upon such review, both the appealing employe and the appointing authority whose action is reviewed shall have the right to be heard publicly and to be represented by counsel to present evidentiary facts. At the hearing of such appeals, technical rules of evidence shall not apply. If the [~~personnel~~] board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or handicap, the appointing authority shall, not later than thirty (30) days after receipt of such findings and recommendations, reinstate the employe to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employe whole. If the [~~personnel~~] board finds that the action complained of was taken without just cause, the [~~personnel~~] board shall order the employe reinstated to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employe whole. In all other cases, if the [~~personnel~~] board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the [~~personnel~~] board shall alter, modify or rescind the disciplinary action. The appointing authority shall, not later than thirty (30) days after receipt of the final order of the [~~personnel~~] board, comply with such final order. When any employe is dismissed and not ordered reinstated after such appeal, the [~~personnel~~] board in its discretion may direct that his name be placed on an appropriate re-employment list, for employment in any similar position other than the one from which he had been removed.

(2) Any unclassified employe who is dismissed without cause shall not have the right of appeal as provided in this section.

(3) The board shall, within sixty (60) days after an appeal is filed, hear the appeal, and shall, within ninety (90) days after an appeal is filed, issue a final determination for the disposition thereof.

SECTION 20. KRS 18.272 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Any final order of the [~~personnel~~] board either upholding or invalidating the dismissal, demotion, suspension, or other penalization of *a classified or an unclassified* [~~an~~] employe [~~with status~~] may be appealed either by the employe or by the appointing authority.

(2) The party aggrieved may, within thirty (30) days after the entry of the final order with which he is dissatisfied, appeal that order by filing a petition with the clerk of the Franklin Circuit Court. The petition shall state completely the grounds upon which the review is sought and shall specify the alleged errors in the board's conclusion and order. The appellant shall furnish a copy of the petition to the opposing party and the board. Summons shall be issued by the circuit court clerk upon the petition directing the adverse party or parties to file an answer within twenty (20) days after service of summons. Service on the board shall be had by serving the attorney general or any assistant attorney general. The secretary of the personnel board shall within thirty (30) days after service of the summons file an attested copy of the order with the circuit court clerk, and of all the steps taken by the board relative to the attested order. If either party requests a transcript of the evidence, the requesting party shall bear the cost of the original copy of the transcript and it shall be furnished within ninety (90) days.

(3) The board, the employe, and the appointing authority shall be necessary parties to such appeals. It shall not be necessary for the board to file responsive pleadings unless it so desires. If the appeal is from an order upholding the dismissal, demotion, suspension, or other penalization, the burden of appearing and defending the action of the board shall be upon the appointing authority. If the appeal is from an order refusing to uphold the dismissal, demotion, suspension, or other penalization, the burden of appearing and defending the action of the board shall be upon the employe.

(4) The case shall be set down by the court for as early a day as possible for a hearing, and shall in all respects be expedited.

(5) No new or additional evidence shall be introduced in the Franklin Circuit Court except as to fraud or misconduct affecting the outcome of the case, but the court shall otherwise hear the case upon the record as attested by the secretary of the personnel board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:

(a) The board acted without or in excess of its power;
(b) The order appealed from was procured by fraud or misconduct;
(c) Substantial evidence supports the order appealed from;
(d) The board's decision is supported by the law.

(6) The court shall enter judgment affirming, modifying, or setting aside the order or, in its discretion, remanding the case to the board for proceedings in conformity with the directions of the court.

(7) Any party may appeal from the circuit court to the Court of Appeals in accordance with the Rules of Civil Procedure.

SECTION 21. KRS 18.275 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) (a) When a classified *or unclassified* employe has been finally ordered reinstated by the board without loss of pay, pursuant to the provisions of *Section 19 of this Act* [~~KRS 18.270~~], the commissioner shall forward a certified copy of said order to the department of finance, which shall process proper payment to the employe for the period of suspension, said payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the "judgments" section of the general fund of the biennial state budget.

(b) Gross monies which were earned by the employe from other sources during the period of suspension shall be set off against the gross sum due the employe, to the extent that the monies were earned in a number of hours comparable to the length of time the employe would have worked in the job from which he was dismissed. The department finance shall by regulation provide an administrative procedure for determining reasonable earnings to be so set off.

(c) All other deductions shall be deducted as required by law or by department of finance regulation.

(2) (a) Both the employe's and employer's contributions to the Kentucky employes' retirement system shall be based upon the gross amount due the employe, before set off or deduction, except for set off caused by earnings on which employe and employer contributions to the Kentucky employes' retirement system, county employes' retirement system, state police retirement system or Kentucky teachers' retirement system have been paid.

(b) Member and employer contributions paid into the system in which the employe participated after dismissal shall be transferred to the system in which he participated prior to his illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system in which he participated before reinstatement by the [~~personnel~~] board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which he would have participated had he not been dismissed.

SECTION 22. KRS 18.210 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The commissioner [~~of personnel~~] shall prepare and submit to the [~~personnel~~] board proposed rules for the classified service. Such rules shall have the force and effect of law, when approved by the board, after public notice and public hearing, and after filing with the legislative research commission in accordance with KRS Chapter 13 and procedures adopted thereunder. If not disapproved by the board within forty-five (45) days after the submission thereof, they shall have the same force and effect as if approved. Amendments thereto may be made in the same manner, or on the initiative of the board. The rules shall provide:

(1) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification has been approved by the board, the commissioner shall allocate the position of every employe in the classified service to one (1) of the classes in the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner of personnel a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(2) For a pay plan for all employes in the classified service, after consultation with appointing authorities and the secretary of the department of finance. The plan shall take into account such factors as (a) the relative levels of duties and responsibilities of various classes of positions; (b) rates paid for comparable positions elsewhere; and (c) the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the board. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed;

(3) For open competitive examinations to test the relative fitness of applicants for the respective positions. Such examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service, and shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgment serves the need to discover the relative fitness of applicants;

(4) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct and seniority. Vacancies shall be filled by promotion whenever practicable and in the best interest of the service;

(5) For the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Eligibility lists shall expire automatically at the end of two (2) years, unless the life of a list is extended by action of the personnel board for a period not to exceed one (1) additional year;

(6) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training and experience, or who have been guilty of infamous or disgraceful conduct; who are addicted to alcohol to excess or to narcotics, or who have attempted any deception or fraud in connection with an examination;

(7) For the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(8) For a period of probation not to exceed one (1) year before appointment or promotion may be made complete, and during which period a probationer may be discharged or reduced in class or rank, or replaced on the eligible list. Unless the appointing authority notifies the employe prior to the end of the probationary period that the employe's services are not satisfactory, the employe shall have status in the classified service. The notice shall be in writing and as provided by personnel rules;

(9) For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;

(10) For provisional employment without competitive examination when there is no appropriate eligible list available. No such provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;

(11) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(12) For reinstatement within not more than five (5) years, only with the approval of the commissioner, of persons who resign in good standing or who are laid off from their positions without fault or delinquency on their part;

(13) For developing, in cooperation with the appointing authorities, uniform standards and methods of appraising work performance of all employes and for the use of such methods of appraisal in personnel actions;

(14) For lay-offs by reasons of lack of funds or work, or abolishment of a position, or material change in duties or organization, and for reinstatement of employes so laid off. *Lay-offs* [~~, giving consideration in both lay-offs~~] and re-employment *shall be determined by seniority* [~~to qualifications, performance records, conduct and seniority in service~~];

(15) For imposition as disciplinary measures of a fine of not more than ten (10) working days' pay or for suspension from the service without pay for not longer than thirty (30) working days and for the manner of notification of the employe of the discipline and his right of appeal;

(16) For discharge or reduction in rank or grade only for cause, after the person to be discharged or reduced has been presented with the reasons for such discharge or reduction stated in writing, and has been allowed a reasonable time to reply thereto in writing, or, upon request, to appear personally with counsel and reply to the head of the department or his deputy. The statement of reasons and the reply shall be filed as a public record with the commissioner;

(17) For establishment of a plan for resolving employe grievances and complaints;

(18) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in *subsection (2) of Section 15 of this Act* [~~KRS 18.170(2)~~];

(19) For the development and operation of programs to improve the work effectiveness of employes in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, and employe relations;

(20) For promotion of career employes to positions in the unclassified service without loss of status to the individual employes so promoted;

(21) For such other rules and administrative regulations not inconsistent with *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], as may be proper and necessary for its enforcement.

SECTION 23. KRS 18.140 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) The classified service to which *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employes of the general assembly including the employes of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employes on the staff of the governor, the lieutenant governor, the office of the secretary of the governor's cabinet, and the office of program administration;

(e) Cabinet secretaries, commissioners, department heads, bureau commissioners and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(g) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the commissioner of personnel approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the personnel board may approve such an addition or additions on petition of the department head approved by the commissioner of personnel;

(h) Division directors subject to the provisions of *Section 34 of this Act.* [~~KRS 18.150;~~] *Division directors in the classified service as of January 1, 1980, shall remain in the classified service;*

(i) Physicians employed as such;

(j) One (1) private secretary for each person exempted under subsections (1)(e), (1)(f) and (1)(g) of this section;

(k) The judicial department, referees, receivers, jurors, and notaries public;

(l) Officers and members of the staffs of state universities and colleges and student employes of such institutions; and officers, teachers, and employes of local boards of education;

(m) Patients or inmates employed in state institutions;

(n) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services *under the provisions of KRS 45.700 to 45.720* [~~who are retained pursuant to application procedures, lists of eligibles, and classification and compensation systems developed by the commissioner of personnel and approved by the professional employment commission under the provisions of KRS 45.535~~];

(o) Seasonal, temporary, and emergency employes;

(p) Federally funded time-limited employes;

(q) Officers and members of the state militia;

(r) State police troopers and sworn officers in the bureau of state police, department of justice;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and commonwealth's attorneys and their respective appointees.

(2) Nothing in KRS 18.110 to 18.360 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and KRS 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Classified employes with status promoted to positions exempted from classified service *shall* [~~may~~], upon termination of their employment in the exempted service, revert to *a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to the provisions in Sections 26 and 27 of this Act* [~~their classified status, but not necessarily to a particular position in the classified service~~].

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

SECTION 24. KRS 18.250 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Except as hereinafter provided, all hiring for the classified service shall be on the basis of competitive examinations and certification by the [~~personnel~~] department in accordance with the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~].

(2) As of February 29, 1976, when an entity and its employes, either initially or subsequently, is brought into state service, all employes of that entity required to be covered under the classified service shall be required to meet the minimum qualifications for the positions to which they are assigned and to satisfactorily complete a probationary period, except that in the discretion of the commissioner they shall not be required to take an examination. The commissioner shall equitably assign such employes to any step within the salary range of an appropriate pay grade.

SECTION 25. KRS 18.260 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) No disbursing or auditing officer of the Commonwealth shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the classified or unclassified service unless the payroll voucher or account of such pay bears the certification of the commissioner, or of his authorized agent, that the persons named therein have been appointed and employed in accordance with the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] and the rules, regulations, and orders thereunder. The commissioner may for proper cause withhold certification from an entire payroll or from any specific item or items thereon. The commissioner may, however, provide that certification of payrolls may be made once every six (6) months, and such certification shall remain in effect except in the case of any officer or employe whose status has changed after the last certification of his payroll. In the latter case no voucher for payment of salary to such employe shall be issued or payment of salary made without the further certification of the commissioner.

(2) Any citizen, including public officers, may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], or of any rule, regulation or order thereunder. Any sum paid contrary to any provision of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] or of any rule, regulation, or order thereunder may be recovered in an action maintained by any citizen, from any officer who made, approved, or authorized such payment

or who signed or countersigned a voucher, payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer. All moneys recovered in any such action shall be paid into the treasury.

(3) Any person appointed or employed in contravention of any provision of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] or of any rule, regulation, or order thereunder, who performs service for which he is not paid, may maintain an action against the officer or officers, employe or employes, who purported so to appoint or employ him, to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No such officer or employe shall be reimbursed by the Commonwealth at any time for any sum paid to such person on account of such services.

(4) If the commissioner wrongfully withholds certification of the payroll voucher or account of any employe, such employe may maintain a proceeding in the circuit court in the county in which he resides to compel the commissioner to certify such payroll voucher or account.

SECTION 26. KRS 18.216 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) [~~Except as provided in subsection (2) of KRS 18.215,~~] A career employe whose employment is terminated on or after January 1, 1980, by layoff, dismissal, other than for cause, and, in the case of an unclassified management employe, resignation other than resignation in lieu of dismissal for cause, shall, upon his written request, be reemployed or placed on reemployment lists in accordance with this section and *Section 27 of this Act* [~~KRS 18.217~~].

(2) If the career employe has previously attained status in a position in the classified service, he shall revert to a position in that class in the agency from which he was terminated if a vacancy in that class exists. If no such vacancy exists, he shall be considered for employment in any vacant position for which he is qualified pursuant to the reemployment procedures.

(3) If the career employe has not previously attained status in the classified service or if he has attained status but no vacancy exists in a position to which subsection (2) of this section applies, the employe shall be placed on reemployment lists for any positions for which he is qualified.

SECTION 27. KRS 18.217 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Any career employe who has been laid off or dismissed, other than for cause, and, in the case of an unclassified management employe, resignation other than resignation in lieu of dismissal for cause, shall *automatically* be placed on *the reemployment list for the class from which he was terminated. If a career employe wishes to be on the remployment list for other* [~~reemployment lists for those~~] classes of positions for which he is qualified and passes the appropriate selection method, *he* [~~, Such career employe~~] shall notify the department [~~of personnel~~] in writing [~~that he desires reemployment in order to be eligible for placement on reemployment lists~~].

(2) If more than one (1) career employe requests to be placed on the reemployment list for any job classification, the department [~~of personnel~~] shall list the names of such career employes in the order of their seniority.

(3) No vacancy may be filled from a competitive register until all career employes on the reemployment list for that class of position have *denied employment in that class* [~~been given full consideration for reemployment~~]. An appointing authority may refuse to reemploy a qualified employe on the reemployment list only for cause. The commissioner of personnel and the employe shall be furnished with a written statement of the specific reasons for the refusal within ten (10) days following the appointing authority's refusal. The employe may appeal the appointing authority's action in accordance with *Sections 19 and 20 of this Act* [~~KRS 18.270 to 18.272~~].

SECTION 28. KRS 18.310 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified services because of his political or religious opinions or affiliations or ethnic origin or sex or handicap. No person between the ages of forty (40) and seventy (70) shall be discriminated against because of age.

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) No employe in the classified service or member of the [~~personnel~~] board or commissioner shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employe in the classified service.

(4) No employe in the classified service shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for

nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employes of the classified service may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis.

SECTION 29. KRS 18.320 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) No person shall make any false statement, certificate, mark, rating, or report with regard to any test, certification, or appointment made under any provision of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] or in any manner commit or attempt to commit any fraud preventing the impartial execution of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] and the rules, regulations or orders thereunder.

(2) No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the classified service.

(3) No employe of the department, examiner, or other person shall defeat, deceive, or obstruct any person in his right to examination, eligibility, certification, or appointment under *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

(4) No person shall make any false statement, record or report regarding hours, days, or other time worked by any employe. No person shall falsely prepare any payroll document or record relating to the pay for any employe.

SECTION 30. KRS 18.212 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) An honorably discharged war veteran shall have five (5) points added to his entrance examination score for *classified* [~~merit system~~] positions.

(2) Any honorably discharged war veteran whom the veterans administration or any branch of the armed forces of the United States determines has service-connected disabilities shall have ten (10) points added to his entrance examination score for a *classified* [~~merit system~~] position.

(3) The spouse of an honorably discharged war veteran who would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies him for positions along the general line of his usual occupation shall have ten (10) preference points added to his entrance examination score for a *classified* [~~merit system~~] position. In such a case, the spouse loses the right to preference if the disabled war veteran recovers.

(4) Until remarriage, the surviving spouse of an honorably separated war veteran shall have ten (10) preference points added to his entrance examination score for a *classified* [~~merit system~~] position. This includes the surviving spouse of a war veteran who died while in the armed forces, unless circumstances surrounding the death would have been cause for other than honorable separation.

(5) A parent totally or partially dependent on a war veteran who lost his life under honorable conditions while on active duty or active duty for training purposes or who became permanently and totally disabled as a result of a service-connected disability, shall have ten (10) preference points added to his examination score for a *classified* [~~merit system~~] position.

(6) War veterans and their spouses, widows, widowers, and parents eligible for preference points shall have them added to their entrance examination scores for *classified* [~~merit system~~] positions only if the score is determined by the commissioner [~~of personnel~~] to be a passing score and after verification of the required service.

SECTION 31. KRS 18.220 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) The commissioner [~~of personnel~~] shall prepare and submit proposed rules to the governor for employes in *unclassified* [~~non-merit system~~] positions enumerated in paragraphs (f), (g), (h), (i), (j), (o), (t), and (u) of *subsection (1) of Section 23 of this Act* [~~KRS 18.140(1)~~]. Such rules shall become effective after approval by the governor and promulgation in accordance with KRS Chapters 12 and 13. The rules shall provide:

(a) For the preparation, maintenance and revision of a position classification plan for all aforementioned positions in the unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the governor, the commissioner shall allocate the positions of every employe in the unclassified service to one (1) of the classes of the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner [~~of personnel~~] a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(b) For a pay plan for all aforementioned employes in the unclassified service, after consultation with appointing authorities and the secretary of the department of finance, and taking into account such factors as 1. the relative levels of duties and responsibilities of various classes of positions; 2. rates paid for comparable positions elsewhere; and 3. the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the commissioner [~~of personnel~~] through the secretary of the department of finance. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;

(c) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(d) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in *subsection (2) of Section 15 of this Act* [~~KRS 18.170(2)~~];

(e) For the development and operation of programs to improve the work effectiveness and morale of employes in the unclassified service, including training, safety, health, welfare, counseling, recreation, and employe relations;

(f) For such other rules and administrative regulations, not inconsistent with *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], as may be proper and necessary for its enforcement.

(2) Nothing herein shall be construed to preclude the optional use of rules promulgated under this section on behalf of employes enumerated in paragraphs (a), (d), (e) and (p) of subsection (1) of *Section 23 of this Act* [~~KRS 18.140~~] and on behalf of members of state boards and commissions who work on a full-time, salaried basis.

SECTION 32. KRS 18.230 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

All officers and employes of the commonwealth and of all its municipalities and political subdivisions shall allow the department the reasonable use of public buildings under their control, and furnish heat, light and furniture for any examination, hearing, or investigation authorized by *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~]. The department shall pay to a municipality or political subdivision the reasonable cost of any such facilities furnished by it.

SECTION 33. KRS 18.240 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) All officers and employes of the commonwealth shall comply with, and aid in all proper ways in carrying out, the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] and the rules, regulations, and orders thereunder. All officers and employes shall furnish any records or information pertaining to the administration of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] which the commissioner may request. The commissioner or the board may require the attorney general to institute and maintain such legal action as the commissioner or the board may consider necessary or appropriate to secure compliance with *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] and the rules and orders thereunder.

(2) The secretary of the department of finance may review and approve all proposed position establishments and abolishments. Reclassifications and reallocations may also be reviewed and approved by the secretary of the executive department for finance and administration on the basis of the availability of funds.

SECTION 34. KRS 18.150 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

It is further provided that the responsible departmental, board, commission or agency head shall at the time at which he elects to come under the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~], certify to the [~~personnel~~] board the positions of those division directors or heads under their jurisdiction whose duties are nonpolicy making together with a sufficient statement of their duties to enable the board to determine whether or not, as a matter of fact, such duties are nonpolicy making in their nature. He shall, at any time subsequent to coming under the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~] certify to the [~~personnel~~] board additional division directors or heads whose duties are nonpolicy making. At the time of certification notice thereof shall be given to the interested division director or head in the form of a copy of the statement certifying the duties of his office. The board may conduct such hearings as it may deem necessary, and shall conduct hearings pursuant to the administrative provisions of *Sections 19 of this Act* [~~KRS 18.270~~] in the event of a difference of opinion between the certifying officer and the interested division director or head, before entering its findings of fact and an order either classifying or denying classification to such position. Either the certifying officer or the division director or head may appeal the findings of fact and the final order of the board by initiating action in the Franklin Circuit Court pursuant to the provisions of KRS 418.040 et seq.

SECTION 35. KRS 18.155 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The responsible departmental, board, commission or agency head shall periodically evaluate the duties of those division directors or heads placed under the *classified service* [~~merit system~~] pursuant to the provisions of *Section 34 of this Act* [~~KRS 18.150~~], and shall determine whether the duties of such directors or heads have become policy making in their nature. If it is determined that the duties of such directors and heads are policy making, the responsible agency head shall certify that fact to the [~~personnel~~] board. At the time of certification, notice thereof shall be given to the interested division director or head in a form of a copy of the statement certifying the policy making duties of his office. The board may conduct such hearings as it may deem necessary, and shall conduct hearings pursuant to the administrative provisions of *Section 19 of this Act* [~~KRS 18.270~~] in the event of a difference of opinion between the certifying officer and the interested division director or head, before entering its findings of fact and an order either removing the position from the *classified service* [~~merit system~~] or retaining it within the *classified service* [~~merit system~~]. Either the certifying officer or the division director or head may appeal the findings of fact and the final order of the board by initiating action in the Franklin Circuit Court pursuant to the provisions of KRS Chapter 418.

SECTION 36. KRS 18.300 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Subject to the approval of the [~~personnel~~] board the commissioner may enter into agreements with any municipality or other political subdivision of the commonwealth to furnish services and facilities of the department to such municipality or political subdivision in the administration of its personnel on merit principles. Any such agreement shall provide for the reimbursement to the department, under contract, of the reasonable cost of the services and facilities furnished, as determined by the commissioner. All municipalities and political subdivisions of the commonwealth are hereby authorized to enter into such agreements.

(2) The commissioner may cooperate with the governmental agencies of other jurisdictions charged with personnel administration in conducting joint tests and establishing joint lists from which eligibles shall be certified for appointment in accordance with the provisions of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~].

(3) The commissioner may, upon the request of the secretary of the department for human resources and upon the approval of the [~~personnel~~] board, furnish merit system services to "local" departments of health.

SECTION 37. KRS 18.211 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

For the purpose of any regulation issued under *Section 22 or 31 of this Act* [~~KRS 18.210 or 18.220~~] governing entitlement to annual leave days, sick leave days or the accumulation of such leave days, any period of service as an elected state official, including but not limited to service in the general assembly, by any officer or employe to whom such regulation applies shall be considered to have been full-time employment in the state service.

SECTION 38. KRS 18.350 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) State offices shall be closed and state employes shall be given a holiday on the following days:
(a) The 1st day of January plus one extra day;
(b) The 3rd Monday in February;
(c) Good Friday, one-half day;
(d) The last Monday in May;
(e) The 4th day of July;
(f) The 1st Monday in September;
(g) *Presidential election day as required under KRS 2.190;*
(h) The 4th Thursday in November plus one extra day;
(i)[~~(h)~~] The 25th day of December plus one extra day.

(2) When any of the days enumerated in subsection (1) falls on a Saturday, the preceding Friday shall be observed as the holiday, and when any of the days enumerated in subsection (1) falls on a Sunday, the following Monday shall be observed as the holiday. When one extra day is mentioned in paragraphs (a), (g) and (h) of subsection (1), the Governor shall designate the extra day.

(3) The holidays set out in this section are in addition to vacation leave and other benefits of state employes.

SECTION 39. KRS 18.360 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) A state employe who is authorized to work one or more hours in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis. An employe who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

(2) Any employe who leaves state service shall be paid for the balance of unused compensatory time.

SECTION 40. KRS 18.370 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) No state officer or employe who is required by statute or regulation to serve on any board, commission or other body in an official capacity shall receive a per diem salary for the attendance of meetings or performance of services.

(2) Any state officer or employe who is required by statute or regulation or who is elected or appointed to serve on any board, commission or other body in an official capacity shall receive reimbursement for actual and necessary expenses in accordance with state regulations and standards.

SECTION 41. KRS 18.410 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) The secretary of the department of finance, upon the recommendation of the commissioner [~~of personnel~~], may procure from one or more life insurance companies, authorized to do business in this state, a policy or policies of group life insurance insuring the lives of all or any class or classes of state employes. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that life insurance may be made available for state employes, except that the procuring is permissive.

(2) The term "state employe," for purposes of *Sections 41 to 45 of this Act* [~~KRS 18.410 to 18.440 and KRS 18.470~~], shall mean a person who is regularly employed by any department, board, agency or branch of state government, and who is also a contributing member of any one of the retirement systems administered by the state provided, however, that any federally funded time-limited employe may receive insurance coverage.

(3) The term "premiums," for the purposes of *Sections 41 to 45 of this Act* [~~KRS 18.410 to 18.440 and KRS 18.470~~], shall mean premiums to be paid on any type of insurance authorized under *Sections 41 to 45 of this Act* [~~KRS 18.410 to 18.440 and KRS 18.470~~].

SECTION 42. KRS 18.420 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A TO READ AS FOLLOWS:

The premiums may be paid by the policyholder (a) wholly from funds contributed by the insured employe, by payroll deduction or otherwise, (b) wholly from funds contributed by the state or department or agency, or (c) partly from each. No payment of premium by the state or department, board or agency shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe; any premium or other expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

SECTION 43. KRS 18.430 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A TO READ AS FOLLOWS:

The policy or policies may also provide accidental death and dismemberment insurance and may contain such provisions with respect to the class or classes of employes covered, amounts of insurance for designated classes or groups of employes, terms of eligibility, continuation of insurance after retirement, and such other provisions as the commissioner of insurance may approve.

SECTION 44. KRS 18.440 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The secretary of the department of finance is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance under the provisions of *Sections 41 to 44 of this Act* [~~KRS 18.410 to 18.440~~].

SECTION 45. KRS 18.470 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A TO READ AS FOLLOWS:

(1) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is qualified under the requirements of the United States department of health, education and welfare except as provided in subsection (2) of this section.

(2) The secretary of the department of finance, upon the recommendation of the commissioner of personnel, may procure from one (1) or more health, hospitalization, medical, major medical and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, major medical and dental insurance or health maintenance organization coverage encompassing all or any class or classes of state employes. All state employes for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside, the state employes may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky health facilities

and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employes, except that the procuring of each is permissive.

(3) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employe, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage over the premium amount contributed by the state or department, board or agency for any other insurance coverage shall be paid by the employe.

(4) If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(5) No payment of premium by the state or department, board or agency shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe. Any premium or other expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

(6) The policy or policies may contain such provisions with respect to the class or classes of employes covered, amounts of insurance or coverage for designated classes or groups of employes, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(7) The secretary of the department of finance is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance and health maintenance organization coverage under the provisions of this section.

SECTION 46. KRS 18.510 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

As used in *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~], unless the context requires otherwise:

(1) "Employe" means a person holding an office, position or employment in state government and agencies thereof and also includes persons in the public school system.

(2) "Income" means earnings of a person while an employe of the state and agencies thereof or public school system.

(3) "Asset" means any owned physical object or right having a monetary value.

(4) "Trust fund" means a fund consisting of assets received and held by a government unit or its designated custodian to be expended or invested in accordance with conditions of the trust.

(5) "Deferred compensation" means a method which allows employes to authorize income to be deducted from their current earning and set aside to be paid at a later date.

(6) "Board" means the board of trustees as established by *Section 49 of this Act* [~~KRS 18.540~~].

SECTION 47. KRS 18.520 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The Kentucky public employes deferred compensation system is established pursuant to the provisions of *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~], and shall transact all of its business and shall have the powers and privileges of a corporation.

SECTION 48. KRS 18.530 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

A state fund is hereby authorized, called "The Kentucky State Public Employes Deferred Compensation Trust Fund," which shall consist of all of the assets of the system as set forth in *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~].

SECTION 49. KRS 18.540 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) The system shall be administered by a board of trustees composed of five (5) members, who shall be as follows:

(a) Commissioner of insurance, ex officio;
(b) Secretary, department of finance, ex officio;
(c) Commissioner of personnel, ex officio;
(d) Two (2) members appointed by the governor of the Commonwealth.

(2) The members of the board appointed by the governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office.

(3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.

(4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(5) Board members who do not otherwise receive a salary or compensation from the state treasury shall receive a per diem of forty-five dollars ($45) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with [~~normal~~] state regulations and standards *applicable to state employes.*

(6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice-chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.

(7) The board may, but is not limited to the following actions:

(a) Appoint or contract for the services of an executive secretary as provided in KRS 12.050 and fix his compensation. The executive secretary shall be the chief administrative officer of the board;

(b) Appoint such other employes as it deems necessary and fix the compensation for all employes of the board, subject to the approval of the commissioner [~~of personnel~~];

(c) Require such employes as it thinks proper to execute bonds for the faithful performance of their duties;

(d) Establish a system of accounting;

(e) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~], including annual audits;

(f) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~].

(8) All employes of said board shall serve during its will and pleasure.

(9) The attorney general, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS chapter 12.

(10) The board shall prepare an annual financial report showing all receipts, disbursements, assets and liabilities and shall submit a copy to the governor and legislative research commission. All board meetings and records shall be open for inspection by the public.

SECTION 50. KRS 18.550 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A TO READ AS FOLLOWS:

Subject to the approval of the board of trustees of the Kentucky state public employes deferred compensation system, department of finance shall establish a deferred compensation plan for the employes of the state of Kentucky. Participation in such plan shall be by a specific written agreement between such employes and the state and shall provide for the deferral of such amount of compensation as requested by the employe. Participating employes must authorize that such deductions be made from their wages for the purpose of participation in such program. Amounts so deducted shall be deposited in the state treasury to the credit of the trust fund.

SECTION 51. KRS 18.560 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~], funds held for the state of Kentucky public employes deferred compensation trust fund pursuant to written deferred compensation agreement between the state and participating employes may be invested, in such investments as are deemed appropriate by the trustees including, but not limited to annuity contracts.

(2) Funds deposited to the credit of the trust fund from payroll deductions made pursuant to *Section 50 of this Act* [~~KRS 18.550~~] shall be temporarily invested as provided in KRS 41.380 until such funds are invested pursuant to the written deferred compensation agreements between the state and participating employes and actually credited to accounts for plan participants. Notwithstanding KRS 41.380(3), interest earned from such temporary investments shall be used to defray the expenses of administering the deferred compensation system.

SECTION 52. KRS 18.570 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

In no case shall such investment be other than permitted by *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~] and not prohibited by section 177 of the Kentucky constitution and must be offered by such persons or companies authorized and duly licensed by the state of Kentucky and applicable federal regulatory agencies to offer such insurance or investment programs in compliance with all relevant provisions of *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~].

SECTION 53. KRS 18.580 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A TO READ AS FOLLOWS:

Such a deferred compensation program shall be in addition to any retirement or any other benefit program provided by law for employes of this state. Any income deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the retirement and pension benefits earned by any employe. But, any sum so deducted shall not be included in the computation of any income taxes withheld on behalf of any such employe.

SECTION 54. KRS 18.590 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Any city, county, or other political subdivision or combination of these entities may establish for its employes a deferred compensation program. Participation shall be by written agreement between such employes and the legislative authority of the city, county, or other political subdivision providing for the deferral of such compensation and the subsequent investment and administration of such funds.

(2) Such subdivision, acting through its legislative authority, may appoint such agency or department as it deems appropriate to establish and administer a deferred compensation plan pursuant to *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~]. For purposes of funding such agreements between the city, county, or other such political subdivision and the participating employes, the agency or department as designated by the legislative authority to establish and administer such plans may invest such funds in such investments deemed appropriate by said agency or department, including, but not limited to annuity contracts.

(3) In no case shall such investment be other than permitted by *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~] and not prohibited by section 179 of the Kentucky constitution and must be offered by such persons or companies authorized and duly licensed by the state of Kentucky and applicable federal regulatory agencies to offer such insurance or investment programs in compliance with all relevant provisions of *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~].

(4) Such a deferred compensation program is in addition to any retirement or pension system or any other benefit program provided by law for employes of the city, county, or other political subdivision. Any income deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the retirement and pension benefits earned by any employe but any sum so deducted shall not be included in the computation of any income taxes withheld for any such employe.

(5) This section does not limit the power or authority of any municipal corporation or other political subdivision to provide other such plans or programs for deferring compensation of their officials and employes.

SECTION 55. KRS 18.600 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

The state treasurer shall be the custodian of the funds collected under *Section 47 of this Act* [~~KRS 18.520~~] and shall upon warrants issued by the department of finance pay to the board the amounts so collected to be administered as provided in *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~]. The treasurer of the local unit of government shall likewise be the custodian of any funds created by *Section 54 of this Act* [~~KRS 18.590~~] and shall pay to the board the amounts so collected to be administered as provided in *Sections 46 to 55 of this Act* [~~KRS 18.510 to 18.600~~].

SECTION 56. KRS 18.990 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 18A AND AMENDED TO READ AS FOLLOWS:

(1) Any person who wilfully violates any provision of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.340~~] or of the rules shall be guilty of a misdemeanor, and shall upon conviction be punished therefor with a sentence of from thirty (30) days to a maximum of six (6) months in jail.

(2) Any person who is convicted of a misdemeanor under *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.340~~] shall, for a period of five (5) years, be ineligible for appointment to or employment in a position by the Commonwealth, and if he is an officer or employe of the Commonwealth, shall forfeit his office or position.

(3) Any officer or employe of the classified service who wilfully violates any of the provisions of *Section 28 of this Act* [~~KRS 18.310~~] shall forfeit his office or position, and for one (1) year shall be ineligible for any office or position in the Commonwealth's service. Violation of *Section 28 of this Act* [~~KRS 18.310~~] shall constitute a misdemeanor subject to a sentence of from thirty (30) days to a maximum of six (6) months in jail.

Section 57. KRS 41.060 is amended to read as follows:

The treasurer shall appoint an assistant and may remove him at pleasure. The assistant may perform any of the duties of the treasurer, excepting the signing of checks, and shall perform the duties of clerk. If the treasurer is disabled by sickness, or if he absents himself from the seat of government, he shall notify the governor in writing of the facts, and recommend his assistant or some other person to discharge the duties of the office during his sickness or absence. If the governor approves the recommendation he shall enter his approval on the executive journal, after which the assistant or other person may perform all the duties of the treasurer until he is restored to health or returns to the seat of government. The treasurer and his sureties shall be responsible on his bond for all the acts and omissions of the assistant. The salary of the assistant shall be fixed by the treasurer, subject to the provisions of KRS 12.050, 12.060 and *Sections 4, 19 to 22, 24 to 33, 36 and 37 of this Act* [~~18.210 to 18.320~~].

Section 58. KRS 42.035 is amended to read as follows:

(1) The department of finance shall be responsible for the management, maintenance, and operation, including the purchase for all purposes of all food and related supplies, of the executive mansion, and further including the reasonable and necessary expenses of the chief executive while traveling on business of the Commonwealth outside of the state. Such personnel, including domestic and household servants, as are necessary for the operation and maintenance of the executive mansion shall be employed by the department of finance. The provisions of KRS Chapter 42 shall apply to all purchases made for the maintenance and operation of the mansion. None of the provisions of *Sections 22 and 31 of this Act* [~~KRS 18.210 and 18.220~~] shall apply to personnel employed for the maintenance and operation of the mansion.

(2) A reasonable amount shall be deducted from the salary or other allowance of the governor for the consumption by the governor and his family of such food and supplies.

(3) A reasonable amount shall be deducted from the salaries of personnel employed in operational and maintenance functions, including domestic and household servants, for the consumption by such personnel of such food and supplies.

(4) The department of finance shall maintain such records relative to the management, maintenance, and operation of the governor's mansion and travel expenses of the chief executive as may be dictated by sound accounting practices.

Section 59. KRS 42.037 is amended to read as follows:

(1) The department of finance shall be responsible for the management, maintenance, and operation, including the purchase for all purposes of all food and related supplies, of the old governor's mansion. Such personnel, including domestic and household servants, as are necessary for the operation and maintenance of the old governor's mansion shall be employed by the department of finance. The provisions of KRS Chapter 42 shall apply to all purchases made for the maintenance and operation of the old governor's mansion. None of the provisions of *Sections 22 and 31 of this Act* [~~KRS 18.210 and 18.220~~] shall apply to the personnel employed for the maintenance and operation of the old governor's mansion.

(2) A reasonable amount shall be deducted from the salary or other allowance of the lieutenant governor for the consumption by the lieutenant governor and his family of such food and supplies.

(3) A reasonable amount shall be deducted from the salaries of personnel employed in operational and maintenance functions, including domestic and household servants, for the consumption by such personnel of such food and supplies.

(4) The department of finance shall maintain such records relative to the management, maintenance, and operation of the lieutenant governor's mansion as may be dictated by sound accounting practices.

Section 60. KRS 61.569 is amended to read as follows:

(1) A reinstated employe who has been ordered reinstated by the personnel board under authority of *Section 19 of this Act* [~~KRS 18.270~~] and accepts employment by a participating employer shall tender to the retirement board the member contribution he would have paid on the creditable compensation he would have earned as defined under *Section 21 of this Act* [~~KRS 18.275~~] had he not been dismissed. The employer shall pay the employer contributions as defined under *Section 21 of this Act* [~~KRS 18.275~~] on the member's creditable compensation.

(2) No service credit shall be allowed for any time that the member contributions are not paid.

Section 61. KRS 64.640 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, and excepting officers elected by popular vote, employes of the general assembly, including employes of the legislative research commission, members of boards and commissions, those officers and employes of Kentucky Educational Television exempt from classified service as provided in *Section 23 of this Act* [~~KRS 18.140~~], presidents and employes of the state universities and the state colleges, and persons employed by the commissioner of parks on a temporary basis under KRS 148.026, the department of personnel shall prepare a schedule of compensation, payable out of the state treasury, with a minimum and maximum salary rate, and such intermediate salary rates as are deemed necessary or advisable, for the office or position of employment of every state officer and employe, including specifically the offices and positions of employment in every constitutional administrative department, statutory administrative department, independent agency, or other unit of state government. Such schedules shall be based upon studies of the duties and responsibilities of the offices and positions and upon a comparison with rates being paid for similar or comparable services elsewhere, and in the preparation of such schedules, the department of personnel shall ascertain and record the duties, responsibilities and authority pertaining to the various offices and positions in the state service, and classify such positions in the manner provided in *Sections 6, 7, 22, 26, 27 and 30 to 32 of this Act* [~~KRS 18.190 to 18.230~~]. No such schedule shall become effective until it has been approved by the governor.

(2) The governor shall set the compensation payable out of the state treasury to each officer or position in the state service, which officer or position heads a statutory administrative department, independent

agency, or other unit of state government except for those excluded under subsection (1). Such compensation shall be based upon studies of the duties and responsibilities and classification of the positions by the governor and upon a comparison with compensation being paid for similar or comparable services elsewhere, provided, however, such compensation shall not exceed the amount provided for compensation to the governor in KRS 64.480, the provisions of KRS 64.660 to the contrary notwithstanding.

(3) The compensation payable out of the state treasury to officers and employes subordinate to any office or position covered by subsection (2) of this section shall not exceed the maximum rate established pursuant to subsection (2) of this section for such office or position, except with respect to physicians as provided in KRS 64.655 and employes of the *public service commission* [~~energy regulatory commission and utility regulatory commission~~] of Kentucky whose compensation shall be fixed, within constitutional limits, by the department of personnel with the approval of the governor as provided in subsection (1) of this section.

(4) Nothing in this section shall preclude the allowance of maintenance to officers and employes of the state.

Section 62. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.692 and 78.510 to 78.852 and who is reemployed as an employe by a participating agency shall have his retirement payments suspended for the duration of such reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employe contributions shall be made as provided in KRS 61.510 to 61.692 and 78.510 to 78.852 on the compensation paid during such reemployment except where monthly payments were not suspended as provided in subsection (1) of this section and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, provided he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.

(b) In the event the retired member is paid suspended payments retroactively in accordance with this section, employe contributions deducted during his period of reemployment, if any, shall be refunded to the retired employe and no service credit shall be earned for the period of reemployment.

(c) In the event the retired member is not eligible to be paid suspended payments for his period of reemployment as an employe, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined.

2. If the retired member initially retired on or subsequent to his normal retirement date his retirement allowance shall be recomputed by using the formula in subsection (1) of KRS 61.595.

3. If the retired member initially retired prior to his normal retirement date his retirement allowance shall be recomputed using the formula in subsection (2) of KRS 61.595, except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment.

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3; provided, however, the member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691.

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except such retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty (50) cents of each dollar earned during reemployment over the maximum permissible earnings.

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the personnel board under authority of *Section 19 of this Act* [~~KRS 18.270~~].

(b) A retired member who has been ordered reinstated by the personnel board under authority of *Section 19 of this Act* [~~KRS 18.270~~] and accepts employment by an agency participating in the Kentucky employes retirement system shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) In the event a retired hazardous position member or a member of the state police retirement system is receiving benefits under partial disability as provided for under KRS 16.586 and is reemployed in a nonhazardous position, the board is hereby authorized to waive or modify the foregoing provisions of this section and permit such person to receive a partial disability retirement allowance while accruing retirement benefits in a nonhazardous position.

Section 63. KRS 61.645 is amended to read as follows:

(1) The system shall be administered by the board of trustees of the Kentucky retirement systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under *Section 3 of this Act* [~~KRS 18.160~~] except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who must be members or retired from the county employes retirement system, elected by the members of the county employes retirement system;

(c) One (1) trustee, who must be a member or retired from the state police retirement system, elected by the members of the state police retirement system;

(d) Two (2) trustees, who must be members or retired from the Kentucky employes retirement system, elected by the members of the Kentucky employes retirement system;

(e) Three (3) trustees appointed by the governor of the Commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing and other professional services as its statutory purpose may require without limitations of KRS 45.360;

(e) To acquire, hold, sell, dispose of, pledge, lease or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45 and 56; provided, however, that the board is not authorized to construct a building; and

(f) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section.

(b) The trustee to be elected by the members of the county employes retirement system who replaces the attorney general on the board shall have an initial term expiring on March 31, 1977 and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the attorney general serving until such elected member has been duly qualified and administered the oath of office.

(c) The term of office of the trustee elected by the membership of the Kentucky employes retirement system which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals.

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, social security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members.

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes.

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address.

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post-office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected.

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his social security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot.

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel resign his position as trustee it shall be filled by appointment made by the governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the state treasury shall receive a per diem of sixty dollars ($60.00) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice-chairman. A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager, and fix his compensation without limitation by the provisions of KRS Chapter *18A* [~~18~~] and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Appoint such other employes as it deems necessary and fix the compensation for all employes of the board, subject to the approval of the commissioner of personnel;

(c) Require the general manager and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of KRS 61.510 to 61.692 and 16.510 to 16.652 and 78.510 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.510 to 61.692 and 16.510 to 16.652 and 78.510 to 78.852.

(10) All employes of said board shall serve during its will and pleasure.

(11) The attorney general, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes and other information distributed to trustees of the board and the attorney general may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS Chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the auditor of public accounts to perform the audit. If the audit is performed by an independent certified public accountant, the auditor of public accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The board shall make copies of the audit required by this subsection available for examination by any member, retiree or beneficiary in the office of the general manager of the Kentucky retirement systems and in such other places as may be necessary to make the audit available to all members, retirees and beneficiaries. A copy of the annual audit shall be sent to the legislative research commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed two per cent (2%) of the total employer and member contributions during such fiscal year.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852, may appeal the decision of the board to the Franklin circuit court.

Section 64. KRS 131.330 is amended to read as follows:

The Kentucky board of tax appeals, subject to the provisions of *Section 1 to 37 of this Act* [~~KRS 18.110 to 18.340~~], shall appoint a clerk of the Kentucky board of tax appeals with the qualifications hereinafter prescribed, and such clerical assistance as authorized by the department of finance. The clerk of the Kentucky board of tax appeals shall be a person holding a degree from an accredited college or university.

Section 65. KRS 132.370 is amended to read as follows:

(1) There shall be a property valuation administrator in each county in lieu of a county assessor.

(2) Property valuation administrators shall be elected in the year in which county elections are held and shall enter upon the discharge of the duties of their office on the first Monday in December after their election and continue in office for a period of four (4) years, and until the election and qualification of their successors. Property valuation administrators shall possess the qualifications required by section 100 of the constitution and by KRS 132.380 and shall be eligible for re-election.

(3) The property valuation administrators and all deputies and assistants of their offices who qualify as full time employes, shall be eligible for participation in the provisions of *Sections 41, and 46 to 55 of this Act* [~~KRS 18.410, 18.510 through 18.600~~] and 61.510 *to* [~~through~~] 61.692.

(4) A property valuation administrator may be removed from office by the circuit court of his county, upon petition of the department or any taxpayer, for wilful disobedience of any just or legal order of the department, or for misfeasance or malfeasance in office or wilful neglect in the discharge of his official duties, but he or the petitioner may appeal to the Court of Appeals.

Section 66. KRS 148.026 is amended to read as follows:

The commissioner of parks may employ or contract with such other persons, firms or corporations as he may deem necessary or desirable to accomplish the duties and functions assigned by law to the department of parks; may fix the compensation and the terms of employment or contract of those employed or contracted with; and may assign to them such duties and responsibilities as he may determine; provided, however, that any contract shall be approved by the department of finance before it shall become effective. Individuals employed by the commissioner of parks on a temporary basis for specific construction projects under KRS 56.491(5) or for maintenance projects shall be exempt from the requirements of *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.360~~].

Section 67. KRS 171.311 is amended to read as follows:

The Kentucky Historical Society created by Acts 1880, ch. 244, shall have all the powers and liabilities of a corporation and there is hereby granted to the society the following charter:

I

The Kentucky Historical Society shall collect, maintain and preserve authentic records, information, facts and relics connected with the history of the Commonwealth and the genealogy of her peoples; and promote a wider appreciation of the American heritage, with particular emphasis on the advancement and dissemination of knowledge of the history of Kentucky. The society may receive and hold by donation or devise, real or personal property to any extent and may, by gift, loan, purchase or otherwise hold books, papers, documents, historical memorials, and any other articles suited to promote the objects of the society in the Old State Capitol Building but all such property shall be held in trust for the Commonwealth of Kentucky according to the terms of acceptance.

II

All American citizens, partnerships, corporations or associations who shall evidence their dedication to the promotion of the objects and purposes of the society may become active members thereof upon their approval under regulations prescribed by the executive committee, and the payment of annual dues in a sum determined by the executive committee. Any person possessing the qualifications for membership may become a life member on the payment of a sum determined by the executive committee. The executive committee may determine classes of memberships and establish respective rates of dues. Every member in good standing, including the authorized representative of an institutional member, shall have the right to vote in person or by proxy, hold office, and otherwise take part in the proceedings of the society. Membership may be terminated by resignation or nonpayment of dues.

III

The officers of the society shall be a chancellor, who shall be the Governor of the Commonwealth of Kentucky, a president, first, second and third vice-presidents, who shall be ex-officio members of the executive committee. All officers, except the chancellor, shall be elected for a term of one year at the annual meeting of the society in a manner provided by law, and the president shall be ineligible to succeed himself if he has been elected for two (2) successive terms.

IV

There is hereby created an executive committee which shall consist of sixteen members, the officers of the society and one person designated annually by the state archives and records commission. The sixteen (16) members of the executive committee shall be divided into four (4) equal classes, so arranged that the terms of one class shall expire at each annual meeting of the society. The class whose term expires shall be ineligible to succeed itself.

V

The executive committee shall execute all the powers and duties conferred on the society, except those expressly delegated to the officers. It shall adopt bylaws at any regular or special meeting. It shall supervise and direct the financial concerns of the society, approve an annual budget and provide for and fix the salaries of employes, subject to the approval of the department of personnel. It shall provide for reimbursement of travel expenses of employes and may provide for reimbursement of expenses of officers and members of the executive committee incurred in performing specific duties assigned to them. It shall appoint a director, who shall be the management officer of the society under the direction of the president and policies established by the executive committee, and an assistant director, who shall assume the duties of the director in his absence and perform such other duties as may be assigned to him by the director. It shall establish and prescribe the duties of such other positions as are necessary to operate the society, and all persons engaged to fill such positions shall be employed by the director, subject to the approval of the executive committee, which approval shall constitute exemption from *Sections 1 to 40 of this Act* [~~KRS 18.110 to 18.370~~], and their work shall be under the director's supervision.

The committee shall provide for the publication or preservation of historical documents and manuscripts; publish an edition to be known as the "Register"; provide by contract, subject to the approval of the department of finance, for all the printing, publication and distribution of reports, books and other publications calculated to promote and advance the historical interest of Kentucky and augment the society's various collections at all times. It shall supervise and direct the ordinary affairs of the society; appoint a nominating committee; and determine other necessary committees of which the president and the director of the society shall be ex-officio members. The committee shall cooperate with, provide assistance to and coordinate its functions with those of the state archives and records commission. It may designate honorary members of the society and it shall have the power to fill any vacancies until the next annual meeting, including those occurring within its own membership.

VI

The executive committee shall hold regular meetings in January, April, July and October. Matters to be determined and discussed at such meetings shall be furnished the director at least ten (10) days prior to such meetings in order that he may prepare and distribute an agenda to each member of the committee at least three (3) days before the meeting. Special meetings shall be held at the request of the president or any three (3) members of the committee, in which case the director shall give written notice together with the agenda of such meeting at least ten (10) days in advance. In an emergency, nine (9) members of the committee may waive the provision of notice.

VII

The regular annual meeting of the society shall be held in the Old State Capitol Building on the first Friday after the first Monday in November. The meeting shall be open to all members. Special meetings may be called in Frankfort or elsewhere by the president or a majority of the executive committee or by the director upon the written request of twenty (20) members of the society. Members shall have fifteen (15) days written notice of the time, place and object of the meeting.

VIII

Twenty-five (25) members shall constitute a quorum for the transaction of all business at any meeting of the society, and one-third of the membership of the executive committee shall constitute a quorum at their respective meetings.

IX

The Chancellor of the Society, at his discretion, may preside at any meeting of the society or the executive committee, or he may participate otherwise in any meetings.

X

The president of the society shall be the chief executive officer of the society and shall preside over meetings of the society or the executive committee in the absence of the chancellor or at his request. He shall recommend the appointment of all necessary or desirable committees and he shall name persons to comprise such committees, except the nominating committee.

XI

The vice-presidents of the society shall preside in the absence of their successive superiors in office at all meetings of the society and the executive committee. They shall attend all regular and special meetings of the society and the executive committee and endeavor to familiarize themselves with the conduct and operations of the affairs of the society. They shall aid and assist the president in the performance of his duties, counsel and advise the executive committee and endeavor at all times to advance and promote the public interest in the history of Kentucky and her people.

XII

Nominations to membership on the executive committee and to the offices of president, first vice-president, second vice-president and third vice-president shall be made by a nominating committee or by any member present at the regular annual meeting. The nominating committee shall consist of five (5) members, shall be appointed at the first regular meeting of the executive committee after the annual meeting of the society and shall consider candidates to fill vacancies in the executive committee and offices which will occur at the subsequent annual meeting. The nominating committee shall meet in the office of the society forty-five (45) days prior to the annual meeting and nominate candidates to fill vacancies on the executive committee and at least one (1) candidate for the office of president, first vice-president, second vice-president, and third vice-president, and file same with the president. Upon the call for the election of officers the president shall promptly report the nomination by the nominating committee together with all other nominations. When more than the required number of candidates have been nominated for membership on the executive committee or more than one (1) candidate for the offices to be filled, the president shall call for an election by the vote of those present, together with the number of votes cast by proxy, and a plurality of all votes cast shall be sufficient to elect. Where no vote count is required the president shall cast one (1) vote for each candidate and he or she shall be declared elected.

XIII

This charter may be amended by a two-thirds vote of the members present and voting at any regular meeting or at any special meeting of the society called for the purpose, provided that written notice containing the substance of the proposed amendments shall have been mailed to members not less than thirty (30) days in advance of such meeting and the same approved as an amendment by the first General Assembly, meeting after the action of the society.

Section 68. KRS 247.140 is amended to read as follows:

(1) The state fair board:

(a) Shall have the custody and control of such property as now is under its custody and control, and of such property as may hereafter be placed under its control or transferred to it by the state property and buildings commission, for any purposes mentioned in this section and the physical properties so under its custody and control or transferred to it are hereinafter referred to in this section, and in KRS 247.150 and 247.160, as the "state fair grounds and an area in a city of the first class to be used as an exhibition center."

(b) May erect and repair buildings on the state fair grounds and exhibition center, make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objects defined in this section.

(c) Shall promote the progress of the state and stimulate public interest in the advantages and development of the state by providing the facilities of the state fair grounds for agricultural and industrial exhibitions, public gatherings, cultural activities, and other functions calculated to advance the educational, physical and cultural interests of the public and by providing the facilities of the exhibition center for conventions, trade shows, public gatherings and other functions calculated to advance and enhance the visitor industry, economy, entertainment, cultural and educational interests of the public.

(d) May hold an annual fair on the state fair grounds, for the exhibition of agricultural, mechanical, horticultural, dairy, forestry, poultry, livestock, mineral, and all other industrial interests of the state, and prepare premium lists and establish rules of exhibition for the fair.

(e) May purchase liability insurance for the members and executive officers exempted from the classified service of the state by *Section 23 of this Act* [~~KRS 18.140~~].

(2) The state fair board may take, acquire and hold property, and all interest therein, by deed, gift, devise, bequest, lease, or eminent domain, or by transfer from the state property and buildings commission, and may dispose of any property so acquired in the manner provided by law. In the exercise of its power of eminent domain it shall proceed in the manner provided in the Eminent Domain Act of Kentucky.

Section 69. KRS 278.115 is amended to read as follows:

The commissions by regulation shall organize their offices for administration and management under the executive director to reflect their functions. The organization may be changed from time to time and may include division directors subject to the exemption from the classified service as provided in *Section 23(1)(h) of this Act* [~~KRS 18.140(1)(h)~~].

Section 70. KRS 506.120 is amended to read as follows:

(1) No person, with the purpose to establish or maintain a criminal syndicate or to facilitate any of its activities, shall do any of the following:

(a) Organize or participate in organizing a criminal syndicate or any of its activities;

(b) Provide material aid to a criminal syndicate or any of its activities, whether such aid is in the form of money or other property, or credit;

(c) Manage, supervise, or direct any of the activities of a criminal syndicate, at any level of responsibility;

(d) Knowingly furnish legal, accounting, or other managerial services to a criminal syndicate;

(e) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of, any offense of a type in which a criminal syndicate engages on a continuing basis;

(f) Commit, or conspire or attempt to commit or act as an accomplice in the commission of, any offense of violence;

(g) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of bribery in violation of KRS Chapters 518 or 521, or KRS 119.205, 121.025, 121.055, 524.070, 156.465, 45A.340, 63.090, 6.080, *Section 29 of this Act* [~~18.320~~], 244.390 or 244.600.

(2) Whoever violates this section is guilty of engaging in organized crime, which shall be a class B felony.

(3) As used in this section "criminal syndicate" means five (5) or more persons collaborating to promote or engage in any of the following on a continuing basis:

a. Extortion or coercion in violation of KRS 514.080, 276.280, 276.310, or 521.020;

b. Engaging in, promoting, or permitting prostitution in violation of KRS Chapter 529;

c. Any theft offense as defined in KRS Chapter 514;

d. Any gambling offense as defined in KRS 411.090, KRS Chapter 528, or section 226 of the Constitution;

e. Illegal trafficking in controlled substances as prohibited by KRS Chapter 218A, in intoxicating or spirituous liquor as defined in KRS Chapters 242 or 244, or in destructive devices or booby traps as defined in KRS Chapter 237;

f. Lending at usurious interest, and enforcing repayment by illegal means in violation of KRS Chapter 360.

Section 71. The following KRS sections are repealed:

18.215 Definition — Applicabilty.

18.330 Provision for administrative costs.

Section 72. The reviser of statutes is directed to change references from KRS Chapter 18 to KRS Chapter 18A in the following statutes:

KRS 16.140, 16.505, 56.491, 57.031, 61.371, 61.510, 151.370, 153.220, 161.153, 161.340, 164.020, 171.381, 187.300, 199.420, 227.660, 247.130, and 337.010.

The Committee on Appropriations and Revenue reported **HB 143,** with Committee Substitutes and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

HB 143, AN ACT relating to thoroughbred racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.220 is amended to read as follows:

(1) There is hereby created the Kentucky state racing commission which shall be an independent agency of state government. The commission shall consist of *nine (9)* [~~five (5)~~] members *seven (7)* [~~all~~] of whom shall be appointed by the governor. *One (1) member shall be appointed by the president pro tempore of the senate and one (1) member shall be appointed by the speaker of the house of representatives. In making appointments, the governor shall secure broad representation within the thoroughbred industry, to include appointment of no fewer than two (2) breeders, no fewer than two (2) horsemen, and the geographic areas in which licensed racing associations are located shall be considered. Recommendations for said appointments shall be sought from various industry groups, to include the Kentucky thoroughbred owners and breeders, the Kentucky division of the horsemen's benevolent and protective association, and other interested organizations.* [~~Not less than three (3) of the members shall be breeders of thoroughbred horses in Kentucky, no two (2) of the members shall be directors of the same racing association and~~] At least one (1) of the members shall have no financial interest in the business or industry regulated. Commissioners shall be appointed for a term of four (4) years and until their successors are appointed and qualified. Any vacancy on the commission shall be filled by the governor for the unexpired term *pursuant to the requirements and procedures for original appointments*. Each commissioner shall be eligible for reappointment in the discretion of the governor. Commissioners shall receive fifty dollars ($50) per day for each meeting attended and shall be reimbursed for all expenses paid or incurred in the discharge of official business. The commission shall designate one (1) of their number as chairman and another as vice chairman. Before entering upon the discharge of their duties, each commissioner shall take the constitutional oath of office.

(2) The commission shall establish and maintain a general office for the transaction of its business and may in its discretion establish a branch office or offices. The commission may hold meetings at any of such offices or at any other place when the convenience of the commission requires. All meetings of the commission shall be open and public, and all persons shall be permitted to attend any meetings. A majority of the commission shall constitute a quorum for the transaction of its business or exercise of any of its powers.

Section 2. KRS 230.240 is amended to read as follows:

(1) In addition to the employes referred to in KRS 230.230, the commission may employ, at reasonable compensation, stewards, supervisors of mutuels, veterinarians, inspectors, accountants, guards and other employes deemed by the commission to be essential at or in connection with any thoroughbred race meeting and to the best interest of racing. The commission for the purpose of maintaining integrity and honesty in racing shall prescribe by rule the powers and duties of the persons employed under this section *and qualifications necessary to competently perform their duties. In addition, the commission shall be responsible for*

seeing that racing officials employed under the provisions of this section shall have adequate training to perform their duties in a competent manner.

(2) The commission shall promulgate rules and regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate, and in connection therewith the commission is authorized to acquire, operate and maintain, or to provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, *urine* [~~urinal~~] or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under KRS 230.210 to 230.360 in such manner and in such proportions as the commission may by rule provide.

(3)[~~(2)~~] The compensation of the employes referred to in this section shall be paid by the licensee conducting the thoroughbred race meeting in connection with which said employes are utilized or employed. The salary of the secretary to the commission shall be prorated among and paid by the various associations licensed under KRS 230.210 to 230.360 in the manner as the commission may, by rule, provide. The employes referred to in this section shall be deemed employes of the commission, and are paid by the licensee or association for convenience only.

(4)[~~(3)~~] Each person, as a condition precedent to the privilege of receiving a license under KRS 230.210 to 230.360 to conduct a thoroughbred race meeting, shall be deemed to have agreed that it will pay such expenses and compensation as provided in this section and as may be actually and reasonably incurred.

Section 3. KRS 230.260 is amended to read as follows:

The commission, in the interest of breeding or the improvement of the breed of thoroughbred horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of KRS 230.210 to 230.360 including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all thoroughbred race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of thoroughbred racing or appaloosa racing or interfere with the orderly conduct of thoroughbred racing or appaloosa racing at thoroughbred race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employes, may visit, investigate and have free access to the office, track, facilities or other places of business of any licensee for the purpose of satisfying itself that KRS 230.210 to 230.360 and its rules and regulations are strictly complied with;

(3) The commission shall have full authority to prescribe *necessary and reasonable* rules, regulations and conditions under which thoroughbred horse racing and appaloosa racing at a thoroughbred race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes or awards to be offered for the conduct of any thoroughbred race meeting, *except that the commission shall not prefer by regulation or otherwise any licensees in their contractual relations with one another*;

(4) Applications for licenses shall be made in the form, in the manner and contain information as the commission may, by rule, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the commission;

(5) Any of the foregoing rules, regulations and conditions may be altered, amended, repealed and published from time to time. All rules, regulations and conditions shall become effective thirty (30) days after the filing thereof with the Legislative Research Commission unless the governor finds an emergency to exist in which event the same shall become effective immediately upon filing with the Legislative Research Commission. The commission may, but shall not be required to, advertise any of its regulations either before or after filing;

(6) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties. Any person failing to appear before the commission at the time and place specified in said summons, or refusing to testify, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both. False swearing on the part of any witness shall be deemed perjury and punished as such.

(7) The commission shall have authority to compel any racing association licensed under KRS 230.210 to 230.360 to file with the commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association.

Section 4. KRS 230.320 is amended to read as follows:

(1) Every license granted under KRS 230.210 to 230.360 is subject to revocation or suspension by the commission in any case where it has reason to believe that any provision of KRS 230.210 to 230.360 or rule, regulation or condition of the commission affecting it has not been complied with or has been broken or violated. The commission in the interest of honesty and integrity of thoroughbred horse racing and appaloosa horse racing may prescribe rules and regulations under which any license may be denied, suspended or revoked.

(2) Any person alleged to have committed a violation under subsection (1) of this section may request a stay of imposition of the stewards' sanction. Pending appeal, a hearing on such request for stay shall be held within forty-eight (48) hours of the receipt of the request for a stay by the commission. In the event the commission is not able to hold a hearing within forty-eight (48) hours, the stay shall be automatically granted. It shall be the policy of the commission to grant stays, unless:

(a) In any case where a licensee is alleged to have committed a flagrant violation of the prescribed rules and regulations of racing which presents a clear and present danger to the immediate integrity of racing, and

(b) Wherein it is impossible for the commission to secure necessary scientific evidence or indispensable witnesses within forty-eight (48) hours, then the commission or its designated hearing officer may refuse a request for the stay of any penalty imposed, as long as a hearing is held no later than thirty (30) days from the initial stewards' determination of a violation.

(3) If any license is denied, suspended or revoked the commission shall state publicly its reasons for the suspension or revocation and shall cause an entry of such reasons to be made on its record book. The action of the commission in denying, suspending or revoking any license issued under KRS 230.210 to 230.360 is final except that such action is subject to review by any court of competent jurisdiction. The action of the commission shall remain in full force and effect until reversed or modified by a valid order of such court.

SECTION 5. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a panel, to be known as the Kentucky equine drug research council, to advise the commission on the conduct of equine drug research and testing commissioned by the state racing commission. The council shall consist of seven (7) members: a veterinarian appointed by the Kentucky association of equine veterinarians, a horseman appointed by the Kentucky division of the horsemen's benevolent and protective association, a pharmacologist appointed by the University of Kentucky, a thoroughbred breeder appointed by the Kentucky thoroughbred owners and breeders, a legislator appointed by the legislative research commission, a representative of a licensed racing association and a member of the state racing commission, appointed by the chairman of the state racing commission, to serve as chairman. The council shall meet at the call of the chairman, a majority of the council or at the request of the commission. Members shall serve at the pleasure of their respective sponsoring organizations and shall receive no compensation for serving.

(2) The Kentucky equine drug research council shall review equine drug research and testing research being conducted at the University of Kentucky or with state funds and shall review and report to the commission on drug research and testing research being conducted elsewhere. The council shall advise the commission and make recommendations for establishing an effective drug regulatory policy for Kentucky racing. In addition, the council shall report to the 1984 general assembly any needed changes regarding the regulation of drugs in thoroughbred racing in the Commonwealth of Kentucky.

(3) The commission shall receive one-tenth of one percent (.1%) of the total amount wagered in Kentucky deducted from the pari-mutuel tax levied in KRS 138.510 to be used in financing drug research and testing research in Kentucky, which shall be in addition to any funds appropriated to the commission for such purposes in the executive budget.

Section 6. KRS 230.400 is amended to read as follows:

(1) There is hereby created a trust and revolving fund for the Kentucky state racing commission, designated as the Kentucky thoroughbred development fund, consisting of money allocated to the fund under the provisions of KRS 138.510, together with such other money as may be contributed to or allocated to the fund from all other sources. Money to the credit of the Kentucky thoroughbred development fund shall be distributed by the treasurer for the purposes herein provided upon authorization of the Kentucky state racing commission and upon approval of the secretary of the executive department for finance and administration. *Money from the Kentucky thoroughbred development fund shall be allocated to each licensed association in an amount equal to the amount the association contributed to the fund.* Money to the credit of the Kentucky thoroughbred development fund at the end of each fiscal year shall not lapse, but shall be carried forward in such fund to the succeeding fiscal year.

(2) There is hereby established, under the general jurisdiction of the Kentucky state racing commission, a Kentucky thoroughbred development fund advisory committee. The advisory committee shall consist of five (5) members, all of whom shall be residents of Kentucky, to be appointed by the chairman of the

Kentucky state racing commission by July 1 of each year. The committee shall consist of two (2) thoroughbred breeders recommended by *the Kentucky* Thoroughbred *Owners and* Breeders [~~of Kentucky~~], Inc.; one (1) thoroughbred owner recommended by the Kentucky division of the horsemen's benevolent and protective association; one (1) officer or director of a licensed association conducting thoroughbred racing in Kentucky, recommended by action of all of the licensed associations conducting thoroughbred racing in Kentucky; and one (1) member of the Kentucky state racing commission. If any member other than the commission member has not been recommended for appointment by July 1 of each year, the chairman of the Kentucky state racing commission shall make an appointment for the organization or organizations failing to so recommend a member of the committee. The members of the advisory committee shall serve without compensation, but shall be entitled to reimbursement for all expenses incurred in the discharge of official business. The advisory committee shall select from its membership annually a chairman and a vice chairman.

(3) (a) The Kentucky thoroughbred development fund committee shall advise and assist the Kentucky state racing commission in the development of the supplemental purse program provided herein for Kentucky bred thoroughbreds, shall make recommendations to the commission from time to time with respect to the establishment of guidelines, rules and regulations for the provision of such supplemental purses, the amount thereof, the races for which such purses are to be provided and the conditions thereof, manner and method of payment of such supplemental purses, registry of thoroughbred stallions standing within the Commonwealth of Kentucky, registry of Kentucky bred thoroughbreds for purposes of this section, nature and type of forms and reports to be employed and required in connection with the establishment, provision for, award and payment of such supplemental purses and with respect to all other matters necessary in connection with the carrying out of the intent and purposes of this section.

(b) The Kentucky state racing commission shall employ such qualified personnel as may be required to assist the commission and the advisory committee in carrying out the provisions of this section. Such persons shall serve at the pleasure of the commission and compensation for such personnel shall be fixed by the commission. The compensation of such personnel and the necessary expenses incurred by the commission or by the committee in carrying out the provisions of this section shall be paid out of the Kentucky thoroughbred development fund.

(4) The Kentucky state racing commission, with the advice and assistance of the Kentucky thoroughbred development fund advisory committee, shall use the Kentucky thoroughbred development fund to promote, enhance, improve and encourage the further and continued development of the thoroughbred breeding industry in Kentucky by providing, out of the Kentucky thoroughbred development fund, supplemental purses for designated stakes, handicap, allowance and non-claiming maiden races contested at licensed thoroughbred race meetings in Kentucky, the awarding and payment of which supplemental purses shall be conditioned upon the winning or placing in such races by Kentucky bred thoroughbred horses. Any supplemental purse provided for a designated race shall be apportioned among the winning and placing horses in the same proportion as the stake or purse provided for such race by the racing association. Winning or placing as used in this section shall include those horses finishing first, second, third and fourth in such races. That portion of the supplemental purse provided for any such designated race for a winning or placing finish shall be awarded and paid to the owner of the horse so finishing only if such horse is a Kentucky bred thoroughbred duly registered as such with the official registrar. Any portion of the supplemental purse which is not awarded and paid over shall be returned to the Kentucky thoroughbred development fund.

(5) (a) For purposes of this section, the term Kentucky thoroughbred stallion shall mean and include only a thoroughbred stallion standing the entire breeding season in Kentucky and registered as a Kentucky thoroughbred stallion with the official registrar of the Kentucky thoroughbred development fund.

(b) Except for thoroughbred horses foaled prior to January 1, 1980, the term Kentucky bred thoroughbreds for purposes of this section, shall mean and include only thoroughbred horses sired by Kentucky thoroughbred stallions foaled in Kentucky and registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund.

(c) Any thoroughbred horse foaled prior to January 1, 1980, may qualify as a Kentucky bred thoroughbred for purposes of this section if such horse was foaled in Kentucky and if the sire of such thoroughbred was standing at stud within Kentucky at the time of conception of such thoroughbred, provided such thoroughbred is duly registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund.

(d) In order for an owner of a Kentucky sired thoroughbred to be eligible to demand, claim and receive a portion of a supplemental purse provided by the Kentucky thoroughbred development fund, the thoroughbred horse winning or placing in a designated race for which a supplemental purse has been provided by the Kentucky thoroughbred development fund must have been duly registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund prior to entry in such race.

(6) (a) *Kentucky* Thoroughbred *Owners and* Breeders [~~of Kentucky~~], Inc., is hereby recognized and designated as the sole official registrar of the Kentucky thoroughbred development fund for the purposes of

registering Kentucky thoroughbred stallions and Kentucky bred thoroughbreds in accord with the terms of this section and such rules and regulations as may be promulgated by the Kentucky state racing commission. When a Kentucky bred thoroughbred is registered with the official registrar, the registrar shall be authorized to stamp the Jockey Club certificate issued for such thoroughbred with the seal of the registrar, certifying that the said thoroughbred is a duly qualified and registered Kentucky bred thoroughbred for purposes of this section. The registrar may establish and charge, with the approval of the commission, reasonable registration fees for its services in the registration of Kentucky thoroughbred stallions and in the registration of Kentucky bred thoroughbreds. Registration records of the registrar shall be public records and open to public inspection at all normal business hours and times.

(b) Any interested party aggrieved by the failure or refusal of the official registrar to register a stallion or thoroughbred as a Kentucky stallion or as a Kentucky bred thoroughbred shall have the right to file with the commission, within thirty (30) days of such failure or refusal of the registrar, petition seeking registration of such thoroughbred. The commission shall promptly hear the matter de novo and issue its order directing the official registrar to register or not to register as it may be determined by the commission.

(7) The Kentucky state racing commission shall adopt such rules and regulations as may be necessary to carry out the provisions and purposes of this section, including the adoption of such rules and forms as may be appropriate for the proper registration of Kentucky stallions and Kentucky bred thoroughbreds with the official registrar, and shall administer the Kentucky thoroughbred program created hereby in a manner best designed to promote and aid in the further development of the thoroughbred breeding industry in Kentucky, to upgrade the quality of thoroughbred racing in Kentucky and to improve the quality of thoroughbred horses bred in Kentucky.

Section 7. KRS 138.510 is amended to read as follows:

(1) An excise tax is imposed on every person, corporation or association which operates a running horse race track at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to four and three-fourths percent (4 ¾%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. *From the effective date of this Act until June 30, 1985, tracks with a daily average handle of less than $900,000 shall receive a tax credit amounting to three percent (3%) of money wagered, to be allocated by contractual agreement between the qualified tracks and the horsemen's benevolent and protective association.* [~~Until July 1, 1979, one-nineteenth (1/19) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400. From July 1, 1979, until June 30, 1980, two-nineteenths (2/19) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400. From and after June 30, 1980,~~] Three-nineteenths (3/19) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400.

(2) An excise tax is imposed on every person, corporation or association which operates a *standardbred* [~~trotting~~] horse race track at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to five percent (5%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. One-fifth (1/5) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky standardbred development fund created and described in KRS 230.770. *From July 15, 1982, until June 30, 1985, tracks with a daily average of less than three hundred thousand dollars ($300,000) shall receive a tax credit of two percent (2%) of all money wagered, to be allocated to the tracks for capital improvements. Said capital improvements shall be approved by the harness racing commission.*

Committee Title Amendment to the Committee Substitute to **HB 143:**

Amend printed copy of Committee Substitute to **HB 143,** page 1, title amendment, amend the title by deleting the word "thoroughbred" and inserting in lieu thereof the word "horse".

Adjournment

Representative LeMaster moved that the House adjourn.

The House adjourned by voice vote.

FRIDAY, MARCH 5, 1982

THIRTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Billy G. Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of March 4, 1982, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 206, SB 222, SB 268, SB 269, SB 274, SB 284, SB 296, SB 315, HB 200** with Senate Amendment attached thereto, and **HB 357** with Senate Amendment attached thereto.

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 802, HB 799, HCR 79, HR 82.**

Appropriations and Revenue: **HB 774, HB 775, HB 778, HB 816, HB 809, HB 807, HB 812, HB 813, HB 823, HJR 69, HCR 74, HB 811, HB 810, HB 769.**

Banking and Insurance: **HB 791, HB 796, HB 806.**

Business Organizations and Professions: **HB 759, HB 790, HB 798, HB 821.**

Cities: **HB 768.**

Counties and Special Districts: **HB 767.**

Education: **HB 760, HB 786, HB 789, HB 795, HB 818, HR 76, HCR 80, HB 825.**

Energy: **HB 820, HB 822.**

Health and Welfare: **HB 771, HB 779, HB 782, HB 784, HB 787, HB 819, HB 815, HB 814, HCR 71, HCR 73.**

Judiciary-Civil: **HB 773, HB 792, HB 794, HB 824, HB 770.**

Judiciary-Criminal: **HB 777, HB 781, HB 817, HCR 68.**

Labor and Industry: **HB 788, HB 800.**

Natural Resources and Environment: **HB 761, HB 762, HB 763, HB 764.**

State Government: **HB 765, HB 766, HB 772, HB 776, HB 780, HB 785, HB 797, HB 805, HB 803, HB 804, HCR 70, HJR 72, HJR 75, HJR 77, HR 78, HR 81, SB 175.**

Transportation: **HB 783, HB 793, HB 801.**

Report of Committees

The Committee on Rules reported **HB 172, HB 325, HB 498, HB 501, HB 188, HB 281, HB 363, HB 468, HB 477, HB 516, HB 578, SB 161,** and **SB 163** have been posted for passage in Orders of the Day, March 8, 1982.

The Committee on Appropriations and Revenue reported **HB 206,** with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Committee Substitute No. 2 to **HB 206** is as follows:

HB 206, AN ACT relating to community action agencies.

WHEREAS, the General Assembly finds it is the policy of the Commonwealth to help develop the full potential of each of its citizens so they may live in decency and dignity and contribute to the strength of the Commonwealth as a whole;

WHEREAS, the General Assembly intends the resources of the private sector economy be tapped to increase opportunities for the people of Kentucky to develop their capabilities;

WHEREAS, emphasizing local decision-making capabilities and citizen involvement in carrying out such policy will benefit the Commonwealth;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

There shall be established community action agencies throughout political subdivisions of the Commonwealth.

Section 2. KRS 273.410 is amended to read as follows:

As used in *this Act* [~~KRS 273.410 to 273.455~~], unless the context otherwise requires:

(1) "Commission" means the legislative research commission.

(2) "Community action *agency* [~~corporation~~]" shall mean a corporation organized for the purpose of alleviating poverty within a community or area by developing employment opportunities; by bettering the conditions under which people live, learn, and work; and by conducting, administering, and coordinating similar programs.

(3) "Designated legislative body" means either:

(a) Any interim joint committee, as designated by the commission at any time when the general assembly is not in session, whose subject jurisdiction relates to the block grant under review; or

(b) Any interim joint committee, as designated by the commission at any time when the general assembly is not in session, whose subject jurisdiction relates to the block grant under review plus the interim joint committee on appropriations and revenue; or

(c) Any standing committee, as designated by the committee on committees during any legislative session, whose subject jurisdiction relates to the block grant under review; or

(d) Any standing committee, as designated by the committee on committees during any legislative session, whose subject jurisdiction relates to the block grant under review plus the senate and house standing committees on appropriations and revenue.

(4) "Federal administering agency" means any agency of the United States government administering any block grant.

(5) "Federal act" means the omnibus budget reconciliation act of 1981, P.L. 97-35, and any amendments thereto, as the federal act relates to community services block grants.

(6) "State administering agency" means any agency of the Commonwealth designated by the governor to apply for and administer funds made available under the federal act.

Section 3. KRS 273.415 is amended to read as follows:

(1) A community action *agency* [~~corporation~~] shall be organized and shall operate subject to the provisions of *this Act* [~~KRS 273.410 to 273.455~~]. To the extent *this Act* [~~KRS 273.410 to 273.455~~] is inconsistent with the provisions of this chapter, the provisions of *this Act* [~~KRS 273.410 to 273.455~~] shall be controlling.

(2) A community action agency shall be organized and operate subject to the provisions of KRS 65.210 through 65.300 and this Act.

Section 4. KRS 273.435 is amended to read as follows:

(1) A community action *agency* [~~corporation~~] may be designated by *the following political subdivisions:*

(a) One (1) or more counties;

(b) One (1) or more municipal corporations; or

(c) One (1) or more counties and one (1) or more municipal corporations.

(2) The chief elected official of the designating political subdivision may designate:

(a) The political subdivision as the community action agency, with the concurrence of the legislative authority of the political subdivision; or

(b) An eligible private nonprofit corporation as a community action agency if such corporation's board of directors is established pursuant to Section 5 of this Act.

(3) In the event a political subdivision elects not to designate a community action agency as provided under this section, the governor may designate an eligible private nonprofit corporation as the community action agency for the political subdivision; provided, however, that the board of directors for the community action agency shall be established pursuant to Section 5 of this Act.

(4) The designating political subdivision shall:

(a) Publish, pursuant to KRS Chapter 424, a notice containing the designation of a community action agency, a summary of the plan for such agency, a location at which the plan can be reviewed, and the time, date, and location of a hearing on the plan;

(b) Not less than thirty (30) nor more than sixty (60) days from the publication of the notice in subsection (1), convene a public hearing specifically for the purpose of receiving public comment on the designation plan.

(5) All community action agencies which were organized and operating subject to the provisions of KRS 273.410 to 273.455 as of September 30, 1981, shall be recognized as the community action agencies for each applicable political subdivision unless and until each political subdivision exercises the authority granted under this section.

(6) No community action agency shall be created after the effective date of this Act unless the:

(a) Population of the political subdivision equals or exceeds fifty thousand (50,000); or

(b) Political subdivisions designating a new community action agency are geographically contiguous and include a combined population equal to or exceeding fifty thousand (50,000) [~~; or~~

~~(d) To conform to area planning districts as provided in KRS Chapter 147A as the agency of each such political subdivision for the alleviation of poverty.~~

~~(2) Such designation may occur when the legislative authority of each such political subdivision has determined that the policy of the political subdivision is to promote the health, safety, morals, and general welfare of its inhabitants and that such policy may be implemented through the designation of a Community Action Corporation as such an agency. Such designation shall be made by the legislative authority of the political subdivision by resolution or ordinance.~~

~~(3) Any political subdivision which has designated a Community Action Corporation as such an agency may enter into an agreement with it to provide that the Corporation shall prepare a plan for the political subdivision for the alleviation of poverty. Such plan shall include the extent to which the Corporation shall participate as the agent of the political subdivision in carrying out such a plan. Such plan shall be confirmed by the legislative authority of the political subdivision.~~

~~(4) The governing board of a Community Action Corporation designated as the agent of one or more political subdivisions shall include appointed or elected officials of the political subdivisions.~~

~~(5) Any agreement entered into under this section may be amended or supplemented from time to time by the parties between whom such agreement was made.~~

~~(6) Any agreement entered into under this section may designate the Community Action Corporation as the agent of the political subdivision for the receipt and expenditures of loans, grants, and other funds, including, but not limited to, General and Special Revenue Sharing funds from the Commonwealth and the United States, for the purpose of alleviating poverty within the subdivision~~].

SECTION 5. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) When a private nonprofit corporation is designated as a community action agency, the board of directors of the private nonprofit corporation, if constituted in compliance with subsection (3) of this section, shall be the governing board.

(2) When a political subdivision is designated as the community action agency the board of directors of the community action agency shall be a community action board constituted as required by subsection (3) of this section.

(3) Governing boards and community action boards shall be so established and organized that the poor and residents of the area concerned will be able to influence the character of programs affecting their interests and regularly participate in the planning and implementation of those programs. The articles of incorporation shall be deemed to meet these requirements if they provide that:

(a) One-third (⅓) of the members of the administering board shall be public officers, including elected public officials or their representatives, unless the number of public officers reasonably available or willing to serve is less than one-third (⅓) of the membership of the board;

(b) At least one-third (⅓) of the members of the administering board shall be persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area to be served by the agency;

(c) The remaining members of the administering board shall be officials or members of business, industry, labor, religious, welfare, education, or other major groups and shall be interested in the community;

(d) Each member of the board who is to represent a specific geographic area within a community shall reside in the area he represents; and

(e) Total membership of the board is not less than fifteen (15) and not more than fifty-one (51).

(4) Neighborhood based organizations composed of residents of the area or individual members of the groups served by the community action agency shall be consulted by each community action agency to assist the agency in the planning, conduct, and evaluation of components of the community action program.

SECTION 6. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The governing board of a private, nonprofit community action agency shall have the same legal powers and responsibilities granted under its state charter as the board of directors of any private, nonprofit corporation incorporated in the Commonwealth of Kentucky including the power to enter into legally binding agreements with any federal, state, or local agency, or with any private funding organization for the purpose of administering programs or providing services.

(2) In addition to these general corporate powers which all private, nonprofit corporations possess, the following are specific powers which a governing board of a private nonprofit community action agency shall possess:

(a) To appoint the executive director of the community action agency;

(b) To determine major personnel, organization, fiscal, and program policies;

(c) To determine overall program plans and priorities for the community action agency, including provisions for evaluating progress against performance;

(d) To make final approval of all program proposals and budgets;

(e) To enforce compliance with all conditions of all grants contracts;

(f) To oversee the extent and the quality of the participation of the poor in the programs of the community action agency;

(g) To determine rules and procedures for the governing board;

(h) To select the officers and the executive committee, if any, of the governing board.

(3) When a political subdivision is designated as the community action agency the designating officials possess those powers contained in subsection (2)(b) through (e) of this section and share with the community action board the power contained in subsection (2)(a) of this section. The designating officials may delegate the powers contained in subsection (2)(b) through (d) only to the community action board.

(4) When a political subdivision is designated as the community action agency, it shall administer its program through the community action board. The community action board shall have the following powers:

(a) To participate jointly and to concur formally in the selection of the executive director of the community action agency;

(b) To exercise all powers which the designating officials choose to delegate to the community action board;

(c) To oversee the extent and the quality of the participation of the poor in the programs of the community action agency;

(d) To determine rules and procedures for the community action board;

(e) To select the officers and the executive committee, if any, of the community action board.

(5) When a political subdivision is designated as the community action agency, the community action board shall deliberate upon the following matters and submit its written recommendations to the designating officials before the designating officials render a final decision unless the designating officials have specifically delegated these powers:

(a) Determination of major personnel, organization, fiscal, and program policies;

(b) Determination of overall program plans and priorities;

(c) Approval of all program proposals and budgets;

(d) Approval of all evaluation and assessment studies and reports;

(e) Approval of all arrangements for delegating the planning, conducting, or evaluating a component of the work program.

SECTION 7. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) Each community action agency shall:

(a) Plan systematically for an effective community action program, develop information as to the problems and causes of poverty in the community; determine how much and how effectively assistance is being provided to deal with those problems and causes; and establish priorities among projects, activities, and areas as needed for the best and most efficient use of resources;

(b) Provide planning or technical assistance to agencies; and generally, in cooperation with community agencies and officials, undertake actions to improve existing efforts to reduce poverty, such as improving day-to-day communications, closing service gaps, focusing resources on the most needy, and providing additional opportunities to low-income individuals for regular employment or participation in the programs or activities for which those community agencies and officials are responsible;

(c) Initiate and sponsor projects responsive to needs of the poor which are not otherwise being met, with particular emphasis on providing central or common services that can be drawn upon by a variety of related programs, developing new approaches or new types of services that can be incorporated into other programs, and filling gaps pending the expansion or modification of those programs;

(d) Establish effective procedures by which the poor and area residents concerned will be enabled to influence the character of programs affecting their interests, provide for their regular participation in the implementation of those programs, and provide technical and other support needed to enable the poor and neighborhood groups to secure on their own behalf available assistance from public and private sources;

(e) Join with and encourage business, labor and other private groups and organizations to undertake, together with public officials and agencies, activities in support of the community action program which will result in the additional use of private resources and capabilities, with a view to developing new employment opportunities, stimulating investment that will have a measurable impact on reducing poverty among residents of areas of concentrated poverty, and providing methods by which residents of those areas can work with private groups, firms, and institutions in seeking solutions to problems of common concern.

(2) If a community action agency places responsibility for the character, funding, extent, administration of, or budgeting for programs of the agency with another agency or organization, public or private, it shall do so by contract. No contract shall be made with an agency or organization which does not have a board which is broadly representative of the citizens of the geographic area served by the agency or organization.

SECTION 8. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) Any funds made available under the federal act shall be used by each grantee of the funds:

(a) To provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem;

(b) To provide activities designed to assist low-income participants including the elderly poor:

1. To secure and retain meaningful employment:

2. To attain an adequate education;

3. To make better use of available income;

4. To obtain and maintain adequate housing and a suitable living environment;

5. To obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment related assistance;

6. To remove obstacles and solve problems which block the achievement of self-sufficiency;

7. To achieve greater participation in the affairs of the community; and

8. To make more effective use of other programs related to the purposes of this Act;

(c) To coordinate and establish linkages between governmental and other social programs to assure the effective delivery of such services to low-income individuals;

(d) To encourage the use of entities in the private sector of the community in efforts to ameliorate poverty in the community;

(e) To develop, promote or otherwise encourge economic development activities which result in assisting low-income persons to become economically productive members of their community;

(f) To provide education, counseling and technical assistance on compliance with equal opportunity legislation for individuals and community organizations, both public and private.

(2) In addition to required services and activities to be provided with funds made available under the federal act, these funds may be used to provide on an emergency basis for the provision of such supplies and services to meet immediate essential needs of low-income persons including the elderly poor.

Section 9. KRS 273.430 is amended to read as follows:

In order to accomplish its purposes, a community action *agency* [~~corporation~~] may:

(a) Borrow money for any of the purposes of the *agency* [~~corporation~~];

(b) Issue [~~bonds,~~] debentures, notes, or other evidences of indebtedness, whether secured or unsecured, and secure the same by mortgage, pledge, deed of trust, or other lien on its property, franchise, rights and privileges of every kind or nature or any part thereof or interest therein;

(c) Apply for and accept loans, grants, and other assistance from any entity, public or private, including but not limited to, the Commonwealth and the United States;

(d) Perform all acts and things necessary or convenient to carry out its purposes.

SECTION 10. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The state administering agency shall annually grant community services block grant funds under the federal act to community action agencies designated by political subdivisions as provided under Sections 4 and 5 of this Act.

(2) An allocation formula for community services block grant funds shall be devised by the state administering agency. The allocation formula shall be based on the 1981 federal fiscal year federal community services administration grantee based allocation and the incidence and severity of poverty throughout the Commonwealth. The formula shall be set forth in administrative regulation by the state administering agency.

(3) Any level of local match to be required by the state administering agency shall not exceed twenty percent (20%) of each community action agency's total annual allocation under the federal act. Community action agencies shall not be prohibited from using non-cash resources to meet any match requirement of the state administering agency.

(4) The services to be provided with funds made available under the federal act shall be determined and prioritized by each community action agency in accordance with the allowable services and intended beneficiaries as set forth under Section 8 of this Act.

(5) Community services block grant funds made available under the federal act shall be used in accordance with the provisions set forth in Sections 7 and 8 of this Act.

(6) The state administering agency, governor or his designee may grant to community action agencies such other state and federal funds the purposes of which are in accordance with the provisions set forth in Section 8 of this Act.

(7) For such other state or federal program funds applicable to the services and activities set forth in Section 8 of this Act, the governor shall, upon a determination of community action agencies' capability for utilizing such funds in a manner so as to fulfill the purpose of those funds and to fulfill the policy set forth in Section 1 of this Act, give special consideration to utilizing community action agencies in implementing such programs.

SECTION 11. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The responsibilities and powers of the state administering agency shall be:

(a) To establish standards in accordance with applicable state and federal laws and regulations by which administrative, fiscal and programmatic effectiveness of the federal act in the Commonwealth shall be measured.

(b) To monitor and evaluate community action agencies' compliance with:

1. The standards provided under subsection (1)(a) of this section and as set forth in administrative regulation by the state administering agency;

2. The provisions of this Act; and

3. The provisions of the federal act.

(c) To receive and review annual independent audits of all funds received by community action agencies.

(d) To direct community action agencies to submit such reports, records or other information necessary to determine community action agencies' administrative, fiscal, and programmatic effectiveness in their use of funds made available under the federal act.

(e) To provide for training and technical assistance to the community action agencies.

(f) To serve as liaison between community action agencies and other state and federal agencies for the purposes of:

1. Increasing the awareness of state and federal agencies toward the needs of low-income persons;

2. Providing information regarding capabilities of community action agencies;

3. Mobilizing resources for utilization by community action agencies;

4. Promoting the services and activities of community action agencies; and

5. Developing, promoting, or otherwise encouraging means for private sector involvement in the services and activities of community action agencies.

6. To develop annually a plan describing the intended use and distribution of the community services block grant under the federal act based on the provisions of subsections (1), (2), (3) and (4) of Section 10 of this Act. The plan shall include a provision for the administrative costs of the community action agencies. The percentage of the total costs allocated for administrative purposes shall not exceed the percentage *allowed in the preceding budget year unless such an increase is approved in accordance with the provisions contained in Sections 13 through 19 of this Act.*

(10) The state administering agency's administrative costs for administering the federal act shall not exceed the limit contained in the federal act and except as otherwise provided under Section 20 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The state administering agency may take adverse action in the form of reduction, suspension, withdrawal or otherwise retraction of a community action agency's funds under the federal act and other funds over which the state administering agency has such authority, if:

(a) The state administering agency alleges a community action agency violated any law, regulation or duly issued directive related to funds for which the state administering agency has authority; and

(b) The state administering agency notifies the community action agency of its intended adverse action and informs the community action agency of its right to submit written material and of its right to request an informal hearing to respond to the intended action. The submission of written material and holding of an informal hearing shall not be required in less than five (5) working days of the initial notice to the community action agency; and

(c) After review of written material submitted by the community action agency and after convening an informal meeting with the community action agency, the state administering agency informs the community action agency of its intent to take adverse action. After sufficient prior notice to the public and the community action agency, the state administering agency shall hold a hearing, open to the public, during which the charges against the community action agency and the intended adverse action against the community action agency shall be presented and during which the community action agency has the opportunity to show cause why the intended adverse action should not be taken; and

(d) After conducting said hearing, the community action agency shall be notified by the state administering agency by letter or telegram not less than thirty (30) days prior to the effective date of the adverse action.

(2) The state administering agency may take adverse action without prior notice and opportunity to show cause provided in subsection (1) of this section if it determines that immediate suspension is necessary because of:

(a) Substantial injury or loss of funds or property over which the state administering agency has authority; or

(b) Violation of a federal, state or local criminal statute.

(3) In its notice to the community action agency of suspension the state administering agency shall specifically advise the community action agency of the reason for the suspension, effective date of the suspension and the extent, terms and conditions of any suspension and shall inform the community action agency of the date and location of a hearing wherein the community action agency shall have the opportunity to show cause as to why the suspension should be rescinded.

(4) The duration of a suspension without notice shall not exceed thirty (30) days except that a suspension without notice may be renewed for an additional period not to exceed thirty (30) days if during the initial suspension period, the state administering agency has initiated the process described in subsection (1) of this section.

(5) At any time during the processes described in this section the state administering agency may convene an informal meeting with the community action agency to attempt to resolve any contemplated or implemented adverse action.

(6) At all times during the processes described in this section, a community action agency shall have access to evidence upon which the state administering agency has based an intent or a final decision to take adverse action against the community action agency.

(7) No provision of this section shall prevent a community action agency from appealing a decision of adverse action by the state administering agency to the appropriate courts of the Commonwealth or the United States.

SECTION 13. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) The state administering agency shall submit any block grant application under the federal act for the following fiscal year to the legislative research commission no less than ninety (90) days prior to the date of submission, as required by federal law, of the block grant application to the federal administering agency.

(2) The state administering agency shall, upon request of the commission, make available to the commission all background data and supporting information related to the block grant application under the federal act under review by the commission as will enable the commission to perform its functions in an informed and efficient manner.

(3) The block grant application under the federal act submitted by the state administering agency to the legislative research commission shall specify:

(a) The programs and services to be provided with the block grant funds;

(b) The categories or characteristics of individuals to be served by the block grant programs and services;

(c) The data used by the state administering agency to determine the proposed use and distribution of the block grant funds for all programs and services;

(d) Whether the programs and services to be provided under the block grant are mandated by the laws of the Commonwealth;

(e) Whether the programs and services to be provided under the block grant are those which the Commonwealth currently administers and funds;

(f) The agencies expected to provide the services including whether such agencies are public or private or state or local;

(g) The manner in which the allocation of funds will be targeted to need;

(h) Geographic areas to be served by the programs and services;

(i) Standards of eligibility for services;

(j) The criteria and method that will be used by the state administering agency to distribute the block grant funds;

(k) Whether and how block grant funds would be transferred from one block grant to another;

(l) The proportion of the block grant funds to be used for administrative costs; and

(m) Estimated receipt of federal funds applied for by block grant.

SECTION 14. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) The state administering agency shall not have continuation block grant application requests under the federal act. Each application for a block grant shall be deemed a new application.

(2) The state administering agency shall not submit a block grant application under the federal act to a federal administering agency unless approved by the legislative research commission as provided under this Act or by the Kentucky general assembly.

SECTION 15. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) The legislative research commission shall, within ten (10) days of receiving the block grant application under the federal act from the state administering agency, provide for statewide notice, pursuant to KRS Chapter 424, of public hearings to be conducted by the commission for the purpose of receiving comments on the block grant application.

(2) The commission shall, no later than sixty (60) days prior to the submission of the block grant application to the federal administering agency, provide for a public hearing on the block grant application. The hearing may be held at such time, place and location as the commission shall determine. All hearings and deliberations of the commission pursuant to this Act shall be electronically recorded. The recordings shall constitute a public record.

SECTION 16. A NEW SECTION Of KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall refer the block grant application under the federal act when received to the designated legislative body for review and consideration of the state administering agency's proposed use and distribution of funds to be provided under the block grant.

(2) The designated legislative body shall review and consider the block grant application according to the following criteria:

(a) General fund monies available in the Commonwealth to match federal financial participation provided under the block grant;

(b) The relationship of the block grant programs and services under the federal act to programs and services mandated by the laws of the Commonwealth;

(c) The need for the programs and services funded under the block grant;

(d) The continuing fiscal cost to the Commonwealth should federal financial participation for the program under the federal act cease subsequent to its acceptance by the Commonwealth;

(e) Whether the block grant program and services under the federal act would duplicate or supplant existing programs and services funded by the private sector;

(f) Whether the block grant includes programs and services which the Commonwealth currently administers and funds;

(g) The relative merit of the block grant when viewed against other available block grants;

(h) Desires of the Commonwealth's citizenry as expressed during the respective block grant hearing;

(i) With regard to the block grant applied for under the federal act, for which federal funds were received during the preceding year, the results of the commission's prior year review of the actual use and distribution of the block grant funds under the federal act by the state administering agency; and

(j) Such other criteria as the designated legislative body shall deem necessary.

SECTION 17. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) No later than thirty (30) days prior to the state administering agency submission of the block grant application under the federal act to the federal administering agency, the designated legislative body shall consider and advise the commission in writing:

(a) Of the ranking, by the designated legislative body, of programs and services within the block grant application based on the criteria provided in Section 16 of this Act;

(b) Of the ranking, by the designated legislative body, of the block grant application within the state administering agency and for the Commonwealth as a whole based on the criteria provided in Section 16 of this Act;

(c) Whether and in what manner the block grant application should be modified; or

(d) Whether the block grant funds under review shall be sought by the state administering agency.

(2) The commission shall review the report of the designated legislative body and may recommend to the state administering agency:

(a) The ranking of the programs and services within the block grant application based on the criteria provided in Section 16 of this Act;

(b) The ranking of the block grant application within state administering agency and for the Commonwealth as a whole based on the criteria provided in Section 16 of this Act;

(c) Whether and in what manner the block grant application should be modified; or

(d) Whether the block grant funds under review shall be sought by the state administering agency.

(3) If the commission elects to take no action under subsection (2) of this section, the block grant application shall be considered approved by the commission.

SECTION 18. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) If the commission recommends that the block grant application under the federal act be modified or not be sought as provided under Section 17 of this Act, the commission shall within ten (10) days provide written notice of the recommendation, including the reasons therefor, to the state administering agency.

(2) The state administering agency shall within ten (10) days either withdraw, or revise and resubmit, the block grant application to comply with the commission's objections.

(3) Within ten (10) days after the resubmission of the revised block grant application by the state administering agency, the commission shall approve or disapprove the resubmitted block grant application in the same manner as provided in subsection (2) of Section 17 of this Act. The determination made by the commission shall be final.

SECTION 19. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall review the actual use and distribution of all block grant funds made available under the federal act during the preceding year to the state administering agency.

(2) The state administering agency receiving block grant funds under the federal act shall, within thirty (30) days following December 31, 1982, June 30, 1983, and each six (6) months thereafter, submit to the commission a report for the funds received under the federal act to be known as the "community services block grant program status report".

(3) The community services block grant program status report shall show for the programs and services provided under the federal act for the preceding six (6) months the following:

(a) Appropriations, allotments, expenditures, encumbrances, and available balance.

(b) The level of service budgeted, defined in terms of objectives and beneficiaries.

(c) The level of services delivered during the period.

(d) Alternatives for improved service delivery.

(e) Any changes in service authorized or necessary as a result of unanticipated changes in clientele, resources, or for other reasons.

(f) An evaluation of results, including a description of measurements used.

SECTION 20. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a block grant legislative oversight fund which may be expended by the commission for the purpose of implementing and administering the provisions of Sections 13 through 19 of this Act and for such other block grants as may be made available under the omnibus budget reconciliation act of 1981 (P.L. 97-35) and any subsequent amendments thereto.

(2) The state administering agency shall, to the extent permitted by federal law, withhold and place in the block grant legislative oversight fund one percent (1%) of the federal funds made available under the block grant under the federal act and for such other block grants as may be made available under the

omnibus budget reconciliation act of 1981 (P.L. 97-35) and any subsequent amendments thereto. The funds placed in the block grant legislative oversight fund shall not lapse to the general fund.

Section 21. KRS 281.619 is amended to read as follows:

(1) The term "nonprofit bus certificate" means a certificate authorizing a private, nonprofit corporation or a community action *agency* [~~corporation~~], not otherwise exempt from the provisions of this chapter, to operate motor bus or van equipment to transport passengers for hire, on other than a casual or occasional basis, between certain points within a given county or counties over regular or irregular routes, or a combination of such routes. A nonprofit bus system shall be deemed "for hire" if there is charged, contributed or received any compensation or grant of funds from the passengers themselves, individually or as a group, or from any outside source paying for or subsidizing, in whole or in part, the operating expenses attributable to the transportation services being provided, but a holder of a nonprofit bus certificate shall be deemed to be exempt from rates and services regulation by the bureau, as provided for by KRS 281.675 through 281.705, unless otherwise provided therein.

(2) If any intracity passenger service is proposed by an applicant for a nonprofit bus certificate, a letter or resolution of support from the affected city shall be filed with the application.

(3) Any nonprofit bus certificate issued by the bureau shall describe the passenger service or services authorized to be performed, including the types of passengers who may be transported if service is not to be held out to the general public, the points between which or the area within which such passengers may be transported, and whether regular or irregular route operations, or both, are authorized. If regular route operations are to be authorized, the certificate may merely set forth that such are permitted between certain points or within a certain area, leaving it to the certificate holder to develop its own specific route structures and schedules.

(4) Any private, nonprofit corporation or community action *agency* [~~corporation~~] engaged, as of June 17, 1978, in the for-hire transportation of persons, as defined in subsection (1), pursuant to a valid certificate of public convenience and necessity or permit shall, upon application, be entitled to the issuance of a nonprofit bus certificate to thereafter authorize a continuation of the same operations. Any such corporation then having an application pending for a certificate of public convenience and necessity or permit shall be entitled to a conversion of such, consistent with principles of procedural due process, to one for a nonprofit bus certificate.

Section 22. KRS 65.060 is amended to read as follows:

As used in KRS 65.065 and 65.070, the term "district" shall mean and the provisions of KRS 65.065 and 65.070 shall apply to any board, commission or special district created pursuant to the following statutes: KRS 65.040, 65.050, 65.210 to 65.300, 65.510 to 65.650, 66.610 to 66.650, 74.010 to 74.416, 75.010 to 75.260, 76.005 to 76.210, 76.241 to 76.273, 76.274 to 76.279, 76.295 to 76.420, 76.600 to 76.640, 77.005 to 77.305, 80.262 to 80.610, 83.340 to 83.350, 96A.010 to 96A.230, 104.450 to 104.680, 107.310 to 107.500, 108.010 to 108.070, 108.080 to 108.180, 108A.010 to 108A.130, 109.071 to 109.250, 147.610 to 147.710, 147A.050 to 147A.120, 152.810 to 152.930, 164.605 to 164.675, 173.450 to 173.650, 173.710 to 173.800, 175A.010 to 175A.990, 183.132 to 183.160, 184.010 to 184.300, 210.460 to 210.480, 212.720 to 212.760, 215.080 to 215.390, 216.310 to 216.360, 220.010 to 220.613, 249.510 to 249.631, 262.100 to 262.660, 262.700 to 262.990, 266.010, to 266.990, 267.010 to 267.990, 268.010 to 268.990, or *the provisions of this Act* [~~273.410 to 273.455~~].

Section 23. The following KRS sections are repealed:

273.420 Articles of incorporation.
273.425 Filing articles of incorporation.
273.440 Designation by Commonwealth.
273.445 Requirement for filing of financial report.
273.450 Action when financial report not filed.
273.455 Distribution of assets when dissolved or liquidated.

The Committee on Energy reported **HR 31** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 31, A JOINT RESOLUTION directing that the major state correctional facilities convert to coal as such action can be supported by a study of economic feasibility, and specifically, that the Blackburn Correctional Complex continue to burn coal to produce space and process heat, and do so efficiently.

WHEREAS, the United States continues to face grave energy shortages, due primarily to excessive dependence on petroleum and natural gas; and

WHEREAS, Kentucky is the nation's leader in production of our most abundant and economical fossil fuel, coal; and

WHEREAS, despite the importance of coal, many state-owned facilities originally built to burn coal were converted to other fuels prior to drastic price increases for these fuels since 1972, including the Eddyville Penitentiary, which now uses electricity, and LaGrange Reformatory, which uses natural gas and oil; and

WHEREAS, the coal-fired boilers at the Blackburn Correctional Complex soon must be replaced or rebuilt, and proposals have been made to convert this facility to natural gas and oil as well; and

WHEREAS, it is imperative that the heating requirements of Kentucky's correctional institutions, and all state facilities, be produced as economically and efficiently as possible;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Department of Finance, in conjunction with the Departments of Corrections and Energy, shall study the economic feasibility of converting to coal to produce the space and process heat requirements of the LaGrange Reformatory, Eddyville Penitentiary, and Luther Luckett Facility. If conversion to coal by one or more of these facilities is supported by these studies, the Department of Finance shall institute such actions as are necessary to implement the conversion to coal.

Section 2. The Blackburn Correctional Complex shall not convert from coal to natural gas or fuel oil, but instead shall rehabilitate or replace its existing system so that it can continue to burn coal.

The Committee on Transportation reported **HR 43, SB 20,** and **HB 92,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 43, A RESOLUTION urging members of the Congressional budget committees to reject any reorganization of the Railroad Retirement System provided for in the 1983 federal budget.

WHEREAS, the Railroad Retirement System was established by an Act of Congress in 1935 to provide retirement-survivor and unemployment-sickness benefit programs for the nation's railroad workers and their families; and

WHEREAS, the Railroad Retirement System has been financed jointly with contributions from rail carriers and rail labor for more than forty-five years; and

WHEREAS, The Railroad Retirement System has a present cash investment worth $3,600,000,000 and more than 1,100,000 annuitants, yet is administered with only 1% of the revenues; and

WHEREAS, the present organization, financial strength, and longevity of the Railroad Retirement System allows for the efficient distribution of both railroad program benefits and, since 1974, social security benefits, to eligible recipients; and

WHEREAS, the abolition of the Railroad Retirement System or its absorption into the Social Security Program could conceivably jeopardize the continued distribution of benefits;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky House of Representatives urges the Congressional budget committees to reject any proposal contained in the 1983 federal budget which would abolish or reorganize the Railroad Retirement System.

Section 2. That copies of this resolution be transmitted to the Kentucky Congressional delegation and the members of the Congressional budget committees.

SB 20, AN ACT relating to roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) The bureau of highways shall undertake a continuing study of the needs of the highways under its jurisdiction for the purpose of bringing existing facilities to acceptable standards or for the replacement of existing facilities where required.

(2) The bureau of highways shall, on a biennial basis, provide the general assembly with an estimate of maintaining and improving the state highway system to acceptable standards.

SECTION 2. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) Each biennium, beginning with the 1982-84 biennium, the bureau shall submit to the general assembly a program of construction to be commenced during the ensuing biennium, which shall be based upon the anticipated revenues to be appropriated by the general assembly.

(2) In determining the construction program, the following factors shall be considered but are not exclusive;

(a) Alignment of existing roads;

(b) The width or elevation of existing roadways and shoulder surfaces;

(c) The width of rights-of-way;

(d) The cost of construction;

(e) The type and volume of traffic;

(f) The condition of structures and drainage;

(g) The accident rate;

(h) The geographic distribution of roadways to be constructed or reconstructed; and

(i) The social, economic and environmental impact of the proposed construction.

(3) In addition to the biennial construction program, the bureau also shall provide to the general assembly a biennial program of preconstruction projects in various stages of planning and preparation and a four (4) year planning document for projects which are being reviewed by the bureau, but are not being included for funding during the biennium.

(4) The secretary of transportation shall be responsible for the execution of each biennial program as approved by the general assembly and shall promptly account for any deviations of funding and schedule to the interim joint committee on transportation. The bureau of highways shall be responsible to provide annual certification of project expenditures to the General Assembly prior to either the organizational or regular session.

SECTION 3. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) Six (6) months prior to the convening of each regular session of the general assembly, the bureau shall furnish the projected biennial construction and preconstruction program to the interim joint committee on transportation, which may hold public hearings in each highway district.

(2) A report based on the testimony received at said hearings shall be made to the bureau. The bureau shall then prepare the final construction program for the coming biennium for submission to the general assembly.

(3) When the final construction program is presented to the general assembly for funding for the coming biennium, any project which the general assembly determines is not in accordance with the factors stated in Section 2(2) of this Act may be deleted by the General Assembly.

SECTION 4. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) The bureau shall create a secretary's emergency fund which shall be limited to four percent (4%) of the estimated revenue to be used for highway purposes for each fiscal year of the biennium.

(2) No construction or preconstruction project shall be undertaken by the bureau except those included for that biennium regardless of the source of funds for the project, with the exception of projects undertaken and financed out of the secretary's emergency fund and projects involving the use of matching funds made available from the federal highway administration to the Commonwealth as a result of other states not utilizing their total available federal obligation. In the event revenue estimates exceed the funds allotted for construction and preconstruction projects or actual project completion is less than the cost estimates contained within the initial program submitted by the department, the bureau shall develop an additional list of construction and preconstruction projects which shall be submitted to and reviewed by the interim joint committee on transportation, prior to the expenditure of any such funds.

(3) The secretary shall semi-annually submit to the interim joint committee on transportation a summary of all emergency projects for the preceding six-month period, outlining the nature and cost of the emergency.

(4) The expenditure for preliminary analysis of prospective projects shall not exceed one-half of one percent (.5%) of the total transportation fund in any fiscal year without prior approval of the interim committee.

SECTION 5. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) The project planned for the biennium for which the appropriations have been made shall be commenced in that biennium; however, if a project cannot be commenced within the biennium for which it is designated, the secretary shall file with the project records a public statement as to the factors causing delay.

(2) When the delaying factors for a project have been overcome, the delayed project shall be accomplished in the next biennium. Funds allocated for each project remain so allocated until the project is completed and project costs are liquidated.

(3) No provision of this Act shall apply to expenditures for:

(a) Resurfacing;

(b) Bridge maintenance and repair;

(c) Rural secondary road program;

(d) Routine maintenance;

(e) Minor reconstruction.

HB 92, AN ACT relating to transportation of coal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a resource recovery road fund in the state treasury to be administered by the department of transportation. The resource recovery road fund may receive state appropriations, gifts, grants, and federal funds.

(2) Money in the resource recovery road fund shall be used only for the construction, reconstruction, repair and maintenance of public highways, roads, streets or bridges in coal producing counties or coal impacted counties.

SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provisions of law, the department of transportation may issue energy road hauling permits for the operation of motor vehicles in coal producing counties or coal impacted counties for the purpose of hauling coal in motor vehicles whose gross weight, including vehicle and load, exceeds the limits prescribed by KRS Chapter 189. If the applicant for a permit desires to use motor vehicles with less than five (5) axles, then the applicant shall demonstrate to the satisfaction of the department that the use of five (5) axle vehicles is impracticable. Such permit may be issued to any individual, partnership, joint venture, association or corporation engaged in severing or processing coal who is a taxpayer pursuant to KRS Chapter 143. The permit shall designate the portions of the state road system established pursuant to KRS 177.020, or county roads as defined in KRS 178.010, over which such vehicles may operate pursuant to the permit. Such permit shall only be issued for the state or county roads connecting the coal mine to the first point of transfer to a coal processing or handling facility, and the longest route from point of origin to point of destination shall not exceed thirty (30) miles for any such designation, unless the secretary of the department determines, in his discretion, that a permit be issued for a greater distance. Such permit shall be upon such terms and conditions as the department may, in its discretion, require in the public interest. The department shall require, as a condition to the issuance of a permit, that the permittee agree to pay to the department the sum of one-half (½) of one percent (1%) of the wholesale selling price of the coal so transferred by the permittee on the portions of the state or county roads designated in the permit as long as such payment is required pursuant to Section 4 of this Act. The permit shall remain in effect as long as the terms, conditions and agreements set forth in the permit are complied with by the permittee. The operation of any motor vehicle in accordance with the terms and conditions of any such permit shall not constitute a violation of the weight provisions of KRS Chapter 189, if the operator possesses a permit, or a copy of it, authenticated as required by the department.

(2) The department shall not issue a permit under this section to operate a vehicle over a county road unless an agreement for the issuance of permits pursuant to this Act shall have been entered into between the department and the fiscal court of the county in which the county road is located.

(3) The department shall not issue a permit under this section for a vehicle whose gross weight, including vehicle and load, exceeds eighty thousand (80,000) pounds.

(4) No person shall operate a motor vehicle in violation of the terms and conditions of any permit issued by the department pursuant to this section.

(5) Any operator to whom a permit is issued, found to be in violation of the terms of the permit by allowing coal to be transported which exceeds the permit application, shall have said permit revoked. Revocation shall not occur, unless the operator is convicted of two (2) or more violations of the permit within a thirty (30) day period.

(6) The department may:

(a) Exercise general supervision of the administering and enforcement of this section;

(b) Adopt rules and regulations with respect to the issuance of a permit, including, but not limited to, rules and regulations concerning the duration of a permit and weight limits for various types of vehicles and roads;

(c) Issue, continue in effect, modify or deny, under such conditions as the department may prescribe, permits provided for under this section.

Section 3. KRS 143.030 is amended to read as follows:

(1) Every individual, partnership, joint venture, association, or corporation engaged in severing [~~and/~~]or processing coal shall, prior to July 1, *1982* [~~1978~~], or prior to severing [~~and/~~]or processing coal in this Commonwealth, file an application for a certificate of registration in such form as the department may prescribe *and the application shall be accompanied by a copy of the transportation plan as required by KRS 350.060 or 351.175. The applicant may revise the transportation plan on a daily basis by notifying the department on forms to be provided by the department.* Every application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(2) On or before the twentieth day of the month following the reporting period in which any coal is severed [~~and/~~]or processed, the taxpayer severing [~~and/~~]or processing such coal shall file with the department a tax return in such form as the department may require and remit the amount of the tax due. *The tax return shall specify the energy road hauling permit number or numbers, if any, issued pursuant to this Act under which coal was transported over state or county roads and shall specify the amount of coal transported pursuant to the issuance of each permit and the permittee shall also remit to the department the amount of payment due pursuant to Section 2(1) of this Act. Remittance of the taxes collected for the purpose of expenditure on the resource recovery roads shall be accompanied by a statement from the permittee as to the ton-miles hauled on each road and the amount of the tax determined earmarked for each road.* A tax return is required for each reporting period even though there may be no tax liability.

(3) Whenever any taxpayer fails to comply with any provisions of this chapter, or any rule or regulation of the department relating thereto, the department may order the suspension or revocation of the certificate of registration held by such taxpayer.

(4) Any taxpayer, including any officer of a corporation, who conducts a coal severing [~~and/~~]or processing operation in this state without obtaining a certificate of registration or after a certificate of registration has been suspended or revoked, shall be guilty of a misdemeanor and upon conviction therefor, shall be fined an amount not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months or both such fine and imprisonment.

SECTION 4. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) All monies paid to the department pursuant to the issuance of permits under the provisions of Section 2 of this Act shall be transmitted to the state treasury and be maintained in a resource recovery road fund to be administered by the department.

(2) All surplus funds in the resource recovery road fund shall be invested as provided for in KRS 41.380 and interest earned shall be credited to the resource recovery road fund to be administered by the department as set forth in this section.

(3) The department shall maintain a separate account for each permit issued pursuant to Section 2 of this Act in order to construct, reconstruct, repair and maintain state or county roads designated in the permit. Money expended from any account shall only be utilized to supplement and not in substitution of other funds available for the purpose of constructing, reconstructing, repairing, or maintaining roads designated in the permit. Money expended from any account shall be utilized primarily for the purpose of drainage correction, establishing a road base and road surfacing. The department after consultation with the permittee, shall develop a program for the maintenance and improvement of the roads designated in the permit. The program developed shall take into account the volumes of coal to be transported, the length of time the permit is expected to remain in effect and needs of the traveling public. The ultimate purpose of this program shall be to produce a paved road that will meet the needs of the traveling public and will withstand the loads to which the road is subjected and to improve the least serviceable portion of the road.

(4) Each separate account maintained pursuant to subsection (3) of this section shall be credited with the monies paid into the resource recovery road fund pursuant to subsection (1) of this section.

(5) Any money in any account shall be utilized by the department of transportation for the purpose of constructing, reconstructing, repairing, or maintaining the roads for which the permit is issued.

(6) In the event the roads designated on the permit are county roads, any money collected pursuant to the permit shall be returned to the fiscal court of the county. The fiscal court shall utilize the funds for the purpose of constructing, reconstructing, repairing or maintaining the roads for which the permit is issued.

(7) Any fiscal court determined by the department to be expending resource recovery road funds in a manner not prescribed by subsection (6) of this section shall have the funds retained by the department to be expended on county roads in accordance with the provisions of subsection (6) of this section.

(8) Any expenditure of money from two (2) or more accounts for the construction, reconstruction, repair or maintenance of the same portion of a road designated in the permits shall be apportioned to each permit account according to the balance in each account as of the date of authorization.

(9) Each account provided for in this section shall be maintained by this department as long as a permit issued pursuant to Section 2 of this Act remains in effect and also until all funds in the account have been expended.

(10) An exemption of further payment may be granted to the permit holder upon the determination of the department that funds collected under the provisions of Section 2(1) are sufficient for the maintenance of the roads designated by the permit for the duration of the time period provided by the permit. In order for the exemption from further payment to be granted, it shall be determined by the department that the roads designated in the permit are paved roads that will withstand the loads to which the roads are subjected.

(11) The department upon the granting of an exemption shall inspect the road receiving said exemption every sixty (60) days when coal is being transported. The department may be required to inspect an exempted road at the request of an affected party, but shall not be required to make an inspection more than every thirty (30) days.

(12) After the exemption from further payment is granted, should a resource recovery road fund account become depleted or it is determined that further maintenance will be required as a result of transportation demand, the department shall reinstitute the requirement for pay as prescribed in Section 2(1) of this Act.

Section 5. KRS 189.230 is amended to read as follows:

(1) The bureau, in respect to state and federal highways, and county judges/executive in respect to county highways, may prescribe, by notice as provided in subsection (2) of this section, load and speed limits lower than the limits prescribed in KRS 189.221 and subsection (3) of KRS 189.390, respectively, whenever in its judgment any highway may, by reason of its design, deterioration, rain or other natural causes, be damaged or destroyed by motor trucks or semitrailer trucks, if their gross weight or speed exceeds certain limits*; provided, however, that the bureau shall have exclusive authority to control said limits on the portions of county roads over which permits have been issued to operate overweight motor vehicles under Section 2 of this Act*. The bureau or county judges/executive may, by like notice, regulate or prohibit the operation of motor trucks or semitrailer trucks on state highways or county roads for limited periods of specified days, or parts of days, if their load and speed exceed those limits, whenever, in its or their judgment, such regulations or prohibition is necessary, by reason of traffic density or intensive use by the traveling public, to provide for the public safety and convenience on the highway*; provided, however, that the bureau shall have exclusive authority to regulate or prohibit such operation on portions of county roads over which permits have been issued to operate overweight motor vehicles under Section 2 of this Act*.

(2) The notice or the substance of it shall be posted at conspicuous places at the termini of and at all intermediate crossroads and road junctions with the section of the highway to which the notice applies. After such a notice has been posted, no person shall operate any motor truck or semitrailer truck contrary to its provisions.

Section 6. KRS 177.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 177.220 to 177.310 shall be guilty of a misdemeanor and upon arrest and conviction therefor, shall be punished by a fine of not less than five dollars ($5.00) nor more than one hundred dollars ($100) or by imprisonment in the city or county jail for not less than five (5) days nor more than ninety (90) days, or by both such fine and imprisonment.

(2) Any person who wilfully violates any of the provisions of KRS 177.830 to 177.890 shall, in addition to any other penalty herein provided, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(3) In addition to any other penalty provided by KRS 177.905 to 177.950, any person violating any order or provision of KRS 177.905 to 177.950 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000). Each day of violation of the provisions of KRS 177.905 to 177.950 shall constitute a separate offense.

(4) A person is guilty of a class A misdemeanor who operates or causes to be operated any motor vehicle in violation of the terms and conditions of any permit issued by the department pursuant to Section 2 of this Act for which another penalty is not specifically provided.

Committee Substitute to **HB 92** is as follows:

HB 92, AN ACT relating to transportation of coal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) "Coal producing county" shall mean a county in which coal was severed within the meaning of KRS Chapter 142 and upon which severance the tax applicable thereto was reported and remitted prior to January 1, 1980.

(2) "Coal impact county" shall mean a county in which coal was not severed within the meaning of KRS Chapter 143 after July 1, 1982, but one through which coal is regularly transported over public highways, roads, and streets designated as a part of the coal road system by the department of transportation. On or before August 15, 1983 and each year thereafter, the department of transportation shall publish a directory, including supporting maps and other documents, designating the official coal road system in coal impact and coal producing counties which shall include all public highways, roads, and streets over which quantities of coal have been transported as reported in the transportation plan required by KRS 143.030 (1). The department shall further publish the total county mileage of the official coal road system and the total ton/miles within each coal impact and coal producing county.

SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) The department of transportation shall issue energy road hauling permits for the operation of motor carriers in coal producing counties or coal impact counties for the purpose of transportation of coal in vehicles whose gross weight, including vehicle and load, exceed the limits prescribed by KRS Chapter 189. Such permit shall be issued upon application by an individual, partnership, joint venture, association or corporation engaged in severing or processing coal and has filed an application for a certificate of registration in accordance with KRS 143.030.

(2) Any energy road hauling permit shall be issued upon the terms and conditions as the department may require. The permit shall remain in effect as long as the terms, conditions and agreements set forth in the permit are complied with by the permittee.

(3) The department shall not issue a permit under this section for a vehicle whose gross weight, including vehicle and load, exceeds ninety thousand (90,000) pounds, except on interstate highways where gross weight limits shall not exceed eighty thousand (80,000) pounds.

(4) The department shall require a fee for the issuance of an energy road hauling permit of one-half (½) of one percent (1%) of the wholesale selling price of coal transported by the permittee over the roads of the Commonwealth.

SECTION 3. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) The department of transportation shall create forms for use of the permit issued under the provisions of Section 2 of this Act.

(2) The form prescribed by the department shall include the following information:
(a) Energy road hauling permit number;
(b) Weight of the vehicle including load;
(c) Motor carrier registration number and the name of the motor carrier operator;
(d) The name of the mining company or individual operator;
(e) The motor carrier destination; and
(f) Additional information the department may deem appropriate.

(3) Such forms shall be consecutively numbered and printed in triplicate. One (1) copy shall be kept by the coal mine operator for his records; one (1) copy shall be submitted to the department of revenue by the coal mine operator; and one (1) copy shall be submitted by the motor carrier operator to an employe of the termination point which shall in turn be submitted to the department of revenue.

(4) The department of revenue shall review the forms submitted pursuant to subsection (3) of this section and upon the determination that a discrepancy exists between coal transported and coal severed may recommend an investigation into the activity and records of the permit holder by the department of transportation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall establish a motor carrier regulatory board to receive information transmitted by the department of revenue pursuant to Section 3(4) of this Act and hold hearing regarding violations of the energy road hauling permits.

(2) The board shall have seven (7) members appointed by the secretary. The board shall elect a chairman who shall be responsible for receiving information from the department of revenue. Each member shall be appointed for three (3) years. Beginning August 1, 1982, one (1) member shall be appointed for

one (1) year, three (3) members shall be appointed for two (2) years and three (3) members shall be appointed for three (3) years. Four (4) members must be present at a meeting to establish a quorum.

(3) Upon determination by the chairman or upon the written request of the department of revenue that a hearing is warranted, the board shall notify the permit holder in writing by mailing notice by first-class mail to the last known address of the permit holder. The hearing shall be scheduled as early as practical and shall not exceed thirty (30) days after the receipt of a hearing request. The time and place of the hearing shall be designated by the board.

(4) The board within ten (10) days after the completion of a hearing shall inform the permit holder of its action. Should the permit holder be found in violation of its permit condition, the board shall fine said permit holder not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each violation. Any permit holder determined by the board to be in violation of the permit condition on six (6) occasions in a twelve (12) month period shall have the permit suspended by the board for a period of six (6) months.

(5) Any permit holder may appeal the decision of the board in the circuit court in which the permit holder resides, or in the Franklin Circuit court for review of the order of the board. The appeal shall occur within twenty (20) days after the final order has been issued. The perfected appeal suspends the payment of any fines or the order of suspension pending a final determination of the review.

Section 5. KRS 143.030 is amended to read as follows:

(1) Every individual, partnership, joint venture, association, or corporation engaged in severing [~~and/~~]or processing coal shall, prior to July 1, 1978, or prior to severing [~~and/~~]or processing coal in this Commonwealth, file an application for a certificate of registration in such form as the department may prescribe *and the application shall be accompanied by a copy of the transportation plan as required by KRS 350.060.* Every application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(2) On or before the twentieth day of the month following the reporting period in which any coal is severed [~~and/~~]or processed, the taxpayer severing [~~and/~~]or processing such coal shall file with the department a tax return in such form as the department may require and remit the amount of the tax due. *The tax return shall also include the payment of the fees required in Section 2(4) of this Act.* A tax return is required for each reporting period even though there may be no tax liability.

(3) Whenever any taxpayer fails to comply with any provisions of this chapter, or any rule or regulation of the department relating thereto, the department may order the suspension or revocation of the certificate of registration held by such taxpayer.

(4) Any taxpayer, including any officer of a corporation, who conducts a coal severing and/or processing operation in this state without obtaining a certificate of registration or after a certificate of registration has been suspended or revoked, shall be guilty of a misdemeanor and upon conviction therefor, shall be fined an amount not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months or both such fine and imprisonment.

SECTION 6. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) The department of transportation shall create a resource recovery road fund which is authorized to receive fees generated by Section 2(4) of this Act, state appropriations gift, grants and federal funds.

(2) The resource recovery road fund shall be used solely for the purpose of reconstruction, repair and maintenance of resource recovery roads and bridges in coal producing counties or coal impact counties.

(3) For fiscal year 1982-83 the funds generated from the fees provided by Section 2(4) of this Act shall be spent exclusively for the reconstruction, maintenance and repair of resource recovery bridges in coal producing and coal impact counties.

(4) Any operator may request the department to inspect the roads and bridges used by said operator for the transportation of coal. If the department determines said roads will withstand the volume of traffic without any deterioration, the department may recommend to the department of revenue that said operator be exempt from the payment of fees provided in Section 2(4). Nothing in this paragraph will adversely affect the issuance or the continuation of the energy road hauling permit.

SECTION 7. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) At least once in each calendar year the department, through a duly authorized representative, shall consult with the state senator and state representative of each of the coal producing and coal impact counties for the purpose of review of the transportation plans as required by KRS 350.060 and planning of the expenditure of the county allotment of the resource recovery road fund on the state roads lying within the representative's and senator's legislative district.

(2) At least once in each calendar year the department, through a duly authorized representative, shall consult with the fiscal courts of the various coal producing and coal impact counties for the purpose

of review of the transportation plan as required by KRS 350.060 and planning of the expenditure of the county allotment of the resource recovery road fund on county roads lying within the county of the fiscal court jurisdiction.

SECTION 8. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) The department of transportation shall allocate funds set apart for reconstruction, maintenance and repair of resource recovery roads and bridges by the provision of Section 2(4) of this Act as follows:

(a) One-fifth (1/5) shall be apportioned equally among the coal producing and coal-impact counties;

(b) One-fifth (1/5) shall be apportioned on the basis of the mileage of road in a coal producing county bears to the total mileage of road in all coal producing counties;

(c) One-fifth (1/5) shall be apportioned on the basis of coal produced on a county based on the ratio to the total coal produced in the Commonwealth; and

(d) Two-fifths (2/5) shall be apportioned on the basis of total resource recovery mileage in a county as designated by the transportation plan filed under KRS 350.060 and the ratio of total resource recovery road mileage as designated by said plan.

(2) Of the total amount apportioned by the provision of this section, a sum not exceeding four percent (4%) may be deducted by the department to defray the cost of implementation of the resource recovery road program.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Health and Welfare: **SB 159, HB 686.**

Calendar

HR 33, HB 430, HB 551, HB 293, HB 345, HB 355, HB 210, HB 146, SB 190, HB 623, HR 42, HB 489, SB 75, HB 229, HB 240, HB 467, HB 493, HB 525, HB 478, HB 565, HB 543, HB 596, and **HB 415** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 312, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative LeMaster moved that **HB 312,** with Floor Amendments attached thereto, be laid on the Clerk's Desk. Agreed.

HB 149, with Committee Substitute and Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Seum moved the adoption of the Committee Substitute to **HB 149.** Agreed.

Representative Seum moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to **HB 149.** Agreed.

Representative Seum moved the adoption of the Committee Amendment No. 2 to the Committee Substitute to **HB 149.** Rejected.

Representative Seum moved that **HB 149,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 89-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, White, Worthington, Yates. Nays 5-Allen J. Clarke, T. Jones, Mann, Williams.

HB 149, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Seum moved that the vote by which **HB 149,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 133 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McNutt moved that **HB 133** be passed.

On the roll call the vote was yeas 88-Arnold, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McNutt, Meyer, Moberly, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 0

HB 133 was passed and the title agreed to.

Representative McNutt moved that the vote by which **HB 133** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 411, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved the adoption of the Committee Substitute to **HB 441**. Agreed.

Representative Worthington moved that **HB 411,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 0

HB 411, by way of Committee substitute, was passed and the title agreed to.

Representative Worthington moved that the vote by which **HB 411,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 479, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Amendment No. 1 to **HB 479.** Agreed.

Representative LeMaster moved that **HB 479,** as amended, be passed.

On the roll call the vote was yeas 92-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 0

HB 479, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 479,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 4 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holloway moved that **SB 4** be passed.

On the roll call the vote was yeas 75-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Caldwell, Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Lundergan, Maggard, McBee, McNutt, Morris, Noland, O'Brien, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, F. Smith, Stone, Thomason, Tobin, Todd, Van Horn, White, Worthington, Yates. Nays 12-Barrows, Burnette, Hancock, T. Jones, Mann, Meyer, Moberly, Nett, Noe, Overstreet, B. Smith, Williams.

SB 4 was passed and the title agreed to.

Representative Holloway moved that the vote by which **SB 4** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 196, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of the Committee Substitute to **HB 196.** Agreed.

Representative Little moved that **HB 196,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 71-Arnold, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Caldwell, Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Fryman, Gray, Hancock, Handy, Head, Hines, Holbrook, T. Jones, Kidd, Layman, Lefevers, LeMaster, Little, Long, Lundergan, Maggard, McBee, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Van Horn, White, Williams, Worthington, Yates. Nays 14-Allen, Bennett, Bruce, Burnette, Ellington, Ford, Guenthner, Harper, Lile, Mann, McNutt, Meyer, Pearman, Todd.

HB 196, by way of Committee Substitute, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 196,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 231 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Handy moved that **HB 231** be passed.

On the roll call the vote was yeas 79-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, Layman, Lefevers, Lile, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, Williams, Worthington, Yates. Nays 7-Burnette, Craddock, Ellington, Haering, McNutt, Tobin, White.

HB 231 was passed and the title agreed to.

Representative Handy moved that the vote by which **HB 231** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 500 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 500** be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 2-McNutt, Tobin.

HB 500 was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 500** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 585, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holloway moved the adoption of the Committee Substitute to **HB 585.** Agreed.

Representative Holloway moved that **HB 585,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 85-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Gray, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, Williams, Yates. Nays 0.

HB 585, by way of Committee Substitute, was passed and the title agreed to.

Representative Holloway moved that the vote by which **HB 585,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that **HB 589** be recommitted to the Committee on Cities. Agreed.

HB 106, with Committee Substitute, Committee Amendments, and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved the adoption of the Committee Substitute to **HB 106.** Agreed.

Representative O'Brien moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to **HB 106.** Agreed.

Representative O'Brien moved the adoption of the Committee Amendment No. 2 to the Committee Substitute to **HB 106.** Agreed.

Representative Thomason moved the adoption of the Floor Amendment No. 3 to the Committee Substitute to **HB 106.** Agreed.

Representative Freibert moved the adoption of the Floor Amendment No. 6 to the Committee Substitute to **HB 106.** Agreed.

Representative Bendl moved that **HB 106,** by way of Committee Substitute as amended, be passed.

Representative Heleringer moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 106.**

Representative Patrick moved that Floor Amendment No. 1 to the Committee Substitute to **HB 106** be laid on the table. Rejected.

On the roll call the vote was yeas 25-Allen, Burch, Burnette, Caldwell, Clapp, Crupper, Curd, Dawahare, Ellington, Ford, Fryman, Guenthner, Haering, Harper, Head, Heleringer, Holbrook, Layman, Noland, Overstreet, Patrick, Petty, Rattliff, Schmidt, Van Horn. Nays 58-Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Clark, Clarke, Cline, Cowan, Craddock, Donnermeyer, Dunn, Farrow, Foster, Gray, Hancock, Handy, Hines, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McNutt, Meyer, Moberly, Morris, Nett, Noe, Pearman, Perkins, Priddy, Rapier, Richards, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, White, Williams, Yates.

The Floor Amendment No. 1 to the Committee Substitute to **HB 106** was rejected.

Representative Burnette moved the adoption of the Floor Amendment No. 4 to the Committee Substitute to **HB 106.**

On the roll call the vote was yeas 38-Allen, Arnold, Bruce, Burnette, Caldwell, Clapp, Crupper, Curd, Dawahare, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Harper, Head, Heleringer, Holbrook, Johnson, Layman, Morris, Noland, O'Brien, Overstreet, Patrick, Petty, Rattliff, Riner, Robinson, Schmidt, B. Smith, Todd, Van Horn, Worthington. Nays 50-Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Burch, Clark, Clarke, Cline, Cowan, Craddock, Cyrus, Deskins, Donnermeyer, Dunn, Gray, Hancock, Handy, Hines, Holloway, T. Jones, Kenton, Kidd, LeMaster, Lile, Little, Long, Maggard, Mann, McNutt, Meyer, Moberly, Nett, Noe, Perkins, Priddy, Rapier, Richards, B. Richardson, F. Smith, Stone, Stumbo, Thomas, Tobin, White, Williams, Yates.

Floor Amendment No. 4 to the Committee Substitute to **HB 106** was rejected.

Representative Schmidt moved the adoption of the Floor Amendment No. 10 to the Committee Substitute to **HB 106.** Rejected.

Representative Bendl moved that **HB 106,** by way of Committee Substitute as amended, be passed.

Representative Ellington moved the adoption of the Floor Amendment No. 8 to the Committee Substitute to **HB 106.**

Speaker Pro Tempore Thomason presiding.

On the roll call the vote was yeas 49-Allen, Arnold, Brinkley, Bruce, Burnette, Caldwell, Clapp, Crupper, Curd, Cyrus, Dawahare, Deskins, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Guenthner, Haering, Harper, Head, Heleringer, Holbrook, R. Jones, Layman, Lefevers, Little, Lundergan, Maggard, Morris, Noland, Overstreet, Patrick, Pearman, Petty, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, Stone, Thomason, Todd, Van Horn. Nays 45-Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Brown, Burch, Clark, Clarke, Cline, Cowan, Craddock, Donnermeyer, Dunn, Freibert, Gray, Hancock, Handy, Hines, Johnson, T. Jones, Kenton, Kidd, LeMaster, List, Long, Mann, McNutt, Meyer, Moberly, Nett, Noe, O'Brien, Perkins, Priddy, Rapier, F. Smith, Stumbo, Thomas, Tobin, White, Williams, Yates.

Floor Amendment No. 8 to the Committee Substitute to **HB 106** was adopted.

Representative Bendl moved that **HB 106,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, White, Worthington, Yates. Nays 0

HB 106, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Bendl moved that the vote by which **HB 106,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 48** and **SB 200** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

The following Floor amendments were filed to Bills.

Floor Amendment No. 8 to **HB 280,** by Representative Little:

Amend printed copy of **HB 280,** pages 1, 2 and 3, as follows:

Page 1, line 18, after the word Department insert the words "of Human Resources";

Page 2, line 4, after the word Department, insert the words "of Human Resources:;

Page 2, line 13, after the word Department, insert the words "of Human Resources"

Page 3, line 3, after the word Department, insert the words "of Human Resources.

Floor Amendment No. 4 to **HB 312,** by Representative Freibert:

Amend printed copy of **HB 312,** page 2, after line 4, by adding the following:

"*(4) The provisions of this section shall not apply to urban county governments or in counties containing cities of the second, third, fourth, fifty or sixth class.*"

Floor Amendment No. 1 to **HB 512,** by Representative Holbrook:

Amend printed copy of **HB 512,** page 1, after line 20, by adding the following:

"*(d) Who exclusively represents a single insurer or group of affiliated insurers.*"

Floor amendment No. 1 to **HB 623,** by Representative Holbrook:

Amend printed copy of **HB 623,** page 1, line 6, by inserting between "*any*" and "*institution*" the following: "*domestic bank, savings and loan institution, or*".

Representative LeMaster moved that **HB 312** be taken from the Clerk's desk and placed in Orders of the Day. Agreed.

Representative Priddy moved that she be recorded as voting "nay" on **HB 196.** Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blandford, **HB 583;** Representative Boswell, **HB 583;** Representative Bronger, **HB 583;** Representative Bruce, **HB 583;** Representative Burch, **HB 583;** Representative Clark, **HB 583;** Representative Cline, **HB 583;** Representative Cowan, **HB 525;** Representative Craddock, **HB 583;** Representative Donnermeyer, **HB 583; HB 682;** Representative Farrow, **HB 583;** Representative Foster, **HB 816;** Representative Hancock, **HB 583;** Representative Holbrook, **HB 594;** Representative Layman, **HB 816;** Representative McBee, **HB 583;** Representative Mann, **HB 583;** Representative Noe, **HB 155;** Representative Priddy, **HB 583;** Representative Rattliff, **HB 816;** Representative B. Smith, **HB 583;** Representative Stone, **HB 583;** Representative Thomas, **HB 815;** Representative White, **HB 583;** Representative Yates, **HB 583, HB 819.**

The following members requested that their names be withdrawn as co-sponsors of Bills and Resolutions: Representative Handy, **HB 816;** Representative Guenthner, **HB 746.**

The following meetings were announced.

Committee on Rules: On adjournment, Room 316.

Capital Construction: On adjournment, Room 12.

Appropriations and Revenue: On adjournment, Room 109.

Judiciary-Civil: Monday, 1:00 p.m., Room 101.

Budget Review: Education, On adjournment of Appropriations and Revenue today, Room 103.

Representative LeMaster moved that the rules be suspended for Report of Committees. Agreed.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bill:

Labor and Industry: **SB 274.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 733, HB 741.**

Education: **SB 211, SB 173.**

Banking and Insurance: **HB 701, HB 806, HB 791, HB 683, HB 730.**

Appropriations and Revenue: **HB 816, HB 809, HB 810, HB 811, HB 812, HB 813, HB 576, HB 584, HR 6, HB 653, HB 583, HB 724, HB 778, HB 642, HB 666.**

Judiciary-Criminal: **HB 536, HB 817.**

Transportation: **SB 266, HB 717.**

Counties and Special Districts: **HB 706, HB 696, HB 745, SB 145, SB 271.**

Judiciary-Civil: **HB 720.**

Natural Resources and Environment: **HB 761, HB 762, HB 763, HB 764, HB 644, HB 655, HB 661, HB 715, HB 719, HB 758, HJR 59, HJR 62, SR 27, SB 165, HB 156.**

Cities: **HB 667, HB 697, HB 693, HB 685, HR 47, SB 52, SB 202.**

Judiciary-Civil: **SB 72, HB 414, HB 645, HB 646, SB 191, HB 164.**

State Government: **HB 267, HB 289, HB 279, SB 278, HB 510, SB 180, HB 277, HB 268, HB 90, HB 756, HB 677.**

Health and Welfare: **HB 674.**

Energy: **HB 820.**

The Clerk announced **HB 151** has been withdrawn from consideration by the Committee on Education.

Report of Committees

The Committee on Business Organizations and Professions reported Proposed Regulation 810 KAR 1:018 with the expression of opinion that the same should be disapproved.

Proposed Regulation 810 KAR 1:018 is as follows:

CABINET FOR PUBLIC PROTECTION AND REGULATION
Kentucky State Racing Commission

810 KAR 1:018. Medication; testing procedures.

RELATES TO: KRS 230.210 to 230.360
PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: TO regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation relates to the use of medication on the horses and requirements and controls thereof.

Section 1. It shall be the intent of these rules to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and the racing participants through the prohibition of control of all drugs and medications or substances foreign to the horse.

(1) No horse participating in a race shall carry in its body any quantity of drugs.

(2) No drug shall be administered by injection, oral administration, rectal infusion or suppository, or by inhalation to a horse entered to race within 24 hours prior to the scheduled post time for the race in which the horse is entered.

(3) No person other than a veterinarian shall have in his/her possession any equipment for hypodermic administration, any substance for hypodermic administration, or any drug, which can be administered internally to a horse, by any route, except for an existing condition and as prescribed by a veterinarian.

(4) Notwithstanding the provisions of Subsection (3) of this section any person may have in his possession within a race track enclosure any chemical or biological substance for use on his own person, provided that, if such chemical substance is prohibited from being dispensed by any Federal law or law of Kentucky without a prescription, he is in possession of documentary evidence that a valid prescription for such chemical or biological substance has been issued to him.

(5) Notwithstanding the provisions of Subsection (3) of this section, any person may have in his possession within any race track enclosure any hypodermic syringe or needle for the purpose of administering a chemical or biological substance to himself, provided that he has notified the state steward;

(a) Of his possession of such device;

(b) Of the dize of such device;

(c) Of the chemical substance to be administered by such device; and

(d) Has obtained written permission for possession and use from the state steward.

Section 2. The terms and words used in these rules are defined as:

(1) "Hypodermic Injection" shall mean any injection into or under the skin or mucosa, including intradermal injection, subcutaneous injection, submucosal injection, intramuscular injection, intravenous injection, intraarterial injection, intraarticular injection, intrabursal injection, intraocular (intraconjunctival) injection.

(2) "Drug" shall mean:

(a) Articles recognized in the official United States Pharmacopeia, official Homepathic Pharmacopeia of the United States, or official National Formulary, or any supplement to any of them; and/or

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and/or

(c) Articles (other than food) intended to affect structure or any function of the body of man or other animals; and/or

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices of their components, parts, or accessories.

(3) "Veterinarian" shall mean a veterinary practitioner authorized to practice on the race track.

(4) "Horse" includes all horses registered for racing under the jurisdiction of the Commission, and for the purposes of this regulation shall mean stallion, colt, gelding, ridgling, filly or mare.

(5) "Chemist" shall mean any official racing chemist designated by the Commission.

(6) "Test Sample" shall mean any body substance including but not limited to blood or urine taken from a horse under the supervision of the Commission Veterinarian and in such manner as prescribed by the Commission for the purpose of analysis.

(7) "Test Level" shall mean the concentration of a foreign substance found in the test sample.

Section 3. No horse participating in a race shall carry in its body any drug. Any finding by the chemist that a drug is present in the test sample shall be prima facie evidence that such drug was administered and carried in the body of the horse while participating in a race. The licensed trainer of a horse found to have administered a drug in violation of these rules shall bear the burden of proof showing freedom from negligence in the exercise of a high degree of care in safeguarding such horse from tampering; and, failing to prove such freedom from negligence (or reliance on the professional ability of a licensed veterinarian) shall be subject to disciplinary action.

[Section 1. Use of medication. Full use of modern therapeutic measures and medication calculated to improve or protect the health of a horse may be administered to a horse in training, under the direction of a licensed veterinarian. In the interest of protecting the racing public, health of the horse, safety of the participants in a race, nurturing formful racing, and improvement of the breed of thoroughbreds:

(1) No horse while participating in a race shall carry in its body any medication, or drug, or substance, or metabolic derivative thereof, which is a narcotic, or which could serve as a local anesthetic, or tranquilizer, or which could stimulate or depress the circulatory respiratory, or central nervous system of a horse, thereby effecting its speed.

(2) Also prohibited are any drugs which might mask or screen the presence of the aforementioned prohibited drugs, or prevent or delay testing procedures.

(3) Proof of detection by the commission chemist of a medication or drug, or substance, or metabolic derivative thereof, prohibited by subsection (1) of this section, in a saliva, urine, or blood specimen duly taken under the supervision of the commission veterinarian from a horse promptly after running in a race, shall be prima facie evidence that such horse was administered and carried such prohibited medication, drug, or substance, in its body while running in such race in violation of this rule.

Section 2. When administration prohibited. No person other than a licensed veterinarian shall administer, or cause to be administered, or participate, or attempt to participate, in any way in the administration to a horse registered for racing of any medication, drug or substance on the day of a race for which such horse is entered and prior to such race.

Section 3. Responsibility for prohibited administration. (1) Any person found to have administered a medication, drug, or substance which caused or could have caused a violation of Section 1 or 2 of this regulation, or caused, or participated, or attempted to participate in any way in such administration, shall be subject to disciplinary action.

(2) The licensed trainer of a horse found to have been administered a medication, drug, or substance in violation of Sections 1 or 2 of this regulation shall bear the burden of proof showing freedom from negligence in the exercise of a high degree of care in safeguarding such horse from tampering; and failing to prove such freedom from negligence (or reliance) on the professional ability of a licensed veterinarian shall be subject to disciplinary action.

(3) The assistant trainer, groom, stable, watchman, or any other person having the immediate care and custody of a horse found to have been administered a medication, drug, or substance in violation of Sections 1 or 2 of this regulation, if found negligent in guarding or protecting such horse from tampering shall be subject to disciplinary action.]

Section 4. Record of administrations. Daily reports of any treatment of any horse registered for racing with any medication, drug or substance shall be submitted by the licensed veterinarian administering or prescribing such treatment to the commission veterinarian. Detection of any unreported medication, drug, or substance by the commission chemist in a pre-race or post-race test may be grounds for disciplinary action:

(1) Such daily reports shall accurately reflect the identity of the horse treated, [diagnosis,] time of treatment, type and dosage of medication, drug, or substance, and method of administration.

(2) Such daily reports shall remain confidential except that the commission veterinarian may compile general data therefrom to assist the commission in formulating policies or rules, and the stewards may review same in investigating a possible violation of these rules.

Section 5. Commission veterinarian list. As a guide to owners, trainers, and veterinarians, the commission veterinarian may from time to time publish a list of medications, shown by brand and generic names, specifically prohibited for racing. Such list shall not be considered exclusive and medications shown thereon shall be considered only as among those, along with others not so listed, prohibited by general classification under Section 1 of this regulation.

Section 6. Detention area. Each licensed association shall provide and maintain on association grounds a fenced enclosure sufficient in size and facilities to accommodate stabling of horses temporarily detained for the taking of sample specimens for chemical testing, and such detention area shall be under the supervision and control of the commission veterinarian.

Section 7. Horses to be tested. The stewards may at any time order the taking of a blood, urine, or *other* [saliva] specimen from any horse entered to be tested. Any owner or trainer may at any time request that a specimen be taken from a horse he owns or trains by the commission veterinarian and tested by the commission chemist, provided the costs of such testing are borne by the owner or trainer requesting such test. In the absence of any such order or request, the commission veterinarian shall take specimens from, and the commission chemist shall test, [same] all horses which: finish first in any race; finish first or second in any quinella or exacta race; finish first or second or third in any stakes; and any horse whose performance in a race in the opinion of the stewards, may have been altered by a prohibited substance.

Section 8. Procedure for taking specimens. (1) All horses from which specimens are to be drawn are to be taken to the detention area at the prescribed time and remain there until released by the commission veterinarian. No person other than the owner, trainer, groom, or hotwalker, of a horse to be tested, and no lead pony, shall be admitted to the detention area without permission of the commission veterinarian.

(2) Stable equipment other than necessary for washing and cooling out a horse are prohibited in the detention area; buckets and water will be furnished by the commission veterinarian. If a body brace is to be used, it shall be supplied by the responsible trainer and administered only with the permission and in the presence of the commission veterinarian. A licensed veterinarian may attend a horse in the detention area only in the presence of the commission veterinarian.

(3) During the taking of specimens from a horse, the owner, or responsible trainer (who, in the case of a claimed horse shall be the persons in whose names such horse raced), or a stable representative designated by such owner or trainer, shall be present and witness the taking of such specimen and so signify in writing.

(4) All containers previously used for specimens shall be thoroughly cleaned in the commission chemist laboratory and shall be sealed with the laboratory stamp which shall not be broken except in the presence of the witness as provided by subsection (3) of this section. [Only distilled water, with or without acetic acid, shall be used to moisten gauze used in collection of saliva.] Instruments and utensils used in the taking of samples shall be sterilized after each use.

(5) Samples taken from a horse by the commission veterinarian or his assistant shall be placed in a container and sealed together with a double identification tag. One portion of such tag bearing a printed identification number, shall remain with the sealed container; the other portion of such tag bearing the same

printed identification number shall be detached in the presence of the witness as provided by subsection (3) of this section, the commission veterinarian shall thereon identify the horse from which such specimen was taken, as well as the race and day, verified by such witness, and such detached portions of identification tags shall be placed in a sealed envelope by the commission veterinarian for delivery only to the stewards. The commission veterinarian shall take every precaution to ensure that the commission chemist and no member of the laboratory staff shall know the identify of the horse from which a specimen was taken prior to the completion of all testing thereon.

(a) If after a horse remains a reasonable time in the detention area and a specimen may not be taken from such horse, the commission veterinarian may permit such horse to be returned to its barn and usual surroundings for the taking of a specimen under the supervision of the commission veterinarian.

[(b) With the consent of the trainer or attendant the commission veterinarian may administer to the horse a diuretic to facilitate urination. Quantity, identity and time of administration shall be noted on both portions of the specimen identification tag by the commission veterinarian.]

(b) [(c)] The commission veterinarian shall be responsible for safeguarding all specimens while in his possession and shall cause such specimens to be delivered only to the commission chemist as soon as possible after sealing, but in such order or in such manner as not to reveal the identity of any horse from which each sample was taken.

Section 9. Procedure for testing. (1) The commission chemist shall be responsible for safeguarding and testing each specimen delivered to his laboratory by the commission veterinarian. Each specimen shall be divided into portions so that one (1) portion shall be used for initial testing for unknown substances, and another portion used for conformation tests. If a sufficient quantity of the specimen is available, a third portion shall be preserved for further testing as the commission may direct.

(2) The commission chemist shall conduct individual tests on each specimen capable of screening same for prohibited substances, and such other tests as to detect and identify any suspected prohibited substance or metabolic derivative thereof with specificity. Pooling of specimens shall be permitted only with the knowledge and approval of the commission veterinarian.

(3) Upon the finding of a test negative for prohibited substances, the remaining portions of such specimen may be discarded. Upon the finding of tests suspicious or positive for prohibited substances, such tests shall be reconfirmed, and the remaining portion, if available, of such specimen preserved and protected until such time as the stewards rule it may be discarded.

(4) The commission chemist shall submit to the state steward a written report as to each specimen tested, indicating there on by specimen tag identification number, whether such a specimen was tested negative or positive for prohibited substances. [Such report shall be submitted within twenty four (24) hours after the conclusion of the last race of the preceding day, dark days excluded.] The commission chemist shall report test findings to no person other than the state steward or his designated representative.

(a) In the event the commission chemist should find a specimen suspicious for a prohibited medication, he may request additional time for test analysis and confirmation.

(b) The racing association shall not make distribution of any purses until given clearance of chemical tests by the stewards.

(5) The commission chemist will make a further report to the state steward on any substance his tests showed, which are not normal in a horse. These reports shall be confidential and are not evidence for disciplinary action. They can be used as a warning to the trainer or veterinarian, by the stewards, by the commission veterinarian to improve his surveillance and by the Equine Research Program at the University of Kentucky. The residue of specimen material from such test will be preserved by the commission chemist until released by the racing commission.

(6) In reporting to the stewards a finding of a test positive for a prohibited substance, the commission chemist shall present documentary or demonstrative evidence acceptable in the scientific community and admissible in court in suppport of such professional opinion as to such positive finding.

The Committee on Business Organizations and Professions reported Proposed Regulation 810 KAR 1:009 with the expression of opinion that the same should be disapproved.

Proposed Regulation 810 KAR 1:009 is as follows:

CABINET FOR PUBLIC PROTECTION AND REGULATION
Kentucky State Racing Commission

810 KAR 1:009. Jockeys and apprentices.

RELATES TO: KRS 230.210 to 230.360
PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation is to outline the requirements for jockeys and apprentice jockeys.

Section 1. Probationary mounts. Any person desiring to participate in this state as a rider and who never previously has ridden in a race may be permitted to ride in *three (3)* [two (2)] races before applying for a license as a jockey or apprentice jockey; provided, however:

(1) Such person is a licensee with at least one (1) year of service with a racing stable;

(2) A licensed trainer certifies in writing to the stewards that such person has demonstrated sufficient horsemanship to be permitted such probationary mounts;

(3) The starter has schooled such person breaking from the starting gate with other horses and approves such person as capable of starting a horse properly from the starting gate in a race;

(4) The stewards in their sole discretion are satisfied such person intends to become a licensed jockey, possesses the physical ability and has demonstrated sufficient horsemanship to ride in a race without jeopardizing the safety of horses or other riders in such race. No such person shall be permitted to ride in any such probationary race without prior approval of the stewards.

Section 2. Qualifications for license. In addition to rules applicable to licensees under 810 KAR 1.003, a holder of a license as a jockey or apprentice jockey;

(1) Must be an individual person sixteen (16) years of age or older and licensed under his legal name which shall be listed in the daily race program;

(2) Must have served at least one (1) year with a racing stable;

(3) Must have ridden in at least *three (3)* [two (2)] races;

(4) Must, when required by the stewards, provide a medical affidavit certifying such person is physically and mentally capable of performing the activities and duties of a licensed jockey.

Section 3. Amateur or provisional jockey. An amateur wishing to ride in races on even terms with professional riders, but without accepting fees or gratuities therefor, must be approved by the stewards as to competency of horsemanship, must be granted a jockey's license, and such amateur status must be duly noted on the daily race program. A licensed owner or licensed trainer, upon approval by the stewards may be issued a provisional jockey's license to ride his own horse or horse registered in his care as trainer.

Section 4. Apprentice allowance. Any person sixteen (16) years of age or older, who never previously has been licensed as a jockey in any country, and who is qualified under Section 2, may claim in all purse races except handicaps the following weight allowances:

(1) Ten (10) pounds until he has ridden five (5) winners, and seven (7) pounds until he has ridden an additional thirty (30) winners; if he has ridden *a total of forty (40)* [thirty-five (35)] winners prior to the end of one (1) year from the date of riding his fifth (5) winner, he shall have an allowance of five (5) pounds until the end of that year.

(2) After the completion of conditions in subsection (1) a contracted apprentice for one (1) year may claim three (3) pounds when riding horses owned or trained by his original contract employer; provided, his contract has not been transferred or sold since his first winner. Such original contract employer shall be deemed the party to the contract who was the employer at the time of the apprentice jockey's first winner.

(3) An apprentice jockey may enter into a contract with a licensed owner or licensed trainer qualified under Section 5 for a period not to exceed five (5) years. Such contracts must be approved by the stewards and filed with the racing commission; such contracts shall be binding in all respects on the signatories thereof. An apprentice who is not contracted shall be given an apprentice jockey certificate, on a form furnished by the commission.

(4) In the event an apprentice jockey is unable to ride for a period of fourteen (14) consecutive days or more because of service in the armed forces of the United States, or because of physical disablement, or because of restrictions on racing, the commission upon recommendation of the stewards and after consultation with the racing authority which first approved the original apprentice contract, may extend the time during which such apprentice weight allowance may be claimed for a period no longer than the period such apprentice rider was unable to ride.

(5) After completion of conditions in subsection (1), such rider must be issued a license as a jockey before accepting subsequent mounts. Under these circumstances, the commission may waive collection of an additional license fee.

Section 5. Rider contracts. All contracts between an employer owner or trainer and employee rider are subject to the rules of racing. All riding contracts for terms longer than thirty (30) days, as well as any amendments thereto, or cancellation, or transfer thereof, must be in writing with signature of parties thereto notarized, must be approved by the stewards and filed with the commission. The stewards may approve a riding contract and permit parties thereto to participate in racing in this state if the stewards find that:

(1) The contract employer is a licensed owner or licensed trainer who owns or trains at least three (3) horses eligible to race at the time of execution of such contract;

(2) The contract employer possesses such character, ability, facilities, and financial responsibility as may be conducive to developing a competent race rider;

(3) Such contracts for apprentice jockeys provide for fair remuneration, adequate medical care, and an option equally available to both employer and apprentice jockey to cancel such contract after two (2) years from date of execution.

Section 6. Restrictions as to contract riders. No rider may:

(1) Ride any horse not owned or trained by his contract employer in a race against a horse owned or trained by his contract employer;

(2) Ride or agree to ride any horse in a race without consent of his contract employer;

(3) Share any money earned from riding with his contract employer;

(4) Accept any present, money, or reward of any kind in connection with his riding of any race except through his contract employer.

Section 7. Calls and engagements. Any rider not so prohibited by prior contract may agree to give first or second call on his race-riding services to any licensed owner or trainer. Such agreements, if for terms of more than thirty (30) days, must be in writing, approved by the stewards, and filed with the commission. Any rider employed by a racing stable on a regular salaried basis may not ride against the stable which so employs him. No owner or trainer shall employ or engage a rider to prevent him from riding another horse.

Section 8. Jockey fee.

(1) *The purpose of this section is not to set a minimum or maximum fee, but merely to provide a fee in the event that the parties have not made any other written agreement to the contrary.* [The fee to a jockey in all races shall be, in the absence of special agreement, as follows:]

Purse	*Win*	*2nd*	*3rd*	*Unplaced*
$ 2,000 — $ 3,400	*10%*	*$ 45*	*$ 35*	*$ 33*
$ 3,500 — $ 4,900	*10%*	*$ 55*	*$ 45*	*$ 35*
$ 5,000 — $ 9,900	*10%*	*$ 65*	*$ 50*	*$ 40*
$10,000 — $14,900	*10%*	*$ 75*	*$ 60*	*$ 45*
$15,000 — $24,900	*10%*	*$100*	*$ 75*	*$ 50*
$25,000 — $49,900	*10%*	*$150*	*$100*	*$ 60*
$50,000 — $99,900	*10%*	*$225*	*$150*	*$ 75*
$100,000 and up	*10%*	*$400*	*$250*	*$100*

[(a) Purse, $2,000 to $3,400: Winning mount, 10% of win purse; Second mount, $45; Third mount, $35; Losing mount, $30.]

[(b) Purse, $3,500 to $4,900: Winning mount, 10% of win purse; Second mount, $50; Third mount, $40; Losing mount, $30.]

[(c) Purse, $5,000 and up: Winning mount, 10% of win purse; Second mount, $55; Third mount, $45; Losing mount, $35.]

(2) A jockey fee shall be considered earned by a rider when he is weighed out by the clerk of scales except:

(a) When a rider does not weigh out and ride in a race for which he has been engaged because an owner or trainer engaged more than one (1) rider for the same race; in such case the owner or trainer shall pay an appropriate fee to each rider engaged for such race.

(b) When such rider capable of riding elects to take himself off the mount without, in the opinion of the stewards, proper cause therefor.

(c) When such rider is replaced by the stewards with a substitute rider for a reason other than a physical injury suffered by such rider during the time between weighing out and start of the race.

Section 9. Duty to fulfill engagements. Every rider shall fulfill his duly scheduled riding engagements, unless excused by the stewards. No rider shall be forced to ride a horse he believes to be unsound, or over a racing strip he believes to be unsafe, but if the stewards find a rider's refusal to fulfill a riding engagement is based on a personal belief unwarranted by the fact and circumstances, such rider may be subject to disciplinary action.

Section 10. Presence in jockey room.

(1) Each rider who has been engaged to ride in a race shall be physically present in the jockey room no later than one (1) hour prior to post time for the first race on the day he is scheduled to ride, unless excused by the stewards, or the clerk of scales; and upon arrival shall report to the clerk of scales his engagements. In the event a rider shall fail for any reason to arrive in the jockey room prior to one (1) hour before post time of a race in which he is scheduled to ride, the clerk of scales shall so advise the stewards who thereupon may name a substitute rider and shall cause announcement to be made of any such rider substitution prior to opening of wagering on such race.

(2) Each rider reporting to the jockey room shall remain in the jockey room until he has fulfilled all his riding engagements for the day except to ride in a race, or except to view the running of a race from

a location approved by the stewards. Such rider shall have no contact or communication with any person outside the jockey room other than an owner or trainer for whom he is riding, or a racing official, or a representative of the regular news media, until such rider has fulfilled all his riding engagements for the day.

(3) The association shall be responsible for such security of the jockey room as to exclude all persons except riders scheduled to ride on the day's program, valets, authorized attendants, racing officials, duly accredited members of the news media, and persons having special permission of the stewards to enter the jockey room.

(4) Any rider intending to discontinue riding at a race meeting prior to its conclusion shall so notify the stewards after fulfilling his final riding engagement of the day he intends to depart.

Section 11. Weighing out.

(1) Each rider engaged to ride in a race shall report to the clerk of scales for weighing out not more than one (1) hour and not less than fifteen (15) minutes before post time for each race in which he is engaged to ride, and at the time of weighing out shall declare overweight, if any.

(2) No rider shall pass the scale with more than one (1) pound overweight, without consent of the owner or trainer of the horse he is engaged to ride; in no event shall a rider pass the scale with more than five (5) pounds overweight.

(3) No horse shall be disqualified because of overweight carried.

(4) Whip, blinkers, number cloth, bridle and rider's safety helmet shall not be included in a rider's weight.

Section 12. Wagering. No rider shall place a wager, or cause a wager to be placed on his behalf, or accept any ticket or winnings from a wager on any race except on his own mount, and except through the owner or trainer of the horse he is riding. Such owner or trainer placing wagers for his rider shall maintain a precise and complete record of all such wagers, and such record shall be available for examination by the stewards at all times.

Section 13. Attire. Upon leaving the jockey room to ride in any race, each rider shall be neat and clean in appearance and wear the traditional jockey costume with all jacket buttons and catches fastened. Each jockey shall wear the cap and jacket racing colors registered in the name of the owner of the horse he is to ride, stock tie, white or light breeches, top boots, safety helmet approved by the commission, and a number on his right shoulder corresponding to his mount's number as shown on the saddle cloth and daily race program. The clerk of scales and attending valet shall be held jointly responsible with a rider for his neat and clean appearance and proper attire.

Section 14. Viewing films or tapes of races. Every rider shall be responsible for checking the film list posted by the stewards in the jockey room the day after riding in a race, the posting of same to be considered as notice to all riders whose names are listed thereon to present themselves at the time designated by the stewards to view the patrol films or video tapes of races. Any rider may be accompanied by a representative of the jockey organization of which he is a member in viewing such films, or with the stewards' permission, be represented at such viewing by his designated representative.

The Committee on Counties and Special Districts reported **HB 346, HB 559** with Committee Amendments attached thereto, **HB 572, HB 582** with Committee Amendment attached thereto, and **HB 456** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 346, AN ACT relating to ambulance service districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 108.080 is amended to read as follows:

As used in KRS 108.090 to 108.180 unless the context requires otherwise:

(1) "District" means emergency ambulance service district;

(2) "Board" means the board of directors of the emergency ambulance service district;

(3) "County" means the incorporated and unincorporated areas thereof;

(4) "City" means an incorporated city of any class [~~in counties containing a city of the first class~~].

Section 2. KRS 108.090 is amended to read as follows:

For the purpose of enabling cities or counties, *or parts thereof,* to provide emergency ambulance service to assure public safety and welfare the general assembly does hereby allow all of the territory coterminous with the boundaries of a city or county, or coterminous with the boundaries of two (2) or more cities or counties contiguous to each other, to be organized into an emergency ambulance service district for the purpose of financing and administering emergency ambulance service for the residents of the district, *and further* *does hereby allow an unincorporated area within a county that is contiguous with the boundaries of an existing ambulance district within that county to become part of that ambulance service district.*

Section 3. KRS 108.100 is amended to read as follows:

Except as provided in KRS 108.105, districts shall be organized in the following manner:

(1) Upon the filing of a certified petition of one hundred (100) or more qualified voters in each city or county to be included within the territorial limits of the proposed district or upon the determination of each fiscal court or city legislative body in the proposed district that the establishment of a district is in the best interests of the inhabitants of the county or city, the fiscal court of each county or city legislative body in the proposed district shall adopt a resolution submitting to the qualified voters of the city or county the question as to whether an emergency ambulance service district should be established for the area and a special ad valorem tax imposed for the maintenance and operation of the district, not to exceed ten cents ($.10) on each one hundred dollars ($100) of the assessed valuation of all property in the district. A certified copy of the resolution of the fiscal court or city legislative body shall be filed with the county clerk at least sixty (60) days prior to the next regular election and thereupon the clerk shall cause the question to be placed on the ballot.

(2) The question shall be in substantially the following form: "Are you in favor of establishing an emergency ambulance service district for (insert names of cities or counties) which shall have the authority to impose a special ad valorem tax of (insert exact amount) on each one hundred dollars ($100) worth of property assessed for local taxation in the district for the maintenance and operation of the (insert name) emergency ambulance service district?"

(3) If a majority of those voting in each city or county on the question favor the establishment of an emergency ambulance service district it shall be so established and shall constitute and be a taxing district within the meaning of Section 157 of the constitution of Kentucky. The cost of the election shall be paid by the fiscal court or city legislative body (as appropriate).

(4) *If the ambulance district consists solely of a single city, the ad valorem tax, as authorized by KRS 108.100 to 108.180, shall be collected in the same manner as are the other city ad valorem taxes, and turned over to the board of the ambulance service district. All other special ad valorem taxes authorized by KRS 108.080 to 108.180 shall be collected in the following manner:*

(a) The property valuation administrator of the county shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment;

(b) The county clerk shall compute the tax on the regular state and county tax bills;

(c) The special ad valorem tax shall be in addition to all other ad valorem taxes;

(d) The sheriff shall collect the tax, turn it over to the board of the ambulance district, and shall be entitled to a fee of four percent (4%) of the amount of the tax collected by him [~~All special ad valorem taxes authorized by KRS 108.080 to 108.180 shall be collected in the same manner as are other county and city ad valorem taxes in each county and city affected and shall be turned over to the board of directors as the governing body of the district. The special ad valorem tax shall be in addition to all other ad valorem taxes. The sheriff shall be entitled to a fee of one percent (1%) of the amount of the tax collected by him~~].

SECTION 4. A NEW SECTION OF KRS CHAPTER 108 IS CREATED TO READ AS FOLLOWS:

(1) If the people in an unincorporated area desire to become part of an existing ambulance service district, a certified petition of a simple majority, or one hundred (100) or more qualified voters, whichever is less, within the unincorporated area, as set out in metes and bounds, within the county shall be filed with the fiscal court. The petition shall set out the metes and bounds of the unincorporated area desiring to become part of the existing ambulance district. The fiscal court shall adopt a resolution, submitting to the qualified voters within the unincorporated area, as set out in metes and bounds, the question as to whether they wish to become part of the existing emergency ambulance service district and impose a special ad valorem tax for the maintenance and operation of the district, not to exceed ten cents (10¢) on each one hundred dollars ($100) of the assessed valuation of all property in the district. A certified copy of the resolution of the fiscal court shall be filed with the county court clerk at least sixty (60) days prior to the next regular election and, thereupon, the clerk shall cause the question to be placed on the ballot.

(2) The question shall be, substantially, the following form: "Are you in favor of becoming a part of the (insert name of the existing emergency ambulance service district) which shall have the authority to impose a special ad valorem tax of (insert exact amount) on each one hundred dollars ($100) worth of property assessed for local taxation in the district for the maintenance and operation of the (insert name) emergency ambulance service district?"

(3) If a majority of those voting on the question in the unincorporated area, as set out in metes and bounds, favor becoming part of the existing ambulance service district, then it shall be so established, and shall be part of the taxing district within the meaning of Section 157 of the Constitution of Kentucky. The cost of the election shall be paid by the fiscal court.

Section 5. KRS 108.110 is amended to read as follows:

(1) The affairs of the district shall be controlled and managed by a board of directors appointed by the county judge/executive with the approval of the fiscal court and city legislative bodies in the following manner:

(a) If the district consists of one (1) city, three (3) members shall be appointed to the board by the city legislative body;

(b) If the district consists of two (2) cities, the legislative body of the city having the greater portion of the population of the district shall appoint two (2) directors and the legislative body of the other city shall appoint the third (3rd) director;

(c) If the district consists of more than two (2) cities, the legislative body of the city having the greatest portion of the population of the district shall appoint two (2) directors and the legislative body of the remaining cities comprising the district shall appoint one (1) director;

(d) If the district consists of one (1) county, three (3) members shall be appointed to the board by the county judge/executive of the county;

(e) If the district consists of two (2) counties, the county judge/executive of the county having the greater portion of the population of the district shall appoint two (2) directors and the county judge/executive of the other county shall appoint the third director;

(f) If the district consists of more than two (2) counties, the county judge/executive of the county having the greatest portion of the population of the district shall appoint two (2) directors and the county judge/executive of the remaining counties comprising the district shall each appoint one (1) director;

(g) The legislative body of each city of the first three (3) classes, or if there is no such class of city, the city of the highest class located within each county in the district shall appoint one (1) additional director;

(h) If part of an ambulance district within a county consists of an unincorporated area, the county judge/executive, with the approval of the fiscal court, shall appoint no more than two (2) persons residing within the affected unincorporated area to the board of directors for a term of two (2) years.

(2) Each board member shall reside within the district and within the county or city of which he was appointed to represent.

(3) The board of directors shall be appointed within thirty (30) days after the establishment of the district. Directors shall be appointed for terms of two (2) years each, except that initially the appointing authority shall appoint a minority of the board members for one (1) year terms. Subsequent terms shall all be for two (2) years. Any vacancies shall be filled by the appointing authority for the unexpired term.

(4) A majority of the membership of the board shall constitute a quorum.

(5) A member of the board of directors may be removed from office as provided by KRS 65.007.

Section 6. KRS 108.180 is amended to read as follows:

Any member city or county *or unincorporated area* of the district may withdraw its membership after following the procedures defined in subsections (1), (2), and (3) of KRS 108.160. The district shall continue to function after such withdrawals, with its boundaries consisting of the remaining county or city *or unincorporated area* members. No city or county *or unincorporated area* may withdraw from any district unless it satisfies its part of all contractual obligations assumed by the district prior to the passage of its resolution to the satisfaction of the board.

SECTION 7. A NEW SECTION OF KRS CHAPTER 108 IS CREATED TO READ AS FOLLOWS:

If, in the event of expansion of the district, it becomes apparent that the existing name is inappropriate, then the board of the district may change its name at any regularly-called meeting, by an affirmative vote of two-thirds (⅔) majority of the total membership.

HB 559, AN ACT relating to regional planning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147.610 is amended to read as follows:

In any two (2) or more adjacent counties, one (1) of which has a city having a population of more than 50,000 and not more than 200,000 inhabitants as declared by the last federal census, the various cities and the counties may consolidate their planning operations by establishing an area planning commission which may be created under the provisions of KRS 147.610 to *147.705* [~~147.710 and 147.990~~], when in the judgment of the legislative bodies of the cities and counties a consolidation provides for a more efficient planning operation.

Section 2. KRS 147.620 is amended to read as follows:

(1) If the fiscal courts of any two (2) or more adjacent counties elect to be consolidated as provided in KRS 147.610, and the respective legislative bodies of cities representing more than two-thirds (⅔) of the

population of the residents living within the boundaries of corporate territories of each county, by ordinance or resolution elect to consolidate as provided in KRS 147.610, then the cities and counties so affected shall authorize the execution of a contract between themselves agreeing to participate in the creation of an area planning commission and agreeing to be governed by the provisions of KRS 147.610 to *147.705* [~~147.710~~]. When a sufficient number of municipalities and counties have executed said agreement, copies shall be filed in the office of the clerk of each of the counties affected. Thereupon an area planning commission is established. If at some later date the fiscal court and the legislative bodies of cities representing more than two-thirds (⅔) of the population of the residents living within the boundaries of the corporate territory of another adjacent county elect to join the area planning commission, then the cities and county so affected shall authorize the execution of a contract between themselves agreeing to participate and be governed by the provisions of KRS 147.610 to *147.705* [~~147.710~~]. The existing area planning council, as previously created under KRS 147.610 to *147.705* [~~147.710~~] shall be empowered to execute an agreement accepting the new contract in behalf of the existing area planning council and commission. When such agreement is executed copies shall be filed in the office of the clerk of each of the counties affected. Thereupon the new area planning commission boundaries are established.

(2) Any area planning commission created under the provisions of KRS 147.610 to 147.705 may be dissolved as provided in KRS 65.166 through 65.176.

Section 3. KRS 147.630 is amended to read as follows:

(1) The area planning commission as created under the provisions of KRS 147.610 to *147.705* [~~147.710~~] shall be composed of not more than nine (9) members who shall be selected from governmental units participating in the existence of the area planning commission by the affirmative action of the area council hereinafter provided for.

(2) Of the initial membership five (5) members shall be elected for a term of two (2) years, and four (4) members for a term of one (1) year each, and upon the expiration of their respective terms the successors of each shall be elected for a term of two (2) years.

(3) At its first regular meeting in each year, the commission shall elect from its membership a chairman and a vice-chairman. The vice-chairman shall have the authority to act as the chairman during the absence of its chairman.

(4) The commission may appoint from within or without its own membership, a secretary, prescribe his duties and fix his compensation.

(5) Members of the commission may be removed for cause by an affirmative action of the area council.

(6) Vacancies may be filled at any time by the affirmative action of the area council for the unexpired term existing.

(7) Each member of the commission, before entering upon his official duties, shall take and subscribe to an oath that he will honestly, faithfully, and impartially perform the duties of his office, and that he will not be interested in any contract let for the purpose of carrying out any of the provisions of KRS 147.610 to *147.705* [~~147.710~~]. The oath shall be filed with the county clerk in the county of his residence.

(8) Each member of the commission shall give a good and sufficient bond, to be approved by the area council, conditioned upon the faithful and honest performance of his duties, and as security for all moneys coming into his hands or under his control. The cost of the bond shall be paid by the commission.

(9) A quorum shall consist of a majority of the members of the commission.

(10) The commission shall appoint a treasurer from within or without its membership, prescribe his duties and fix his compensation. The treasurer shall execute a good and sufficient bond, conditioned upon the faithful and honest performance of his duties and as security for all moneys coming into his hands or under his control. Said bond shall be in the penal sum of twenty-five thousand dollars ($25,000). The cost of the bond shall be paid by the commission.

(11) Meetings shall be held at the call of the chairman.

Section 4. KRS 147.635 is amended to read as follows:

An area planning commission created under the provisions of KRS 147.610 to *147.705* [~~147.710~~] shall, not later than *two (2) months prior to the first day of its fiscal* [~~November 1 of each~~] year, submit a proposed budget detailing anticipated *revenues* [~~receipts~~] and expenditures, *and a proposed tax rate,* to the area council for its approval on or before *the first day* [~~January 1~~] of each such *fiscal* [~~calendar~~] year. The area council shall contract with an independent, reputable certified public accountant to perform an audit of the records, books, and accounts of the area planning commission for each fiscal year.

Section 5. KRS 147.640 is amended to read as follows:

(1) In order to provide more effective representation of the various governmental units participating in the creation of the area planning commission, an area council shall be created.

(2) The area council shall be composed of one (1) *representative and one (1) alternate from* [~~member elected by the legislative body of~~] each municipality and county within the area planning territory. *Each such representative and alternate shall be appointed annually in the manner prescribed by law respecting appointments by such city or county.*

(3) *Only elected officials of each respective jurisdiction shall be eligible for appointment to the area planning council* [~~Each year the various governmental units, composing the area planning territory, shall elect their members for the area council~~].

(4) At its first regular meeting in each year, the council shall elect from its membership a president and vice-president. The vice-president shall have the authority to act as president of the council during the absence or disability of the president.

(5) The council may appoint from within or without its own membership a secretary, prescribe his duties and fix his compensation.

(6) The council shall *act in a supervisory and* [~~confer in an~~] advisory capacity with the area planning commission created hereunder. All actions taken by the council must receive the affirmative vote of *the following, if in attendance:* [~~any~~] two counties *or* [~~, any~~] two cities of the second class or one county and one city of the second class and *a majority* [~~one-half (½)~~] of the remaining membership *in attendance* for passage.

(7) The area council may budget in each year for the payment of a per diem for each member of the area planning commission [~~not to exceed the sum of twenty dollars ($20.00) per day for each day the commission is in actual session,~~] not to exceed in any one (1) year the sum of one thousand dollars ($1,000) for each member.

(8) A quorum of the area council shall consist of a majority of its membership.

SECTION 6. A NEW SECTION OF KRS 147.610 to 147.705 IS CREATED TO READ AS FOLLOWS:

Where a city or county is located within the territory of an area planning commission and also within a planning unit established under the provisions of KRS Chapter 100, all applications for the adoption, revision, or amendment of any comprehensive plan, zoning ordinance, or subdivision regulation, shall be filed with the area planning commission. The area planning commission staff shall notify the city or county involved, promptly forwarding the application to the appropriate local planning commission of the planning unit as established under the provisions of KRS Chapter 100, and request a public hearing be scheduled before said local planning commission. Such pulbic hearing shall be scheduled to be held within forty-five (45) days of the date of receipt of the application. The area planning commission may contract with any local planning commission of a planning unit, located within its territory, as established under the provisions of KRS Chapter 100, to provide the statutory notice and publication requirements for such public hearings, and any staff assistance necessary to conduct the public hearing before the local planning commission. In all cases, the area planning commission staff shall be required to review and make recommendations upon all such applications to the applicable local planning commission, along with supporting information and comprehensive plan documentation, prior to or at the scheduled public hearing.

Section 7. KRS 147.670 is amended to read as follows:

(1) [~~To effectuate the purposes of KRS 147.610 to 147.710~~] The area planning commission shall have the power and duty to:

(a) *Prepare an area-wide comprehensive plan* [~~Establish a master plan~~] of the entire area within its jurisdiction, which includes all territory incorporated and unincorporated within the counties signator hereto[~~, or portions thereof, which may include any part or all of the plans set out in KRS 147.650~~]. The *area-wide comprehensive* [~~master~~] plan shall include *at least all comprehensive plan elements and research requirements prescribed in KRS Chapter 100, so that the planning commissions of local planning units as established under KRS Chapter 100 and their respective legislative bodies, may adopt all or parts of said area-wide comprehensive plan, as it applies to their respective areas of jurisdiction, as a means of fulfilling the applicable requirements of KRS Chapter 100. This area-wide comprehensive plan shall be reviewed and amended, if necessary, at least once every five (5) years* [~~studies of the population and the economy of the area of jurisdiction of the area planning commission and shall include proposals for future land use, major streets, highways, and other public grounds, places and buildings for all or part of that area~~];

(b) Appoint an executive director for the commission and fix his compensation. The director shall be qualified by training and experience in the field of planning and zoning;

(c) *Upon request of a city or county within the territory of the area planning commission, the area planning commission's staff may prepare and submit for consideration to the appropriate local planning unit, zoning ordinances based on the comprehensive plans of such local planning unit. The area planning commission staff assigned to perform such work shall consult with the appropriate local planning unit as established under KRS Chapter 100, the city or county legislative bodies, and the affected property owners regarding these activities* [~~Establish a land use plan of the entire area under its jurisdiction or portions thereof, if it deems it necessary. The area land use plan may include the zoning plans now adopted by the various cities affected, but shall include a map of the entire area of its jurisdiction showing the land use districts into which it is divided. It shall prepare a text consisting of general minimum standards or requirements for those zones. The text and portion of the map pertaining to the jurisdiction of each governmental unit in the area planning commission shall be presented to the legislative bodies of the various governmental units~~

~~with the recommendation that they be adopted by ordinance or order. Provided, however, That any governmental unit under the jurisdiction of the area planning commission may adopt more strict regulations or impose higher standards of land use than adopted by the land use plan~~];

(d) Prescribe the qualifications of, appoint, remove and fix the compensation of employes of the commission;

(e) Prepare, publish and distribute reports and other material relating to the business of the commission;

(f) Prepare and submit an annual budget *to the area planning council* for the operation of the commission;

(g) Exercise general supervision of and make regulations for the administration of the affairs of the commission;

(h) *Establish policies, procedures, and priorities for assigning staff and providing services to planning units established under the provision of KRS Chapter 100, their respective cities and counties, and other public and private agencies and organizations* [~~Prescribe uniform rules pertaining to investigations and hearings~~];

(i) Keep an accurate and complete record of all commission proceedings, financial statements, and annually report to the various cities and counties signators to the agreement provided in KRS 147.620.

Section 8. KRS 147.675 is amended to read as follows:

The provisions of KRS 147.610 through *147.705* [~~147.990~~] shall be construed to confer on the area planning commission an advisory capacity only.

Section 9. KRS 147.680 is amended to read as follows:

No public agency shall [~~It shall be unlawful for any person, firm, corporation or public official to~~] construct or authorize the construction of any public *facility, which is determined by the area planning commission to be of area-wide significance,* [~~street, public roadway, public parkway, public grounds, public place, or public utility, privately or publicly owned,~~] within the area planning boundaries until and unless the proposed location and extent of such public construction or authorization shall have been reviewed and recommendations made *to the appropriate public agency* by the area planning commission [~~upon proper presentation and hearing. Notice of such hearing shall be given as provided for other hearings. If the local legislative body overrides the area planning commission's recommendation it shall state, in writing, the reasons for its action~~].

Section 10. KRS 147.705 is amended to read as follows:

The legislative bodies of all counties forming the area planning commission, all cities, all special districts, planning and zoning commissions and boards of adjustment located therein, shall, after the final adoption, approval, or enactment of any annexation ordinance, subdivision plat, variance, zoning ordinance or resolution or subdivision regulation, furnish or cause to be furnished, within sixty (60) days after adoption or approval, a copy of same to the area planning commission [~~in order that the master plan as provided for under KRS 147.670 can be updated effectively~~].

Section 11. KRS 100.127 is amended to read as follows:

(1) All agreements for joint or regional planning units shall be in writing, and shall describe the boundaries of the area involved, and shall contain all details which are necessary for the establishment and administration of the planning unit in regard to planning commission organization, preparation of plans, and aids to plan implementation. Approval of the agreement shall be by regulation and the agreement shall be executed by the parties to the agreement, and filed in the office of the county clerk of all counties which are parties to the agreement or which contain a city which is a party to the agreement. The county clerk may charge a fee of two and one-half dollars for the filing of the agreement. Combination under this subsection shall be permitted notwithstanding the fact that the governmental units are also involved in area planning under KRS 147.610 to *147.705* [~~147.990~~]. Combined planning operations shall be jointly financed, and the agreement shall state the method of proration of financial support.

(2) Agreements for planning units shall be in existence as long as at least two of the original signators are operating under the combination despite the fact that other signators have withdrawn from the unit. In addition, any enlargement of a unit may be accomplished under the existing agreement by filing a copy of the agreement in the office of the county clerk of all member counties along with a statement as to when it was admitted to the unit. The clerk may charge a fee of two and one-half dollars for the filing.

(3) If the planning unit, or any part thereof, has adopted regulations for historical districts under KRS 100.201 and 100.203, the planning agreement may provide for the creation of a three or five member board to advise the zoning administrator regarding issuance of permits in such districts, the board being guided by the standards and restrictions of the community's comprehensive plan and by the historical district regulations adopted by the planning unit.

Section 12. KRS 65.060 is amended to read as follows:

As used in KRS 65.065 and 65.070, the term "district" shall mean and the provisions of KRS 65.065 and 65.070 shall apply to any board, commission or special district created pursuant to the following statutes:

KRS 65.040, 65.050, 65.210 to 65.300, 65.510 to 65.650, 66.610 to 66.650, 74.010 to 74.416, 75.010 to 75.260, 76.005 to 76.210, 76.241 to 76.273, 76.274 to 76.279, 76.295 to 76.420, 76.600 to 76.640, 77.005 to 77.305, 80.262 to 80.610, 83.340 to 83.350, 96A.010 to 96A.230, 104.450 to 104.680, 107.310 to 107.500, 108.010 to 108.070, 108.080 to 108.180, 108A.010 to 108A.130, 109.071 to 109.250, 147.610 to *147.705* [~~147.710~~], 147A.050 to 147A.120, 152.810 to 152.930, 164.605 to 164.675, 173.450 to 173.650, 173.710 to 173.800, 175A.010 to 175A.990, 183.132 to 183.160, 184.010 to 184.300, 210.460 to 210.480, 212.720 to 212.760, 215.080 to 215.390, 216.310 to 216.360, 220.010 to 220.613, 249.510 to 249.631, 262.100 to 262.660, 262.700 to 262.990, 266.010, to 266.990, 267.010 to 267.990, 268.010 to 268.990, or 273.410 to 273.455.

Section 13. KRS 65.164 is amended to read as follows:

As used in this Act, the word "district" shall mean any board, commission or special district created pursuant to the following statutes: KRS 66.610 to 66.650; KRS 75.010 to 75.260; KRS 104.450 to 104.680; KRS 108.010 to 108.070; *KRS 147.610 to 147.705;* KRS 184.010 to 184.300; KRS 220.010 to 220.613; KRS 249.510 to 249.631; KRS 266.010 to 266.990; KRS 267.010 to 267.990; KRS 268.010 to 268.990; or KRS 269.100 to 269.270.

Section 14. The following KRS sections are repealed:

147.650 Effect on existing master plans — local legislative body to state reasons for overriding recommendations of area planning commission.
147.690 Hearing before adoption of master plan.
147.700 Adoption of master plan — Certification.
147.710 Appeal from commission's ruling.
147.990 Penalty.

Committee Amendment No. 1 to **HB 559:**

Amend printed copy of **HB 559** as follows:

On page 7, line 17, following the word "*shall*", by inserting the word "*immediately*"; and

On page 7, line 22, following the word "*Such*", by deleting "*public*", and by inserting in lieu thereof the word "*public*"; and

On page 7, line 24, following "*cation*" by inserting the following: "*by the area planning commission*"; and

On page 8, line 7, following "*commission,*" by inserting the following: "*and to the applicant,*"; and

On page 9, line 15, following "*Upon*", by inserting the following: "*written*"; and

On page 9, line 24, by deleting line 24 in its entirety and by inserting in lieu thereof the following: "*all property owners who are directly affected by any change in the zoning ordinance applicable to such local planning unit*".

Committee Amendment No. 2 to **HB 559:**

Amend printed copy of **HB 559**, page 11, line 15, following the word "only.", by deleting the word "Cooperation"; and on page 11, lines 16 through 26, by deleting the same in their entirety.

HB 572, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.083 is amended to read as follows:

(1) It is the purpose of this section to provide counties as units of general purpose local government with the necessary latitude and flexibility to provide and finance various governmental services within those functional areas specified in subsection (3) of this section, while the general assembly retains full authority to prescribe and limit by statute local governmental activities when it deems such action necessary.

(2) The fiscal court of any county is hereby authorized to levy all taxes not in conflict with the constitution and statutes of this state now or hereafter enacted.

(3) The fiscal court shall have the power to carry out governmental functions necessary for the operation of the county. Except as otherwise provided by statute or the Kentucky constitution, the fiscal court of

any county may enact ordinances, issue regulations, levy taxes, issue bonds, appropriate funds and employ personnel in performance of the following public functions:

(a) Control of animals, and abatement of public nuisances;

(b) Regulation of public gatherings;

(c) Public sanitation and vector control;

(d) Provision of hospitals, ambulance service, programs for the health and welfare of the aging and juveniles, and other public health facilities and services;

(e) Provision of corrections facilities and services, and programs for the confinement, care and rehabilitation of juvenile law offenders;

(f) Provision of parks, nature preserves, swimming pools, recreation areas, libraries, museums and other recreational and cultural facilities and programs;

(g) Provision of cemeteries and memorials;

(h) Conservation, preservation and enhancement of natural resources including soils, water, air, vegetation and wildlife;

(i) Control of floods;

(j) *Facilitating the construction of new housing;* causing the repair or demolition of structures which present a hazard to public health, safety or morals or are otherwise inimical to the welfare of residents of the county; causing the redevelopment of housing and related commercial, industrial and service facilities in urban or rural areas; providing education and counseling services and technical assistance to present and future residents of publicly assisted housing;

(k) Planning, zoning and subdivision control according to the provisions of KRS Chapter 100;

(l) Adoption, by reference or in full, of technical codes governing new construction, renovation or maintenance of structures intended for human occupancy;

(m) Regulation of commerce for the protection and convenience of the public;

(n) Regulation of the sale of alcoholic beverages according to the provisions of KRS Chapters 241 through 244;

(o) Exclusive management of solid wastes by ordinance or contract or by both and disposition of abandoned vehicles;

(p) Provision of public buildings, including armories, necessary for the effective delivery of public services;

(q) Cooperation with other units of government and private agencies for the provision of public services, including but not limited to training, educational services and cooperative extension service programs;

(r) Provision of water and sewage and garbage disposal service but not gas or electricity; including management of onsite sewage disposal systems;

(s) Licensing or franchising of cable television;

(t) Provision of streets and roads, bridges, tunnels and related facilities, elimination of grade crossings, provision of parking facilities, enforcement of traffic and parking regulations;

(u) Provision of police and fire protection;

(v) Regulation of taxis, buses and other passenger vehicles for hire;

(w) Provision and operation of air, rail and bus terminals, port facilities, and public transportation systems;

(x) Promotion of economic development of the county, directly or in cooperation with public or private agencies, including the provision of access roads, land and buildings, and promotion of tourism and conventions;

(y) Preservation of historic structures.

(4) The county judge/executive is hereby authorized and empowered to exercise all of the executive powers pursuant to this section.

(5) A county acting under authority of this section may assume, own, possess and control assets, rights and liabilities related to the functions and services of the county.

(6) If a county is authorized to regulate an area which the state also regulates, the county government may regulate the area only by enacting ordinances which are consistent with state law or administrative regulation.

(a) If the state statute or administrative regulation prescribes a single standard of conduct, a county ordinance is consistent if it is identical to the state statute or administrative regulation.

(b) If the state statute or administrative regulation prescribes a minimal standard of conduct, a county ordinance is consistent if it establishes a standard which is the same as or more stringent than the state standard.

(c) A county government may adopt ordinances which incorporate by reference state statutes and administrative regulations in areas in which a county government is authorized to act.

(7) County ordinances which prescribe penalties for their violation shall be enforced throughout the entire area of the county unless:

(a) Otherwise provided by statute, or

(b) The legislative body of any city within the county has adopted an ordinance pertaining to the same subject matter which is the same as or more stringent than the standards that are set forth in the county ordinance. The fiscal court shall forward a copy of each ordinance which is to be enforced throughout the entire area of the county to the mayor or chairman of the board of trustees of each city in the county.

(8) The powers granted to counties by this section shall be in addition to all other powers granted to counties by other provisions of law. A permissive procedure authorized by this section shall not be deemed to be exclusive or to prohibit the exercise of other existing laws and laws which may hereafter be enacted but shall be an alternative or supplement thereto.

(9) Any agency of county government exercising authority pursuant to subsection (3)(y) of this section shall, prior to exercising such authority, obtain the voluntary written consent of the owner of the structure. Consent may be obtained only after advising the owner in writing of any advantages and disadvantages to the owner which are likely to result from the exercise of such authority.

HB 582, AN ACT relating to special districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The general assembly of the Commonwealth of Kentucky determines as a legislative finding of fact that the oversight of special districts by the counties in which such districts operate will be in the public interest, in that such oversight will tend to eliminate wasteful duplications, result in coordination between various units of local government, guarantee the accountability of special districts, and ultimately result in a higher degree of service to the general public.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) The words "district" or "special district" mean a quasi municipal corporation or political subdivision created to perform a limited number of public functions within a limited and prescribed area of jurisdiction. It includes all such entities within the state except a library district created pursuant to KRS Chapter 173, a fire protection district or a volunteer fire department district created pursuant to KRS Chapter 75, a city, a county, any entity whose governing body is, by statute, required to be elected at regular elections, any entity whose jurisdiction comprises the entire area of four (4) or more counties or any agency, authority or board created or established on the initiative of the legislative body of a city and/or county or the legislative bodies of cities and/or counties, except that tourist and convention commissions created pursuant to KRS 91A.350 to 91A.390 shall be included.

(2) The words "taxing special district" mean a special district as herein defined which falls within the meaning Section 157 of the Constitution.

(3) The word "charter" means a document which enumerates the powers and responsibilities of the special district; describes the service area; provides for the composition of the board of directors; describes the officers, including their number, function, and required bond, and provides for the administration of the affairs of the special district.

(4) The words "fiscal court" shall include the legislative body of the urban county government in counties having an urban county form of government.

(5) The words "county judge/executive" shall include the chief executive of the urban county government in counties having an urban county form of government.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A special district, upon certification of its charter by the fiscal court of the county or counties as the case may be, in which it may be located in whole or in part, may perform any governmental function approved by charter which is not prohibited by statute or the Constitution. These governmental functions include: protection of public health and safety; development of economic and industrial resources; provision of public utilities; protection and enhancement of land, water, air and wildlife resources; and collection and disposal of liquid and solid wastes.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The charter of a special district may be approved by the fiscal court of the county or counties, as the case may be, in which it may be located only upon satisfaction of the following conditions:

(1) Persons desiring to form a special district shall present to the fiscal court a formation petition meeting the criteria of Section 5 of this Act and signed by twenty-five percent (25%) of the registered voters living in the area to be served as of the last general election. Each formation petition shall be accompanied by:

(a) A charter for the special district;

(b) A plan of service, which may be prepared by an area development district or other qualified public or private agency, showing such of the following as may be germane to the purposes for which the district is being formed:

1. Demographic characteristics of the area including but not limited to population, density, projected growth, and assessed valuation;

2. A description of the service area including but not limited to the population to be served, the date of initial service, the nature and extent of the proposed service, the projected effect of providing service on the social and economic growth of the area, and projected growth in service demand or need;

3. A three (3) to five (5) year projection of cost versus revenue;

4. Justification for formation of the special district including but not limited to the location of nearby governmental and nongovernmental providers of like services and documentation by nearby governmental units stating why they cannot or will not provide the proposed service at least as efficiently as the proposed special district;

5. Any additional information such as land use plans, existing land uses, drainage patterns, health problems, and other analyses which, in the judgment of the fiscal court, bear on the necessity and means of providing the proposed service.

(2) The fiscal court shall send the proposed plan of service to all planning commissions, cities, and area development districts within whose jurisdiction the proposed service area is located and to any state agencies required by law to be notified.

(3) The fiscal court shall schedule a hearing on the proposal for no earlier than thirty (30) nor later than ninety (90) days following receipt of the petition, charter, and plan of service, and shall publish notice according to the provisions of KRS Chapter 424.

(4) At the public hearing, the fiscal court shall take testimony of interested parties and solicit the recommendations of any planning commission, city, area development district, or state agency meeting the criteria of subsection (2) of this section.

(5) The fiscal court may extend the hearing, from time-to-time, for ninety (90) days from the initial date of hearing but must render a decision within thirty (30) days of the final adjournment of the hearing.

(6) Following the hearing, the fiscal court shall set forth its written findings of fact and shall approve, disapprove, or approve with modification, the formation of the special district to provide service as described in the charter and plan of service, and to exercise the powers so described in the charter or plan of service provided for in this Act, or granted by specific statute which may apply to the special district being formed.

(7) If the fiscal court approves the formation of a special district other than a taxing special district, the fiscal court shall certify the charter.

(8) If the fiscal court approves the formation of a taxing special district, the question of the formation of the district shall be submitted to the voters, as set forth in the formation petition, through one (1) of the two (2) following methods:

(a) A certification petition signed by a majority of the registered voters living in the area of the proposed district as of the last general election. The certification petition must be submitted to the fiscal court within one hundred eighty (180) days of the fiscal court's approval of the district; or

(b) A referendum among the registered voters living in the area of the proposed district.

1. If the formation petition for a taxing special district states that voter approval is to be sought through a referendum, the fiscal court, upon approving the district, shall adopt a resolution directing the county clerk to cause the question to be placed on the ballot at the next regular election which is more than sixty (60) days from the fiscal court's approval of the district. The county clerk shall give notice of the referendum pursuant to KRS Chapter 424.

2. The question shall be in substantially the following form: "Are you in favor of establishing a (insert type of district) which shall have the authority to impose a maximum ad valorem tax of (insert maximum tax rate) on each one hundred dollars ($100) worth of property assessed for local taxation in the district for the maintenance and operation of the (insert the name of the district)?"

(9) If a valid certification petition is submitted to the fiscal court or if a majority of the votes cast at a referendum held pursuant to subsection (8) of this section favor the creation of a taxing special district, the fiscal court shall certify the charter of the taxing special district.

(10) For taxing purposes the effective date of the tax levy shall be January 1 of the year following the certification of the charter of the taxing special district.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A valid petition for the creation of a special district shall be in substantially the following form:
"The following registered voters of (insert name of county) hereby petition the fiscal court of each county concerned to form a (insert type of special district) for the following reasons: (A valid petition shall contain a brief list in layman's terms of the reasons for the creation of the district.)"

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The charter of a special district may be amended, two (2) or more special districts may be merged or the area or functions of a special district may be expanded or contracted by a vote of the fiscal court after public notice in accordance with KRS Chapter 424 and a public hearing. Following the hearing, the fiscal court shall set forth its written findings of fact in approving or disapproving the merger or alteration of a district.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any city or state agency within whose jurisdiction the proposed service area is located or any citizen living in the proposed area of the special district may appeal the decision of the fiscal court on the formation of a special district or the modification of its charter to the circuit court. The circuit court may affirm the action of the fiscal court, or may deny all or part of the action of the fiscal court and order approval or disapproval of the special district, but may deny the action of the fiscal court only if such decision is found to be arbitrary or capricious. The circuit court may not insert provisions in a charter which were not considered in the original plan of service or in the plan of service as modified during the fiscal court hearing.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) By resolution, the fiscal court may dissolve after notice in accordance with KRS Chapter 424 and a public hearing, a district it or the circuit court has approved if:

(a) The special district has not provided service as described and within the time specified in the charter and plan of service and cannot justify such deficiency at the hearing; or

(b) The fiscal court desires to provide the service, or desires a city within whose jurisdiction the special district is located to provide the service, the city agrees to provide such service, and it would be to the benefit of the users of such services to have the fiscal court or the city provide such services; or

(c) Twenty-five percent (25%) of the registered voters of the special district as of the last general election or twenty-five percent (25%) of the users if the district is financed by user fees in the county sign a petition for the dissolution of the special district. The fiscal court shall consider the need for the dissolution and may adopt a resolution ordering the dissolution of the district. The petition for dissolution of the district shall meet the following criteria:

1. It shall be in substantially the following form: "The following registered voters in (insert the name of the county) favor dissolving the (insert the name of the district) for the following reasons: (A sufficient petition shall include a brief list in layman's terms of the reasons for the dissolution of the district.)"

2. It shall contain the name and address of each petitioner and shall be presented to the fiscal court within ninety (90) days after having been signed by the first petitioner.

(2) Following the hearing, the fiscal court shall set forth its written findings of fact in approving or disapproving the dissolution of a special district.

(3) (a) If, at the time the fiscal court resolves to dissolve a special district, the special district has contractual obligations which cannot be satisfied through the liquidation of the special district's assets or if the fiscal court is unwilling to assume the contractual obligations of the special district, the resolution for dissolution shall have no legal effect until such contractual obligations are satisfied. The board shall continue to operate to satisfy its contractual obligations but shall not incur additional contractual obligations without fiscal court approval. Upon the satisfaction of all contractual obligations, the special district shall be legally dissolved. All assets of the special district shall become the property of the county and, if the district is a taxing special district, the county clerk shall remove the tax levy from the tax bills of property owners of the special district.

(b) If, at the time the fiscal court resolves to dissolve a special district, the contractual obligations of the special district can be satisfied through the liquidation of the assets of the special district or if the fiscal court is willing to assume the contractual obligations of the special district, the special district shall be legally dissolved upon resolution of the fiscal court. All assets and liabilities of the special district shall become the assets and liabilities of the county and, if the district is a taxing special district, the county clerk shall remove the tax levy from the tax bills of the property owners of the district.

(4) The special district, a city, or a state agency meeting the criteria of Section 4(2) of this Act, or a citizen residing in the district may appeal the action of the fiscal court under subsection (1) of this section, to the circuit court. The circuit court shall review de novo the decision of the fiscal court and may reverse the action of the fiscal court only if such action of the fiscal court under the criteria of subsection (1) of this section is deemed to have been arbitrary or capricious.

(5) Any special district, whether created prior to or after the effective day of this Act, which for the immediately prior five (5) consecutive years fails to provide the service for which it was created, shall be legally dissolved by the fiscal court unless the fiscal court takes affirmative action to continue its existence. The district shall no longer have the authority to provide such service, or to prevent other parties from providing that service or other services which affect that service. The special district shall be dissolved as provided in subsection (3) of this section.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any special district may by charter provide for the election or appointment of its board of directors. In the absence of such provisions, the board of directors of the special district shall be appointed by the county judge/executive in accordance with KRS 67.710, and removed in accordance with KRS 65.007, except as otherwise provided by statute. The board of directors of any special district which lies in more than one (1) county shall be appointed by the respective county judges/executive in proportion to the population in each county residing in the special district to the total population of the special district, or by some other formula acceptable to the respective county judges/executive or specified in the charter.

(2) The terms of the board of directors of the special district shall be staggered so that in no year will the total membership change.

(3) The compensation, if any, of the board of directors of the special district shall be specified in the charter.

(4) Notwithstanding the provisions of KRS 61.080, the county judge/executive or one (1) of his designees shall serve as an ex-officio member of the board of directors of all special districts in his county. In the case of special districts which lie in more than one (1) county, the respective county judges/executive or their designees shall alternate as an ex-officio member on a yearly basis, or may serve simultaneously if this is acceptable to each county judge/executive.

(5) At the first meeting, the members of the board of directors shall elect from among their number such officers as are specified in the charter of the special district and provide for their responsibilities and terms of office.

(6) Special districts shall pay any bond on officers, except that prior to the receipt of income by a special district, the county may pay the bond subject to reimbursement.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The powers of a special district shall be enumerated in its charter and may include but shall not be limited to the following. The power to:

(1) Sue and be sued;

(2) Own and sell or convey property;

(3) Exercise the power of eminent domain in accordance with the eminent domain act of Kentucky, if such power is granted by charter. Special districts which are not taxing special districts shall exercise such power through the fiscal court;

(4) Issue bonds in accordance with the provisions of KRS Chapter 58 if such power is granted by charter or statute. All bond issues shall be reported to the state local finance officer in accordance with KRS 66.045;

(5) Make assessments in accordance with the provisions of KRS Chapter 107 if such power is granted by charter or statute;

(6) Set service charges or user fees as provided by charter or statute in accordance with Section 15 of this Act;

(7) Apply for and accept grants or aid from the state or federal government or any agency thereof to carry out the purpose of the special district. In any case where county matching funds are required, the approval of the fiscal court shall be obtained prior to application for such grants;

(8) Tax to the extent of its taxing powers as granted by charter or statute. Taxes shall be collected by the sheriff in the same manner as county and state taxes are collected, and the sheriff shall receive four percent (4%) of the amount collected as compensation for such service.

SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Prior to acquisition of title to any land by a special district, other than a taxing special district, authorized by its charter to acquire land, the special district shall submit to the fiscal court, or fiscal courts, if it is a special district which lies in more than one (1) county, a statement indicating its intention to acquire the land. The statement shall be in the form of a resolution adopted by the governing body of the district, indicating the intention of the special district to acquire the land, and shall contain a brief but appropriate identification of the land to be acquired, an indication of the use to which it will be put, and other information the special district deems appropriate.

(2) Within thirty (30) days after receipt of the statement of intention to acquire land, the fiscal court shall review the proposed land acquisition and shall issue its findings of fact in approving, disapproving or modifying such proposed land acquisitions.

(3) Upon receiving approvals required pursuant to this section, a special district may proceed with the acquisition of land as otherwise authorized by law, or by charter.

(4) If the fiscal court refuses to give approval to the proposed acquisition of land, the special district may challenge the decision by bringing suit in the circuit court in which the land is located. The circuit court shall review the material pertinent to the proposed land acquisition and reasons for disapproval of the acquisition and shall render a decision either sustaining or overruling the disapproval. The court may reverse a denial where it finds that the denial was arbitrary or capricious.

SECTION 12. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any proposal by a taxing special district for the acquisition of land shall be submitted for comment, to the fiscal court, or fiscal courts if it is a taxing special district which lies in more than one (1) county.

(2) The fiscal court receiving proposals for taxing special district land acquisitions shall review such proposals and, within sixty (60) days after receipt thereof, may submit their comments thereon to the governing body of the special district. Upon receipt of the comments of the fiscal court, or sixty (60) days after the transmittal of the proposed land acquisition to the fiscal court, the governing body of the taxing special district may adopt the proposed land acquisitions, with or without modification, as part of the taxing special district program as otherwise authorized by law, or by charter.

SECTION 13. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOwS:

(1) Prior to the construction of capital improvements by a special district other than a taxing special district, the special district shall submit to the fiscal court, or fiscal courts if it is a special district which lies in more than one (1) county, a statement indicating its intention to make the improvements. The statement shall be in the form of a resolution adopted by the board of the special district, indicating the need for the capital improvements, the cost of the capital improvements, and other information the special district deems appropriate.

(2) Within thirty (30) days after receipt of the statement of intention to make capital improvements, the fiscal court shall review the proposed capital improvements and shall issue its findings of fact in approving, disapproving or modifying such proposed capital improvements.

(3) Upon receiving approvals required pursuant to this section, a special district may proceed with the capital improvements as otherwise authorized by law, or by charter.

(4) If the fiscal court refuses to give approval for the proposed capital improvements, the special district may challenge the decision by bringing suit in the circuit court in which the special district is located. The circuit court shall review the material pertinent to the proposed capital improvements and reasons for the disapproval of the proposal and shall render a decision either sustaining or overruling the disapproval. The circuit court may reverse a denial where it finds that the denial was arbitrary or capricious.

SECTION 14. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any proposal by a taxing special district for the construction of capital improvements shall be submitted for comment, to the fiscal court, or fiscal courts if it is a taxing special district which lies in more than one (1) county.

(2) The fiscal court receiving proposals for taxing special district capital improvements shall review such proposals and, within sixty (60) days after receipt thereof, may submit their comments thereon to the governing body of the taxing special district. Upon receipt of the comments of the fiscal court, or sixty (60) days after the transmittal of the proposed improvement program to the fiscal court, the governing body of the taxing special district may adopt the proposed capital improvements, with or without modification, as part of the taxing special district program as otherwise authorized by law, or by charter.

SECTION 15. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The fiscal court shall review proposed service charges or user fees set by the board of the special district, where such fees or charges are not under the jurisdiction of the public service commission, as provided in KRS Chapter 278, and shall issue its findings of fact in approving, disapproving, or modifying such charges.

(2) If the fiscal court refuses to give approval to the proposed fees or charges, the special district may challenge the decision by bringing suit in the circuit court in which the district is located. The circuit court shall review the material pertinent to the proposed fees and charges and reasons for disapproval and shall render a decision either sustaining or overruling the disapproval. Findings of the fiscal court shall be conclusive as to questions of fact. The court may reverse a denial where it finds that the denial was arbitrary or capricious.

Section 16. KRS 65.065 is amended to read as follows:

(1) The governing body of each district shall annually prepare a *fiscal year* budget, and, as appropriate, shall classify budget units in the same fashion as county budgets are classified pursuant to KRS 68.240(2) through (5). The state local finance officer shall prepare standard budget forms for district use, and shall furnish them to county clerks for distribution to district officers.

(2) The governing body of each district shall, at least once every four years, employ an independent certified public accountant, or contract with the auditor of public accounts to perform an audit of the funds in the district budget. The audit shall conform to standard audit programs for governmental accounting which are approved by the auditor of public accounts, or to other generally accepted accounting principles as set forth by the Kentucky board of accountancy. A unit of government furnishing funds directly to a district may require additional audits at its own expense. If a district is required by law to audit its funds more often than once every four years, it shall perform those audits, but when the audit required by this subsection is performed, no other local audit shall be required.

(3) Special districts may contract with other units of government for legal, financial, audit, and administrative services.

SECTION 17. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Each special district shall submit its annual audit and budget to the fiscal court of any county in which it may operate, to the state local finance officer, and to other agencies as required by law. In the case of a special district other than a taxing special district, the fiscal court shall have power of approval over the district budget. The fiscal court may return the budget to the district for amendment. If the fiscal court refuses to approve the budget and the district declines to amend it, the special district may challenge the decision of the fiscal court by bringing suit in the circuit court in which the district is located. The circuit court shall review the material pertinent to the proposed budget and reasons for disapproval and shall render a decision either sustaining or overruling the disapproval. The court may overrule the disapproval where it finds such action was arbitrary or capricious.

(2) Each special district shall publish, in lieu of the provisions of KRS 424.220, but in compliance with other applicable provisions of KRS Chapter 424, an annual summary financial statement which includes the location of supporting documents.

(3) A fiscal court which provides county funds to a special district, other than the funds provided in Section 9(6) of this Act, may require the special district to submit a quarterly financial report and specify its contents.

SECTION 18. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Within two (2) years of the effective date of this Act, existing special districts shall submit a charter and plan of service to the fiscal court and shall comply with all provisions of Sections 2 through 19 of this Act except that they shall not be required to submit a petition for formation as required in subsection (1) of Section 4 of this Act; neither shall they be required to comply with subsections (3) through (10) of Section 4 of this Act.

(2) Fiscal court approval of the charter and plan of service of an existing special district shall be automatically granted except that no existing special district shall exceed the powers, as enumerated in Section 10 of this Act, that it has previously been granted by statute without approval of the fiscal court; neither shall an existing special district alter its boundaries or functions without the approval of the fiscal court.

(3) Any special district which fails to comply with the provisions of subsection (1) of this section shall be prohibited from conducting business or performing any act which it is authorized to perform by law or by charter until such time as it is in compliance.

SECTION 19. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days following fiscal court action approving the formation, merger, or alteration of a special district including those districts covered under Section 18 of this Act, the county judge/executive shall file a copy of the charter and plan of service of the special district with the county clerk of the county in which the special district is located and with the state local finance officer.

(2) Within thirty (30) days following the dissolution of a special district, the county judge/executive shall file notice of the dissolution of the special district with the county clerk of the county in which the special district is located and with the state local finance officer.

SECTION 20. KRS 74.012 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 278 AND AMENDED TO READ AS FOLLOWS:

(1) Prior [~~to the establishment of any water district as provided by KRS 74.010, and prior~~] to the incorporation or formation of any non-profit corporation, association or cooperative corporation having as its purpose the furnishing of a public water supply (herein referred to as a "water association"), a committee of not less than five (5) resident freeholders of the geographical area sought to be served with water facilities

by the proposed [~~district or the proposed~~] water association shall formally make application to the utility regulatory commission of Kentucky in such manner and following such procedures as the utility regulatory commission may by regulation prescribe, seeking from the commission the authority to [~~petition the appropriate county judge/executive for establishment of a water district, or to~~] proceed to incorporate or otherwise create a water association. The commission shall thereupon set the application for formal public hearing, and shall give notice to all other water suppliers, whether publicly owned or privately owned, and whether or not regulated by the commission, rendering services in the general area proposed to be served by said [~~water district or~~] water association, and to any planning and zoning or other regulatory agency or agencies with authority in the general area having concern with the application. The commission may subpoena and summon for hearing purposes any persons deemed necessary by the commission in order to enable the commission to evaluate the application of the proponents of said proposed [~~water district or~~] water association, and reach a decision in the best interests of the general public. Intervention by any interested parties, water suppliers, municipal corporations, and governmental agencies shall be freely permitted at such hearing.

(2) The public hearing shall be conducted *in the county wherein the proposed water association is located* by the commission pursuant to the provisions of KRS 278.020. At the time of the hearing, no employment of counsel or of engineering services shall have been made to be paid from [~~water district funds,~~] water association funds, or made a charge in futuro against [~~water district or~~] water association funds, if formation of such [~~water district or~~] water association is permitted by the commission.

(3) Before the utility regulatory commission shall approve any application for creation of a [~~water district or~~] water association, the commission must make a finding and determination of fact that the geographical area sought to be served by such proposed [~~water district or~~] water association cannot be feasibly served by any existing water supplier, whether publicly or privately owned, and whether or not subject to the regulatory jurisdiction of the commission. If it shall be determined that the geographical area sought to be served by the proposed [~~water district or~~] water association can be served more feasibly by any other water supplier, the commission shall deny the application and shall hold such further hearings and make such further determinations as may in the circumstances be appropriate in the interests of the public health, safety and general welfare.

(4) Any order entered by the commission in connection with an application for creation of a water district or water association shall be appealable to the Franklin Circuit Court as provided by KRS 278.410.

SECTION 21. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Pursuant to the provisions of KRS 278.020, the fiscal court shall notify the utility regulatory commission of the proposed creation of any water district as provided in Section 4 of this Act and shall furnish the utility regulatory commission with copies of the proposed charter of the water district, plan of service, notice of the time and place of any hearings on the proposed district, and any other information the utility regulatory commission may request.

Section 22. KRS 74.361 is amended to read as follows:

(1) The general assembly of the Commonwealth of Kentucky determines as a legislative finding of fact that reduction of the number of operating water districts in the Commonwealth will be in the public interest, in that mergers *and joint operations* of such districts will tend to eliminate wasteful duplication of costs and efforts, result in a sounder and more business like degree of management, and ultimately result in greater economies, less cost, and a higher degree of service to the general public; and that the public policy favors the merger *or joint operation* of water districts wherever feasible.

(2) The utility regulatory commission of Kentucky is authorized and empowered to initiate, carry out, and complete such investigations, inquiries, and studies as may be reasonably necessary to determine the advisability as to the merger *or joint operation* of water districts. Prior to ordering a hearing with reference to the merger *or joint operation* of any water district into one or more additional water districts, the utility regulatory commission shall cause to be prepared in writing a feasibility report and study regarding the proposed merger *or joint operation*, containing such studies, investigations, facts, historical data, and projections as in the circumstances may be required in order to enable the commission to formulate a proper decision regarding such merger *or joint operation.*

(3) Based upon the written report and study required to be made incident to any water district merger *or joint operation*, the utility regulatory commission may propose by order that a merger *or joint operation* of water districts be accomplished, and, upon the issuance of such order, shall give actual notice to all water districts proposed to be merged *or jointly operated.* Said order shall provide for a formal public hearing to be held before the utility regulatory commission on the subject of such proposed merger *or joint operation.* Actual notice of such merger *or joint operation* hearing shall also be furnished to the county judges/executive of each county containing a water district proposed to be merged *or jointly operated*, and each water commissioner of a water district proposed to be merged *or jointly operated*, and notice of such public hearing shall be afforded to the public served by the respective water districts sought to be merged *or jointly operated*, by newspaper notice in accordance with the provisions of KRS Chapter 424.

(4) A formal hearing before the utility regulatory commission shall be held with reference to such merger *or joint operation* proposal, and, upon such occasion, all water districts which are sought to be merged into a single entity *or jointly operated* shall be afforded the right to appear, to present evidence, to examine all exhibits and testimony, to cross-examine all witnesses, and to submit such memoranda, written evidence, and briefs as may be desired. Such public hearing may be adjourned from time to time by the utility regulatory commission, and notice of such adjournments may, but need not, be afforded as with reference to the initial public hearing. At the conclusion of such proceedings, the utility regulatory commission shall enter its order, either merging the water districts which are the subject of the merger proceedings into a single water district, *or directing their joint operation,* or abandoning the [~~merger~~] proposal.

(5) Outstanding obligations of any water district merged in accordance with the provisions of this section which are secured by the right to levy an assessment as provided by *Section 10 of this Act* [~~KRS 74.130 to 74.230~~], inclusive, or secured by a pledge of the income and revenues of the systems operated by any such merged water district, shall continue to be retired from such moneys and funds as shall be collected from the users of facilities operated by such merged water districts in the original water district area in accordance with the terms and provisions of the enabling laws and the authorizing resolutions or indentures under which the outstanding obligations were issued, until all such obligations have been retired.

(6) In any order ordering the merger *or joint operation* of water districts, the utility regulatory commission shall make such additional orders as may be required in connection with the schedule of rates, rentals and charges for services rendered to be levied by the water district which remains in existence following such merger *or joint operation,* having due regard to contractual commitments made and entered into by the constituent [~~merged~~] water districts in connection with the issuance of obligations by such districts.

(7) Upon the effective date of any merger of water districts, the water commissioners of the merged water districts shall continue to serve as water commissioners for the remainder of the terms for which they were appointed, and, following the expiration of the terms of such water commissioners *appointments shall be made in accordance with the charter of the water district or Section 9 of this Act,* [~~the appropriate county judge/executive or county judges/executive shall appoint and reappoint water commissioners to manage the business and affairs of the resultant water district, in the manner provided by KRS 74.020~~].

(8) Any order of merger *or joint operation* entered by the utility regulatory commission in accordance with this section shall be subject to all of the provisions of KRS Chapter 278, with reference to petitions for rehearing, and appeal.

(9) Using the authority of this section the utility regulatory commission can also cause mergers *or joint operations* of water associations into water associations or mergers *or joint operations* of water associations into water districts.

(10) Nothing contained herein shall be construed to prohibit or limit in any respect the acquisition by water utilities subject to the jurisdiction of the commission or by municipally owned water utilities of the assets of water districts or water associations or the merger of water districts or water associations and water utilities subject to the jurisdiction of the commission or municipally owned water utilities.

SECTION 23. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) No water district shall be merged or dissolved as provided in Sections 6 or 8 of this Act without the prior written approval of the public service commission.

(2) Following fiscal court action to merge or dissolve a water district, the county judge/executive shall notify the public service commission of the merger or dissolution of the water district.

SECTION 24. KRS 74.416 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 65:

Before any water district in a county containing a city of the first class shall undertake the construction of a sanitary sewer system, such district shall first obtain the written approval of whatever agency of the county, if any, by other statute, possesses county-wide authority over sanitary sewer systems.

SECTION 25. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall notify the secretary of the department for natural resources and environmental protection of the creation, merger, alteration of service area, or dissolution of a flood control district, and of any other activities of a flood control district that the secretary may request.

Section 26. KRS 216.337 is amended to read as follows:

The board *of a hospital district,* in cooperation with regional or state comprehensive health planning councils, where established, shall plan for the unmet hospital needs in the *hospital* district.

Section 27. KRS 216.347 is amended to read as follows:

Within sixty (60) days after the close of each fiscal year the board *of a hospital district* shall make a written report to the secretary *of the department for human resources.* A copy of this report shall be filed with the county clerk of each county within the *hospital* district. The report shall contain:

(1) An itemized statement of the various sums of money received for the *hospital* district;

(2) An itemized statement of expenditures from the fund;

(3) A statement of the property acquired by devise, bequests, purchase, gift, or otherwise during the fiscal year;

(4) A statement of the character of hospital services furnished to the *hospital* district during the fiscal year; and

(5) Any other statistics or information requested by the department for human resources.

SECTION 28. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall notify the secretary of the department for human resources of the creation, merger, alteration of service area, or dissolution of a hospital district, and of any other activities of a hospital district that the secretary may request.

SECTION 29. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall notify the secretary of the department for natural resources and environmental protection of the creation, merger, alteration of service area, or dissolution of a sanitation district, and of any other activities of a sanitation district that the secretary may request.

SECTION 30. KRS 220.240 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 65 AND AMENDED TO READ AS FOLLOWS:

Upon the completion of the plan *of service as required in Section 4 of this Act* the *petitioners for a sanitation district* [~~board of directors~~] shall submit it to the department for natural resources and environmental protection for approval. *The plan shall provide that if there is no sewer district in existence, the sanitation district shall assume full responsibility for the maintenance of all existing sanitary and storm sewers within the service area.* If the department for natural resources and environmental protection refers the plan back for amendment, the *petitioners* [~~board of directors~~] shall prepare and submit an amended plan. If the department for natural resources and environmental protection rejects the plan, the *petitioners* [~~board of directors~~] shall proceed [~~as provided in KRS 220.220~~] to prepare another plan. If the department for natural resources and environmental protection approves the plan, a copy of the action of the department for natural resources and environmental protection shall be filed with the *fiscal court* [~~secretary of the board of directors~~] and [~~by him~~] incorporated into the records of the district.

SECTION 31. KRS 220.250 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 65 AND AMENDED TO READ AS FOLLOWS:

Upon the approval of the [~~official~~] plan *of service* by the department for natural resources and environmental protection, *which shall include assumption of responsibility for all existing sanitary and storm sewers within the service area if there is no sewer district in existence, and contingent upon the creation and certification of the district by the fiscal court,* the board of directors *of the sanitation district* shall pass a resolution accepting the official plan as final and fixing all financing, taxes and rentals as authorized by *Section 10 of this Act* [~~KRS 220.010 to 220.520~~] necessary for the construction, maintenance, and operation required to place the plan in effect. After final resolutions are passed fixing the rates and rentals, no alterations of the plan shall be made except as provided *in this Act* [~~herein~~] and as approved by the department for natural resources and environmental protection.

SECTION 32. KRS 220.260 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 65 AND AMENDED TO READ AS FOLLOWS:

After the establishment of the *sanitation* district and the organization of the board of directors, no person or public corporation shall install within the *sanitation* district any laterals, trunk lines, interceptors for the collection or discharge of sewage or other liquid waste, treatment or disposal works, until the plans therefor have been submitted to and approved by the board of directors of the *sanitation* district and the department for natural resources and environmental protection. Any installation contrary to the provisions of this section shall constitute a nuisance and shall be abated by injunction upon proper application by anyone aggrieved, including the *sanitation* district, the commissioner, or the department for natural resources and environmental protection.

SECTION 33. KRS 220.320 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 65 AND AMENDED TO READ AS FOLLOWS:

Where necessary in order to secure the best results from the construction, operation and maintenance of the works and improvements of the *sanitation* district or construction subdistricts and to prevent their damage from misuse, the board of directors *of a sanitation district* may make and enforce regulations pertaining to the use by persons and public corporations of the works and improvements of the district or construction subdistricts. Such regulations may prescribe the design, construction and use of sewers within the *sanitation* district or construction subdistricts and the manner in which connections to laterals, trunk sewers, intercepting sewers and to other works of the *sanitation* district or construction subdistricts shall be made, may prevent the unnecessary pollution of any watercourse or supply within the *sanitation* district or construction subdistricts and may prohibit the discharge into such sewers of any wastes deemed detrimental to the works and improvements of the *sanitation* district or construction subdistricts. Such regulations shall have no effect until approved by the department for natural resources and environmental protection. The board may recover by civil action from any person or public corporation violating such regulations, a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense, together with costs. The directors may enforce by mandamus or otherwise all necessary and authorized regulations made by them, and may remove any improper construction or close any connections made improperly or in violation of the regulations. Any person or public corporation willfully failing to comply with the regulations shall be liable for damages caused by such failure and for the cost of renewing any construction damaged or destroyed.

SECTION 34. KRS 220.360 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 65 AND AMENDED TO READ AS FOLLOWS:

If the charter of a sanitation district permits, the board of directors, as soon as duly appointed and qualified, may levy one (1), two (2), or three (3) annual taxes, which taxes need not be in successive years, or not more than fifteen cents (15¢) upon each one hundred dollars ($100) of assessed valuation of property within the *sanitation* district, to be used for the purpose of paying the expenses of organization, surveys and plans, and for other incidental expenses that may be necessary up to the time money is received from the sale of bonds. This tax shall be certified to the auditors of the various counties and by them to the respective treasurers of their counties. The tax shall be based upon the last preceding assessment for state and county purposes, its collection shall conform to the collection of taxes for counties, and the same provisions concerning the nonpayment of taxes shall apply. The tax shall be added by the county clerk to the next state and county tax bill following the levy of the tax by the board of directors *of the sanitation district*, and shall be collected concurrently with the state and county taxes. Neither the property valuation administrator nor the county clerk shall be entitled to any additional compensation for the services rendered in connection with the listing of the property for taxation [~~nor shall the sheriff receive any additional compensation for the collection of the tax~~].

SECTION 35. KRS 220.520 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 65 AND AMENDED TO READ AS FOLLOWS:

The reasonable cost and value of any services rendered to a *not for profit corporation, agency of the state or federal government,* city, county, school district or other municipal corporation by the *sanitation* district may be charged to the *not for profit corporation, agency of the state or federal government,* city, county, school district or other municipal corporation and shall be paid for monthly, as the service accrues, from current funds or the proceeds of taxes. The funds so paid shall be accounted for in the same manner as other revenues of the *sanitation* district.

SECTION 36. KRS 249.520 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 246:

There is established a committee on mosquito control consisting of the commissioner of agriculture as ex officio chairman, the commissioner of health services, the commissioner of natural resources, the commissioner of fish and wildlife resources, the commissioner of highways and the state entomologist. Any of such members may be represented in meetings of the committee by their deputies or other personnel designated in writing. The members of the committee shall serve without compensation, but may be reimbursed for expenses incurred in the performance of their duties.

SECTION 37. KRS 249.530 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 246 AND AMENDED TO READ AS FOLLOWS:

(1) The committee is authorized to accept and allocate or expend any grants-in-aid for mosquito control purposes which may be made available to the state by the federal government.

(2) Upon the approval of the committee, funds received by the department of agriculture for permanent mosquito control purposes may be utilized to aid local governmental units, other than mosquito control districts, undertaking projects having significant mosquito control benefits. In no case shall the grant of such funds exceed five per cent (5%) of the capital costs of such project nor fifty per cent (50%) of the annual operating expenses of such unit.

(3) The department *of agriculture* shall act as fiscal agent in contracting for receipt and expenditure of all funds made available to the committee and shall provide all administrative services required to carry out the functions of the committee.

(4) In no case shall the monetary value of the aid provided with state funds to mosquito control districts exceed that provided locally for temporary control measures such as larviciding or adulticiding, nor twice the local funds provided for permanent improvements such as draining, filling, diking and impounding.

(5) State aid shall not be given to mosquito control districts until the work or project plans for which the grant is being made are submitted to and approved by the committee or its duly authorized representative, and proof has been received by the department *of agriculture* that required local funds are available.

SECTION 38. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall notify the secretary of the department for natural resources and environmental protection of the creation, merger, alteration of service area, or dissolution of a watershed *conservancy district, and of any other activities of a watershed conservancy district that the secretary may request.*

SECTION 39. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall be fined as provided in KRS 68.990(5) for violations of the provisions of Sections 16, 17, and 19 of this Act.

Section 40. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire record thereof does not exceed three pages	$ 5.00
Exceeding three pages, for each page	1.50
Copy and certification of same when ordered	3.50
Each bond required to be taken or prepared by the clerk	2.00
Copy of any bond when ordered	1.50
Recording a bond, each bond	5.00
Receiving the acknowledgment or proof of any deed, mortgage or agreement, power of attorney, or other written instrument required by law to be done and certifying same	1.25
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Certified copy of deed	3.50
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Certified copy of real estate mortgage	3.50
Recording deed of assignment of real estate mortgage	5.00
Noting release of any lien, mortgage or redemption other than a deed of release	1.50
Receiving the acknowledgment, recording and certifying each deed of release of a mortgage or lien under KRS 382.360	5.00
Each additional marginal notation relating to same instrument	1.50
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	10.00
Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	10.00
Every order concerning the establishment, changing, closing or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed or discontinued, and by the applicant when it is not	1.00
Administering an oath and certificate thereof	1.00
Issuing license for which no other fee is fixed by law	1.50
Marriage license, bond, certificate and recording	4.00
For filing and indexing an original or continuation financing statement, and noting the security interest on the required receipt for one motor vehicle	6.00
For filing and indexing an assignment of a financing statement	6.00
For filing and noting a statement of release of collateral under a financing statement	1.00
Recording real estate options, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording plats, maps and surveys, not exceeding 24 inches by 36 inches, per page	10.00
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Marginal notation to same instrument	1.50
Filing or recording of certification of intention to operate a business under an assumed name	5.00
Filing a lien on a delinquent motor vehicle or trailer bill	6.00
Releasing a lien on a delinquent motor vehicle or trailer bill	1.50
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	5.00

Filing or recording of notice of lien issued by the Internal Revenue Service	5.00
Filing or recording of notice of lien discharges issued by the Internal Revenue Service	5.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording United States liens, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording state tax or other state liens, other than liens on delinquent motor vehicles or trailers	5.00
Filing release of a state tax or other state lien, other than a lien on a delinquent motor vehicle or trailer	5.00
Filing notification and declaration and petition of candidates for office	5.00
Deposit of wills under KRS 394.110	5.00
Recording wills or other probate documents under KRS 394.300	5.00
Issuance of fish and game licenses or tags costing more than $1.00 each	.50
Registration of licenses for professional persons required to register with the county clerk	5.00
Recording and issuing articles, statements, or reports of corporations pursuant to KRS Chapters 271A, 272 and 273, including articles of incorporation, amendment, restatement of incorporation, merger, consolidation, or dissolution and statements of establishment of a series of shares, cancellation of a series of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, or any other statement or report of a foreign or domestic corporation, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three pages (except military discharges)	5.00
Exceeding three pages, each additional page	1.50
Filing miscellaneous documents for which no specific fee is set, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, each additional page	1.50
[~~Filing certification required by KRS 65.070 (1) (a)~~	~~2.00~~]

Section 41. KRS 76.005 Is amended to read as follows:

As used in KRS 76.010 to 76.295 unless the context otherwise requires:

(1) "District" means a metropolitan sewer district authorized by KRS 76.010 to 76.210.

(2) "Board" means the board described in KRS 76.030.

(3) "District area," "within the district," "corporate limits of the district" and similar terms mean that area of a county containing a city of the first class which area was on April 1, 1964, either inside the city of the first class or served by sanitary or combined sanitary and storm water sewers which were under the immediate control and custody of the district, that area of such a county which is added to the district pursuant to KRS 76.170, and that area of such a county which may be annexed to the city of the first class except that no construction subdistrict shall be construed to be within the district area.

(4) "Construction subdistrict bonds and obligations" and like phrases mean any obligation whatsoever that has been incurred by the district because of some function or activity of a construction subdistrict. Such debts are not obligations of the district, and such debts may be paid only from moneys received by the district on account of the construction subdistrict, or from the funds, if any, in the construction subdistrict reserve fund.

(5) "Construction subdistrict facilities" are all sewerage facilities within a construction subdistrict, and all sewerage facilities in a county containing a district outside the district area which

(a) are not a part of a sewer construction district organized pursuant to KRS 76.300 to 76.420 or a sanitation district organized pursuant to KRS 220.010 to *220.530* [~~220.540~~] or a sewer system of a municipal corporation or a sewer system of a water district organized pursuant to KRS *74.012* [~~74.010~~] to 74.416;

(b) join together two (2) or more construction subdistricts or lead from a construction subdistrict to the district area or lead from a construction subdistrict to a disposal plant or a treatment plant outside the construction subdistrict and outside the district area.

(6) "District facilities" are all facilities of the district within the district area.

Section 42. KRS 76.368 Is amended to read as follows:

In the event a sewer construction district elects to proceed under KRS 76.366 and 76.367 it is granted the [~~same~~] authority [~~relative~~] to *cut* [~~the cutting~~] off [~~of~~] the water supply of its delinquent users as *follows:*

In case of failure of any user to pay for services rendered, the commission may compel payment and may enjoin further use until the payment is made, or it may institute an action in any court having jurisdiction for the recovery of charges for services rendered, or the commission may, by a notice in writing, signed by its chairman or any member of said commission, notify the municipality, or person, firm, or corporation which furnishes water to the user's premises, to shut off the water service to said user's premises, until such time as all delinquent charges, plus a reasonable charge for turning off and on the water service, against said user, are paid in full. Upon receipt of such notice in writing, the municipality, or the person, firm or corporation, which furnishes water to the said user's premises shall immediately shut off and discontinue the water service to the said user's premises. Upon full payment of such account, plus a reasonable charge for turning off and on the water service, the chairman, or any member of said commission, shall notify the said municipality, person, firm or corporation, which furnishes water to said user, that the account is paid in full, including such reasonable charge for turning off and on the water service, and that the said water service can again be provided to said user's premises. The commission shall promptly pay to such municipality, person, firm or corporation, such fee or charge collected for turning off and on such water service. [~~is a sanitation district under KRS 220.510, when written request for such cutting off is made by the commission to the water supplier.~~] In the event this power is used the plans of the sewer district shall only require prior approval by the metropolitan sewer district as already provided in KRS 76.330, and in such event the water supplier may require the sewer commission to supply an agent with full authority to receive payments or accept arrangements to pay the delinquent charges, together with interest and penalties thereon, to be present when the water is cut off and the water supplier may bill the sewer commission its actual expenses involved.

Section 43. KRS 76.268 is amended to read as follows:

Annexation to subdistricts may be accomplished by any of the following procedures, as the board may elect:

(1) [~~(a) After the creation of a construction subdistrict under the provisions of KRS 76.241 to 76.246, the board may, if it deems it advisable, use the authority and procedures granted to sanitation districts by KRS 220.535 to 220.537 to annex territory to a subdistrict, the words "board of directors" being read as "metropolitan sewer district board."~~

~~(b) Language in KRS 220.535 limiting the powers of annexation to a sanitation district in a county not containing a city of the first class shall not be applicable to a metropolitan sewer district which might use this method of annexation to a construction subdistrict even if it is located in a county containing a city of the first class, and the director of sanitary engineering of the department for human resources shall function in regard to annexation by it in the same manner and under the same procedures, as set out in KRS 220.535 to 220.537, as he would in his capacity as commissioner of sanitation districts for any sanitation district.~~

~~(2)~~] After the creation of a construction subdistrict under the provisions of KRS 76.241 to 76.246, the board may annex any area, contiguous or noncontiguous, subject to the limitations of KRS 76.242, to the construction subdistrict by making a preliminary order describing the area to be annexed and causing said order to be published pursuant to KRS chapter 424. The notice so published shall state that objections in writing to the proposed annexation may be filed with the district within thirty (30) days of the date of said notice. The district shall examine and hear all such complaints. It may modify or amend the areas proposed to be annexed; and it shall make a final order, within sixty (60) days of the date of publication of said notice, describing the areas to be annexed and shall cause the same to be published, pursuant to KRS chapter 424. A freeholder of land within the area proposed to be annexed may appeal such final order in the manner described in KRS 76.247. In referring to KRS 76.247, this section is not intended to provide for de novo trial.

(2)[~~(3)~~] In the event the owner or owners of all the property or properties proposed to be annexed to a construction subdistrict shall tender to the district their written request or requests that the district proceed immediately with the annexation of said property or properties, and shall unqualifiedly waive all formalities and substantive rights contained in subsection (2) of this section, the district may thereupon make and publish a final order annexing said property or properties to the construction subdistrict. Said order shall contain a recitation of the receiving of waivers from the owners of all properties to be annexed thereunder. Provided, however, That in all such instances the written request or requests of the owner or owners of all properties proposed to be annexed to a construction subdistrict shall be in recordable form and shall be recorded in the office of the county clerk of the county wherein the property is located; and said clerk is authorized to record such instruments as in the case of mortgages and may charge and receive fees therefor as in the case of mortgages.

(3)[~~(4)~~] The provisions of subsections (1), (2) and (3) of this section shall not repeal or reduce any existing rights or duties of metropolitan sewer districts, but shall constitute merely a procedure for annexation to construction subdistricts by a metropolitan sewer district.

Section 44. KRS 76.269 is amended to read as follows:

A sanitation district organized under KRS 220.010 to *220.530* [~~220.540~~], a sewer construction district organized under KRS 76.300 to 76.420, and a sewage system owned by any municipality, political subdivision, or any other entity, public or private, may be made a construction subdistrict or incorporated into the district area by the board under the conditions of this section.

(1) Any such district or system may be made a construction subdistrict only when:

(a) Express, written consent of all bondholders and secured creditors has been obtained;

(b) The governing body or owner of such district or system has consented in writing; and

(c) The board has determined that the policy of KRS 76.010 to 76.295 will best be served by making such district or system a construction subdistrict.

(2) When such district or system has been made a construction subdistrict under subsection (1), KRS 76.241 to 76.253, and 76.257 to 76.259 shall not apply to it.

(3) Any such district or system may be incorporated by the board into the district area only when:

(a) All debts of the district or system have been paid or an amount of either money or securities lawful as investments under KRS 386.020 has been laid aside to pay them by the governing body or owner of such district or system;

(b) The governing body or owner of such district or system has consented in writing; and

(c) Such district or system is not within a sanitation tax district organized under KRS 76.274; and

(d) The board has determined that the policy of KRS 76.010 to 76.210 will best be served by incorporating such district or system into the district area.

Section 45. KRS 178.117 is amended to read as follows:

(1) Any person or corporation, public or private, or any group of such persons or corporations or both residing in or owning property adjacent to any publicly dedicated road in unincorporated territory in a county containing a city of the first class desiring to make any improvements to the publicly dedicated road shall submit to the fiscal court for approval plans and specifications for its improvements at their own expense. Any such request for private improvement shall *show the boundary lines and terminal points of the road desired to be improved and shall set forth on such map the names of the owners of all property and the number of linear feet owned by them abutting upon such road, the location and size of drainage ditches and sidewalks. The person or corporation shall also have estimated for them by an engineer, who must be a private engineer licensed by the Commonwealth of Kentucky, pursuant to KRS Chapter 322, the approximate cost of constructing the improvements desired and reasonable maintenance for the duration of the road district, together with a statement of the approximate cost which shall be borne by each owner of property abutting on the road, determined by the number of linear feet of property owned by each abutting property holder. Said person or corporation shall also prepare a petition and shall attach to said petition the aforesaid maps and statements of cost* [~~include all the information required by KRS 184.020 to accompany a request for the creation of a public road district pursuant to that section~~].

(2) *(a)* The sponsors of the private improvement of the publicly dedicated road shall present their request, together with the attached maps and estimates of cost, to the fiscal court, who shall turn over to the county engineer for his consideration the maps and estimates of cost. *The county engineer shall, within ten (10) days from his receipt of such documents from the county judge/executive, examine said documents, examine the road proposed to be improved, or maintained, study the estimates of the cost and type of surface proposed to be used, or study the estimates of the cost and type of the contemplated maintenance and return to the county judge/executive with recommendations of approval or disapproval the documents theretofore delivered to him. If the county engineer disapproves the plans and estimates of cost submitted to him, he shall set forth his reasons for such disapproval, and the county judge/executive shall return said plans and estimates for revision in accordance with the recommendations of the county engineer. After revision, they shall again be submitted to the county engineer, and if he again disapproves, the court shall nevertheless proceed with a hearing, as hereinafter provided, to determine whether or not said approval should be granted or withheld.*

(b) In the event the county engineer approves the plans for the road and estimates of cost thereof, the county judge/executive shall notify the sponsors thereof and shall select a day not earlier than two (2) weeks thereafter on which a public hearing shall be held to determine whether or not said improvement shall be undertaken. During said two-weeks' period, the county judge/executive shall use such information as is available to him and shall make such investigation as he deems necessary to satisfy himself of the genuineness of the signatures appearing upon the petition and as to the ownership of property of the persons signing said petition. The question of genuineness of signatures and the ownership of property of any person signing the petition may be questioned at the hearing by anyone denying such validity.

(c) When the county judge/executive has selected a day for the hearing, it shall be the duty of the sponsors to advance sufficient funds to pay for the advertising of the hearing, which advertising shall be by publication pursuant to KRS Chapter 424 and by posting printed notices in such number as the county judge/executive may deem necessary or advisable, but in no event less than ten (10), along both sides of the road to be improved, either on telephone poles or on posts erected for that purpose.

(d) If no objections are filed on the day set for the initial hearing, the county judge/executive shall enter his order approving the petition.

(e) Any owner of land abutting upon the road proposed to be improved or maintained who has failed or refused to sign the petition seeking the road improvements may, on the day fixed for the hearing, file with the county judge/executive his answer to the petition setting forth his objections to the improvements, and the county judge/executive shall thereupon fix a day when both the sponsors and the objectors may introduce testimony, and shall at that time hear and determine the issue on its merits. Any person aggrieved by the determination of the county judge/executive may bring an original action in circuit court to contest such determination.

(3) [~~In considering whether to permit the requested improvement, the fiscal court and the county engineer shall follow the same procedures provided for in KRS 184.040 and 184.050, and the same appellate rights provided for in these sections are available to the petitioners.~~] When the county engineer receives from the fiscal court an application for approval of plans or specifications for the private improvement of publicly dedicated roads by some individual or corporation, or a combination thereof, the county engineer shall be authorized [~~and empowered to examine, inspect and investigate, as seems to be advisable, the sufficiency of the improvements which the application seeks to serve the purposes intended, and~~] to establish and make reasonable charges for such services on the basis of a schedule adjusted according to the services required to make such investigation or on any other reasonable method.

(4)[~~(3)~~] When it appears to the county engineer that the completion of the improvement by or on behalf of any such individual or corporation requires inspection and supervision in order to assure the protection of the public safety and the proper subsequent completion of such work for the purposes intended, the county engineer shall include such findings in his recommendation to the fiscal court approving, modifying or disapproving the particular plans and projects, and shall charge such person or corporation for such inspection and supervision on the basis of the actual cost of inspection plus a reasonable additional cost of supervision.

Section 46. KRS 216.160 is amended to read as follows:

(1) On or before the issuance of the bonds the city legislative body shall, by ordinance, set aside and pledge the income of the municipal hospital into a separate and special fund to be used and applied in payment of the cost, maintenance, operation and depreciation of the hospital. The ordinance shall fix the amount of revenue necessary to be set aside and applied to the payment of the principal and interest of the bonds and the proportion of the balance of the income to be set aside as a proper and adequate depreciation account. The remaining portion of the balance shall be set aside for the reasonable and proper operation and maintenance of the hospital. The rates to be charged for the use of the hospital and the services it renders shall be fixed and revised from time to time so as to be sufficient to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof when it becomes due, to provide for the operation and maintenance of the hospital, and to provide an adequate depreciation account.

(2) The municipality issuing bonds under KRS 216.090 may lease the facility built from the proceeds of said bonds to a hospital district created under *Sections 2 to 19 of this Act* [~~KRS 216.310 et seq~~]. In that event the lease income from a lease agreement between the municipality and the hospital district shall be sufficient to provide for the payment of interest upon the bonds, to create a sinking fund to pay the principal thereof at or prior to maturity, to accumulate proper reserves, and to pay the costs of operation and insurance; or the lease may provide that the lessee shall pay the cost of insurance.

Section 47. KRS 262.010 is amended to read as follows:

(1) "Board" means the board of supervisors of a conservation district;

(2) "Commission" means the Conservation Commission;

(3) "District" means a Conservation District whenever used in KRS 262.010 through 262.660 or a Watershed Conservancy District whenever used in KRS *262.705* [~~262.700~~] through 262.795;

(4) "Due notice" means notice published in accordance with the legal notice provisions of KRS Chapter 424.

(5) "Land occupier" or "occupier of land" includes any person other than the landowner who is in possession of any lands lying within the district, whether as lessee or otherwise;

(6) "Landowner" or "owner of land" includes any person who holds legal or equitable title to the land within the district determined as follows:

(a) By his, her, or their names appearing on the recorded deed to the land;

(b) By title derived through a probated will or by the laws of descent and distribution under KRS Chapter 391;

(c) Where a minor or legally incompetent person is the owner of land within the district, the guardian or whoever has the power of attorney shall have the right to vote for such landowner under the provisions of KRS Chapter 262;

(d) Where the will has not been probated by the date of the referendum or election as provided in KRS Chapter 262, the executor of the deceased landowner shall have the right to vote for the devisee or devisees;

(e) Where the land within the districts is held in trust, the trustee shall have the right to vote for the landowner under the provisions of KRS Chapter 262;

(f) A landowner shall be entitled to but one vote whenever he is given the right to vote under KRS Chapter 262 regardless of the number of tracts or parcels of land which he owns either wholly or in part, within the district;

(g) Where a trustee, executor, guardian or other person with authority to vote for a landowner exercises such duty in relation to two or more estates or tracts of land, within a district, such person shall have the right to vote separately for each such landowner which he represents within the district;

(h) In the case of a dispute as to whether or not a person has the right to vote in an election or referendum under the provisions of KRS Chapter 262, the person seeking such right must provide to the satisfaction of the polling superintendent that he has the right to vote under this section.

(7) "Supervisor" means one of the members of the governing body of a conservation district.

Section 48. KRS 262.010 (Acts. 1980, Chapter 396, Section 83) is amended to read as follows:

(1) "Board means the board of supervisors of conservation district;

(2) "Commission" means the conservation commission;

(3) "District" means a conservation district whenever used in KRS 262.010 through 262.660 or a watershed conservancy district whenever used in KRS *262.705* [~~262.700~~] through 262.795;

(4) "Due notice" means notice published in accordance with the legal notice provisions of KRS chapter 424;

(5) "Land occupier" or "occupier of land" includes any person other than the landowner who is in possession of any lands lying within the district, whether as lessee or otherwise;

(6) "Landowner" or "owner of land" includes any person who holds legal or equitable title to the land within the district determined as follows:

(a) By his, her, or their names appearing on the recorded deed to the land;

(b) By title derived through a probated will or by the laws of descent and distribution under KRS chapter 391;

(c) Where a minor or person adjudged mentally disabled is the owner of land within the district, the guardian or conservator or whoever has the power of attorney shall have the right to vote for such landowner under the provisions of KRS chapter 262;

(d) Where the will has not been probated by the date of the referendum or election as provided in KRS chapter 262, the executor of the deceased landowner shall have the right to vote for the devisee or devisees;

(e) Where the land within the districts is held in trust, the trustee shall have the right to vote for the landowner under the provisions of KRS chapter 262;

(f) A landowner shall be entitled to but one vote whenever he is given the right to vote under KRS chapter 262 regardless of the number of tracts or parcels of land which he owns either wholly or in part, within the district;

(g) Where a trustee, executor, guardian, conservator or other person with authority to vote for a landowner exercises such duty in relation to two or more estates or tracts of land, within a district, such person shall have the right to vote separately for each such landowner which he represents within the district;

(h) In the case of a dispute as to whether or not a person has the right to vote in an election or referendum under the provisions of KRS chapter 262, the person seeking such right must provide to the satisfaction of the polling superintendent that he has the right to vote under this section.

(7) "Supervisor" means one of the members of the governing body of a conservation district.

Section 49. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage use or other consumption of which, this state is prohibited from taxing under the constitution or laws of the United States, or under the constitution of this state;

(2) Gross receipts from sales of, and the storage, use or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container;

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property used for the performance of a lump sum, fixed fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property made in one cent (1¢) portions through vending machines;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities or special districts [~~as defined in KRS 65.005~~]. This exemption applies only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit is not entitled to the exemption even though such purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include, but not be limited to, natural gas, electricity, fuel oil, bottled gas, coal, coke and wood. Determinations of eligibility for the exemption shall be made by the department of revenue.

(b) In making such determinations of eligibility, the department may use a utility company's classification of "residential" customers. Where the service is classified as residential, use other than for "residential" purposes by the customer will not negate the exemption.

(c) The exemption does not apply where charges for sewer service, water and fuel are billed to an owner or operator of a multi-unit residential rental facility or trailer park other than residential classification.

(d) The exemption applies also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years.

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill.

Section 50. KRS 353.651 is amended to read as follows:

The following provisions of this section shall apply to any deep well:

(1) Drilling units:

(a) The commission shall, after notice and a hearing, regulate the drilling and location of wells in any pool and the production therefrom so as to prevent reasonably avoidable net drainage from each developed unit (that is, drainage which is not equalized by counterdrainage) so that each owner in a pool shall have the right and opportunity to recover his fair and equitable share of the recoverable oil and gas in such pool.

(b) For the prevention of waste, to protect and enforce the correlative rights of the owners in a pool, and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, the commission shall, after notice and a hearing, establish drilling units for each pool. The spacing of wells in proved oil and gas fields shall be governed by special rules for that particular field adopted after notice and hearing. Wells drilled in areas not covered by special field rules shall be governed by statewide rules adopted by the commission after notice and hearing. Notice for hearings prescribed herein shall be given pursuant to KRS 353.680 and notice for hearings governing drilling units for a particular pool or special field rules shall be given to all persons reasonably known to the Commission to own an interest in the oil and gas therein.

(c) Each well permitted to be drilled upon any drilling unit shall be drilled in accordance with the rules and regulations promulgated by the commission and in accordance with a spacing pattern fixed by the commission for the pool in which the well is located, with such exceptions as may be reasonably necessary where it is shown, in accordance with regulations adopted by the commission, that the unit is partly outside the pool or for some other reason a well otherwise located on the unit would not be likely to produce in paying quantities, or topographical conditions are such as to make the drilling at such location unduly burdensome. Whenever an exception is granted, the commission shall take such action as will offset any advantage which the person securing the exception may have over other owners by reason of the drilling of the well as an exception.

(d) No drilling unit established by the commission shall be smaller than the maximum area which can be drained efficiently by one deep well so as to produce the reasonable maximum recoverable oil or gas in such area, unless an exception is granted in accordance with regulations adopted by the commission.

(e) An order establishing drilling units may be modified, altered, extended, amended or vacated by the commission after notice and hearing as prescribed above.

(2) Pooling of interests in drilling units:

(a) When two or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of a drilling unit, the interested persons may pool their tracts or interests for the development and operation of the drilling unit. In the absence of voluntary pooling and upon application of any operator having an interest in the drilling unit, and after the commission has given notice to all persons reasonably known to own an interest in the oil or gas in the drilling unit, and after a hearing, the commission shall enter an order pooling all tracts or interests in the drilling unit for the development and operation thereof and for the sharing production therefrom. Each such pooling order shall be upon terms and conditions which are just and reasonable.

(b) All operations, including, but not limited to, the commencement, drilling or operation of a deep well, upon any portion of a drilling unit for which a pooling order has been entered, shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to a separately owned tract included in a drilling unit shall, when produced, be deemed for all purposes to have been actually produced from such tract by a deep well drilled thereon.

(c) Any pooling order under the provisions of subsection (2) of this section shall authorize the drilling and operation of a deep well for the production of oil or gas from the pooled acreage; shall designate the operator to drill and operate such deep well; shall prescribe the time and manner in which all owners of operating interests in the pooled tracts or portions of tracts may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, completing, equipping, operating, plugging and abandoning such deep well shall be borne, and all production therefrom shared, by all owners of operating interests in proportion to the acreage in the pooled tracts owned or under lease to each owner; and shall make provision for payment of all reasonable costs thereof, including reasonable charge for supervision and for interest on past due accounts, by all those who elect to participate therein. Upon the application of any operator having an interest in the drilling unit, the person or persons selected to drill and operate said deep well shall be determined by competitive bids [~~under the procedure set out in KRS 74.260~~].

(d) Upon request, any such pooling order shall provide just and equitable alternatives whereby an owner of an operating interest who does not elect to participate in the risk and cost of the drilling of a deep well may elect to surrender his interest or a portion thereof to the participating owners on a reasonable basis and for a reasonable consideration, which, if not agreed upon, shall be determined by the commission; or to participate in the drilling of the deep well on a limited or carried basis on terms and conditions which, if not agreed upon, shall be determined by the commission to be just and reasonable.

(e) If an operator owning an interest in a pooled drilling unit elects not to participate in the risk and cost of drilling of a deep well thereon, and another operator owning an interest therein, shall drill and operate, or pay the costs of drilling and operating a deep well as provided in the Commission order, then such operating owner shall be entitled to the share of production from the tracts or portions thereof accruing to the interest of such nonparticipating owner, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of such tracts or portions thereof, or exclusive of one-eighth (1/8) of the production attributable to all unleased tracts or portions thereof, until the market value of such nonparticipating owner's share of the production, exclusive of such royalty, overriding royalty or one-eighth (1/8) of production, equals one and one-fourth (1 1/4) times the share of such costs payable by or charged to the interest of such nonparticipating owner.

(f) If a dispute shall arise as to the costs of drilling and operating a deep well, the commission shall determine and apportion the costs, within ninety (90) days from the date of written notification to the commission of the existence of such dispute.

(3) This section shall not apply to wells drilled, deepened or reopened for the injection of water, gas or other fluids into any sub-surface formation.

Section 51. KRS 76.242 is amended to read as follows:

The construction subdistrict shall not include the whole or any part of any incorporated city of the first, second, third or fourth class, or any sanitation district or sewer construction district, or that part of a water district in which the water district has exercised its power to establish sanitary sewerage facilities pursuant to KRS [~~74.407 to~~] 74.416, except with the consent of the legislative or managing board of such city or district. With such consent, the property owners of such city or district will be considered as freeholders of the construction subdistrict.

Section 52. KRS 68.245 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, no county fiscal court shall levy a tax rate[~~, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county,~~] which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced from application of the preceding year's tax rate to the preceding year's assessment. The property valuation administrator shall submit an official estimate of real and personal property and new property assessment as defined in KRS 132.010, to the county judge/executive by April 1 of each year.

(2) No county fiscal court shall levy a tax rate[~~, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county,~~] within the limits imposed in subsection

(1) of this section which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection (5) of this section.

(3) The state local finance officer shall certify to each county judge/executive, by June 30 of each year, the following:

(a) The tax rate that a fiscal court could levy under the provisions of subsection (1) of this section, and the amount of revenue expected to be produced by it;

(b) The compensating tax rate, as defined in KRS 132.010, and the amount of revenue expected to be produced by it;

(c) The tax rate which will produce no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 and the amount of revenue expected to be produced by it.

(4) Real and personal property assessment and new property determined in accordance with KRS 132.010 shall be certified to the state local finance officer by the department of revenue upon completion of action on property assessment data.

(5) (a) A county fiscal court, proposing to levy a tax rate[~~, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county,~~] within the limits of subsection (1) of this section which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) County fiscal courts of counties containing a city of the first class proposing to levy a tax rate[~~, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county,~~] within the limits of subsection (1) of this section which exceeds the compensating tax rate defined in KRS 132.010, shall hold three (3) public hearings to hear comments from the public regarding the proposed tax rate. The hearings shall be held in three (3) separate locations; each location shall be determined by dividing the county into three (3) approximately equal geographic areas, and identifying a suitable facility as near as possible to the geographic center of each area.

(c) The county fiscal court shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;
2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;
3. The compensating tax rate and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearings which shall be held not less than seven (7) days nor more than ten (10) days, after the day that the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained therein.

(d) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(e) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The county fiscal court may set reasonable time limits for such testimony.

(6) (a) That portion of a tax rate[~~, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county,~~] levied by an action of a county fiscal court which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The county fiscal court shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate[~~, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county,~~] which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the county fiscal court has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address and telephone number of the county clerk, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 53. KRS 108.105 is amended to read as follows:

(1) It is the intent of this section to create an alternative means of creating an ambulance service district in any city or county of the Commonwealth which has not heretofore created the same.

(2) In all counties where a county or city-county ambulance service has not been established [~~pursuant to KRS 108.080 to 108.180~~], an ambulance service district may be created in accordance with the provisions of this section.

(3) The fiscal court or local legislative body may, by ordinance create an ambulance service district and an ambulance service district tax in such amount as deemed sufficient, but not in excess of ten cents ($.10) per one hundred dollars ($100) of full assessed valuation.

(4) The ambulance service district tax shall be collected in the same manner as provided in KRS 108.080 to 108.180 and shall be used solely for the maintenance and operation of the city, county, city-county, or district ambulance service.

(5) [~~Other matters with regard to the operation and management of the ambulance service district shall be in accordance with the provisions of KRS 108.080 to 108.180 insofar as they do not conflict with the provisions of this section.~~

~~(6)~~] Nothing in this section shall be construed as to abridge the rights of two (2) or more cities, counties or cities in those counties from establishing a joint ambulance service district [~~as provided in KRS 108.080 to 108.180~~].

Section 54. KRS 76.420 is amended to read as follows:

(1) [~~Any sewer construction district created in the manner provided in KRS 76.300 to 76.400 may, if the commissioners of such district deem it feasible, instead of issuing bonds as provided in KRS 76.365, issue apportionment warrants, using the procedures after assessment set out in KRS 184.150 to 184.250, "board of directors" being read as "commission" and the reference to roads being read as reference to sewers and drains, including treatment plants.~~

~~(2)~~] In the event a sewer construction district uses the financing procedures of [~~this section or those set forth in~~] KRS 76.365 and 76.390, it shall have the same power to discontinue water service as is set out in KRS 76.368 for districts proceeding under KRS 76.366 and 76.367.

(2)[~~(3)~~] The provisions of *subsection* [~~subsections~~] (1) [~~and (2)~~] of this section shall not repeal or reduce any existing rights or duties of sewer construction districts or the commissioners thereof, but shall constitute an additional method of financing which may be used in conjunction with KRS 76.300 to 76.385, or may be an alternate method.

Section 55. KRS 76.005 is amended to read as follows:

As used in KRS 76.010 to 76.295 unless the context otherwise requires:

(1) "District" means a metropolitan sewer district authorized by KRS 76.010 to 76.210.

(2) "Board" means the board described in KRS 76.030.

(3) "District area," "within the district," "corporate limits of the district" and similar terms mean that area of a county containing a city of the first class which area was on April 1, 1964, either inside the city of the first class or served by sanitary or combined sanitary and storm water sewers which were under the immediate control and custody of the district, that area of such a county which is added to the district pursuant to KRS 76.170, and that area of such a county which may be annexed to the city of the first class except that no construction subdistrict shall be construed to be within the district area.

(4) "Construction subdistrict bonds and obligations" and like phrases mean any obligation whatsoever that has been incurred by the district because of some function or activity of a construction subdistrict. Such debts are not obligations of the district, and such debts may be paid only from moneys received by the district on account of the construction subdistrict, or from the funds, if any, in the construction subdistrict reserve fund.

(5) "Construction subdistrict facilities" are all sewerage facilities within a construction subdistrict, and all sewerage facilities in a county containing a district outside the district area which

(a) are not a part of a sewer construction district organized pursuant to KRS 76.300 to 76.420 [~~or a sanitation district organized pursuant to KRS 220.010 to 220.540~~] or a sewer system of a municipal corporation or a sewer system of a water district organized pursuant to KRS 74.010 to 74.416;

(b) join together two (2) or more construction subdistricts or lead from a construction subdistrict to the district area or lead from a construction subdistrict to a disposal plant or a treatment plant outside the construction subdistrict and outside the district area.

(6) "District facilities" are all facilities of the district within the district area.

Section 56. KRS 76.269 is amended to read as follows:

A [~~sanitation district organized under KRS 220.010 to 220.540, a sewer construction district organized under KRS 76.300 to 76.420, and a~~] sewage system owned by any municipality, political subdivision, or any other entity, public or private, may be made a construction subdistrict or incorporated into the district area by the board under the conditions of this section.

(1) Any such district or system may be made a construction subdistrict only when:

(a) Express, written consent of all bondholders and secured creditors has been obtained;

(b) The governing body or owner of such district or system has consented in writing; and

(c) The board has determined that the policy of KRS 76.010 to 76.295 will best be served by making such district or system a construction subdistrict.

(2) When such district or system has been made a construction subdistrict under subsection (1), KRS 76.241 to 76.253, and 76.257 to 76.259 shall not apply to it.

(3) Any such district or system may be incorporated by the board into the district area only when:

(a) All debts of the district or system have been paid or an amount of either money or securities lawful as investments under KRS 386.020 has been laid aside to pay them by the governing body or owner of such district or system;

(b) The governing body or owner of such district or system has consented in writing; and

(c) Such district or system is not within a sanitation tax district organized under KRS 76.274; and

(d) The board has determined that the policy of KRS 76.010 to 76.210 will best be served by incorporating such district or system into the district area.

Section 57. KRS 262.010 is amended to read as follows:

(1) "Board" means the board of supervisors of a conservation district;

(2) "Commission" means the conservation commission;

(3) "District" means a conservation district whenever used in KRS 262.010 through 262.660 or a watershed conservancy district [~~whenever used in KRS 262.700 through 262.795~~];

(4) "Due notice" means notice published in accordance with the legal notice provisions of KRS Chapter 424.

(5) "Land occupier" or "occupier of land" includes any person other than the landowner who is in possession of any lands lying within the district, whether as lessee or otherwise;

(6) "Landowner" or "owner of land" includes any person who holds legal or equitable title to the land within the district determined as follows:

(a) By his, her, or their names appearing on the recorded deed to the land;

(b) By title derived through a probated will or by the laws of descent and distribution under KRS Chapter 391;

(c) Where a minor or legally incompetent person is the owner of land within the district, the guardian or whoever has the power of attorney shall have the right to vote for such landowner under the provisions of KRS Chapter 262;

(d) Where the will has not been probated by the date of the referendum or election as provided in KRS Chapter 262, the executor of the deceased landowner shall have the right to vote for the devisee or devisees;

(e) Where the land within the districts is held in trust, the trustee shall have the right to vote for the landowner under the provisions of KRS Chapter 262;

(f) A landowner shall be entitled to but one vote whenever he is given the right to vote under KRS Chapter 262 regardless of the number of tracts or parcels of land which he owns either wholly or in part, within the district;

(g) Where a trustee, executor, guardian or other person with authority to vote for a landowner exercises such duty in relation to two or more estates or tracts of land, within a district, such person shall have the right to vote separately for each such landowner which he represents within the district;

(h) In the case of a dispute as to whether or not a person has the right to vote in an election or referendum under the provisions of KRS Chapter 262, the person seeking such right must provide to the satisfaction of the polling superintendent that he has the right to vote under this section.

(7) "Supervisor" means one of the members of the governing body of a conservation district.

Section 58. KRS 262.010, Acts 1980, Chapter 396, Section 83, is amended to read as follows:

(1) "Board" means the board of supervisors of a conservation district;

(2) "Commission" means the conservation commission;

(3) "District" means a conservation district whenever used in KRS 262.010 through 262.660 or a watershed conservancy district [~~whenever used in KRS 262.700 through 262.795~~];

(4) "Due notice" means notice published in accordance with the legal notice provisions of KRS Chapter 424;

(5) "Land occupier" or "occupier of land" includes any person other than the landowner who is in possession of any lands lying within the district, whether as lessee or otherwise;

(6) "Land owner" or "owner of land" includes any person who holds legal or equitable title to the land within the district determined as follows:

(a) By his, her, or their names appearing on the recorded deed to the land;

(b) By title derived through a probated will or by the laws of descent and distribution under KRS Chapter 391;

(c) Where a minor or person adjudged mentally disabled is the owner of land within the district, the guardian or conservator or whoever has the power of attorney shall have the right to vote for such landowner under the provisions of KRS Chapter 262;

(d) Where the will has not been probated by the date of the referendum or election as provided in KRS Chapter 262, the executor of the deceased landowner shall have the right to vote for the devisee or devisees;

(e) Where the land within the districts is held in trust, the trustee shall have the right to vote for the landowner under the provisions of KRS Chapter 262;

(f) A landowner shall be entitled to but one vote whenever he is given the right to vote under KRS Chapter 262 regardless of the number of tracts or parcels of land which he owns either wholly or in part, within the district;

(g) Where a trustee, executor, guardian, conservator or other person with authority to vote for a landowner exercises such duty in relation to two or more estates or tracts of land, within a district, such person shall have the right to vote separately for each such landowner which he represents within the district;

(h) In the case of a dispute as to whether or not a person has the right to vote in an election or referendum under the provisions of KRS Chapter 262, the person seeking such right must provide to the satisfaction of the polling superintendent that he has the right to vote under this section.

(7) "Supervisor" means one of the members of the governing body of a conservation district.

Section 59. KRS 262.748 is amended to read as follows:

(1) Upon determination by the board of directors of a watershed conservancy district that the improvement, continuing operation, or maintenance of a watershed project is necessary, the board of directors may adopt a resolution which shall set out: (a) a list of the benefited lands located in the flood plain, as determined by the board of directors, giving the acreage of such lands and the names of the owners thereof as defined by KRS 262.010(6) with a classification of such lands or parts thereof into classes in order that assessments may be made according to direct benefits, and (b) the annual assessments to be levied upon the lands set out in the resolution on the basis of a certain amount per acre according to benefits received, not to exceed in any one year a sum per acre specified in the resolution.

(2) The board of directors shall cause due notice of the resolution to be given to all the owners of benefited lands, as determined by the board. Said notice shall set out the time and place of a meeting of the board of directors of the watershed conservancy district at which owners of benefited lands who may be liable for the annual assessments may be heard.

(3) At the hearing upon the resolution, owners of benefited lands may voice their views concerning the proposal as to whether it should be undertaken, and the scope thereof, or the degree of benefit received by their lands. The board shall prepare a record summarizing the proceedings. If the board of directors determines as a result of the hearing that the proposal should be carried out as planned, it may make such changes or revisions in the resolution as it deems proper and shall give due notice of an election to be held at which benefited landowners may vote on the question of annual special assessments to defray the cost. The notice of the election shall include the text of the resolution of the board in its final form. The board of directors may give due notice as provided in KRS 262.010(4).

(4) The board of directors shall prepare official ballots to be used in the electon which shall state the question: "Should the assessment for improvement, continuing operation, or maintenance proposed by resolution of the __________ watershed conservancy district be adopted?" Squares indicating a yes or no answer should follow the question with a direction to insert an "X" mark in the square favored. Only owners of benefited land as set out in the resolution shall be eligible to vote. The board of directors may provide for a meeting of the landowners at which the vote may be cast, in which case qualified voters may vote by absentee ballot. The board shall appoint a polling superintendent and other necessary election officers, giving representation to the opponents of the question as well as to proponents.

(5) If a majority of those voting upon the proposition favor the assessment the board shall give due notice of the vote. Any owner of property to be benefited by the project may, within forty days after publication of such notice, file an action in the circuit court of the county in which his lands are located seeking relief by declaratory judgment or injunction. If a suit is filed, the county attorney shall represent the board of directors in upholding the validity of the proposed assessment. After the lapse of time specified herein all actions by owners of properties to be benefited shall be forever barred.

(6) If no suit is filed and no injunction issued within the time allowed in subsection (5) of this section, the board of directors shall levy annual assessments effective only upon the benefited properties and based on the acreage thereof. The annual assessment shall be made by the board of directors at the same time and in the same manner as provided [~~in KRS 262.765~~] for taxes generally and shall be collected as *state and county taxes are collected* [~~provided in KRS 262.770~~]. The assessments shall constitute liens against the land benefited and shall attach to the land, taking precedence over all other liens except state, county and municipal taxes and prior improvement assessments.

Section 60. (1) The following KRS sections are repealed:

65.005 Notice to county clerk of establishment of political subdivision — Duties of clerk — Fee — Notice by existing districts.
65.060 Definition of district.
65.070 Filings with county clerk and county judge/executive — Publication of descriptive information on the district — Department for local government to furnish standard reporting forms to county clerks.
65.164 "District."
65.166 Fiscal court procedure for alteration or dissolution of district.
65.168 Appeal.
65.170 Dissolution by referendum.
65.172 Dissolution on majority vote — When dissolution opposed, restriction on further attempt.
65.174 Dissolution of multi-county districts.
65.176 Withdrawal of membership.
74.010 Creation — Notice — Procedure — Fee.
74.110 Change of districts — Procedure — Deficit.
74.115 Extension of district into adjoining county.
74.363 Merger of water districts — Transfer of assets — Payment of obligations.
74.367 Discontinuance of water district — Procedure.
76.405 Alternate method of annexation.
76.410 Exception to limitation of KRS 220.535.
104.460 Power of secretary for natural resources and environmental
104.480 Petition for district — Signature requirements.
104.490 Contents of petition.
104.500 Amendment of petition — Multiple petitions.
104.510 Bond or deposit for costs.
104.520 Boundaries of district — Determination of — When cities of first three classes may be included.
104.530 Notice of application for creation of district.
104.540 Court action opposing creation of district.
104.550 Certificate of establishment of district — Issuance — Filing — General powers of district.
104.560 Conclusiveness of certificate.
107.320 Community improvement district authorized for county containing a first-class city — Corporate powers.
108.030 Council and director.
108.050 Procedure for establishment of district.
108.070 Addition of territory — Territory in two or more counties.
108.100 Procedure for organization of districts.
184.010 Public road districts authorized in counties containing cities of first to fourth classes.
184.020 Sponsorship of road district — Preparation of map — Estimate of cost, and petition.
184.030 What petition to contain.
184.040 Filing of petition — Examination and approval by county road engineer — Hearing before county judge/executive — Notice.
184.050 Trial of objections — Appeal.
184.060 Order establishing district — Appointment of board of directors — Qualifications — Terms — Vacancies — Removal of board members.
212.720 Election for creation of public health taxing district.
212.725 Imposition of special ad valorem public health tax.
212.740 Expenditures of special health tax moneys.
212.750 Public health taxing district created in counties not electing to create same — Officers.
212.755 Tax levy for district to be made on request of board — Limits — Compensating rate limits not applicable.
212.760 Public health taxing districts exempt from compensating tax rate.
212.920 Expenditure for District Health Department — County board of health to retain trusteeship of county public health tax fund.

215.080 Tuberculosis sanatorium districts authorized.
215.090 Establishment of sanatorium district for one county by fiscal court — Appropriation.
215.100 Establishment for several counties by fiscal courts — Appropriation — Apportionment of expense.
215.110 Establishment by election.
215.120 Election in one county.
215.130 Election in several counties.
215.140 County may join established district.
215.150 Establishment and maintenance of district upon certification of favorable election.
215.160 District board of trustees — How appointed — Membership — Qualifications.
215.340 Application for state aid must be approved by department for human resources.
215.345 State aid for tuberculosis sanatoria operated by city-county board of health — Application.
215.350 Sanatoria visitation — Removal of trustees and employes — Rules and regulations.
215.355 Department for human resources to visit, inspect and regulate sanatoria operated by city-county boards of health.
216.310 Purpose of law.
216.315 Secretary for human resources as secretary of hospital districts.
216.317 Establishment of hospital district — Petition — Referendum — Tax — Petition of majority of voters, form.
216.318 Alternative method for establishing hospital district.
216.319 Requirements for district established under KRS 216.318.
216.320 Fiscal court to recommend and secretary to establish district, when — Taxing district.
220.020 Commissioner of sanitation districts — Power to establish districts.
220.030 Purposes for which sanitation district may be established.
220.040 Petition necessary to establish district — Requisites.
220.050 Contents of petition.
220.060 Defects in petition may be corrected — Joint petitions.
220.070 Security for costs of establishment proceedings.
220.080 Boundary of proposed district — Investigation — Change — Inclusion of city property restricted.
220.090 Publication of application to create district.
220.100 Objection to establishment of district — How made — Trial — Appeal.
220.110 Declaration and certification of organization — Status and powers of district.
220.120 Conclusiveness of certificate.
220.220 Board to prepare plan for improvements.
220.510 Charges for sewer service — Collection by action — Cutting off water service if sewer service charges not paid — Contracts with large users — Administration of revenue.
220.535 Petition for annexation of territory to district.
220.536 Investigation and establishment of territorial boundaries — Inclusion of city — Notice to residents of territory.
220.537 Procedure for protest against proposed annexation.
220.540 Effect of sanitation district law on other statutes.
249.510 Mosquito control districts — Creation — Purpose — Boundaries.
249.540 Petition to establish county mosquito control district.
249.551 Tax levy on filing of petition — Form of petition.
249.560 District board of supervisors — Appointment — Terms — Compensation.
249.570 Officers of board — Election — Oath — Bond.
249.580 Powers and duties of board.
249.590 Fiscal year of district.
249.600 Submission by board of plan of procedure and operation to fiscal court.
249.610 District tax levy — Collection — Disbursement.
249.620 Joint operation of districts.
249.631 Dissolution of district — Petition — Procedure.
262.700 Watershed conservancy districts — Formation — Purposes.
262.707 New district within an established district.
262.710 Petition for formation — Contents — Filing.
262.715 Formation of districts in areas involving more than one soil conservation district — Filing petition — Board of supervisors.
262.720 Notice — Parties — Hearing — Determination.
262.725 Referendum — Notice — Polling officers.
262.730 Ballots — Eligibility of voters — Absentee voting.

262.735 Tabulation of votes — Certification — Filing.
262.740 Board of directors — Election — Membership — Terms — Officers — Bond of treasurer — Nomination petitions — Qualification of members — Removal of directors.
262.780 Petition for annexation of lands — Requirements — Parties — Hearing — Determination.
262.785 Petition for detachment of lands — Requirements — Hearing — Determination.
266.020 Petition to construct levee — Bond.
266.025 Multi-county levee districts.
266.030 Appointment of commissioners for proposed levee.
266.040 Duties of commissioners — Report.
266.040 Duties of commissioners — Report. (Acts 1980, Ch. 396, Sec. 84, effective July 1, 1982.)
266.050 Action if commissioners' report is favorable.
266.060 Proceedings if no exceptions are filed.
266.070 Proceedings if exceptions are filed.
266.080 Appeal from decision establishing or refusing leave.
266.090 Order establishing levee — Entry — Conditions.
267.020 Power of county judge/executive to make improvements.
267.030 Petition for improvement — Petitioners' bond.
267.040 Board of viewers — Appointment — Oath.
267.050 Examination and report of viewers — Petition dismissed if report unfavorable.
267.060 Proceeding on favorable viewers' report.
267.070 Appeal from decision on exceptions.
267.080 Confirmation of report — Establishment of district.
267.550 Fiscal court to control improvements made by general taxation — Use.
267.560 Appropriations to aid district.
268.020 County may establish district.
268.030 Proceedings to establish district — County that has jurisdiction.
268.040 Petition for improvement — Bond.
268.060 Board of viewers — Appointment — Qualifications — Oath.
268.070 Examination and report of viewers.
268.070 Examination and report of viewers. (Acts 1980, Ch. 396, Sec. 85, effective July 1, 1982.)
268.080 Notice of fiscal court proceeding.
268.090 Clerk's certificate of notice.
268.130 Hearing by court on exceptions to viewers' report — Order to establish district.
268.140 Order establishes district — Owners bound by order — Fees of county officers — Duties of clerk.
268.150 Orders referring district to board and continuing proceedings.
268.630 Improvements of other authorities not affected — Joint use — Appropriations by county or city to aid district.
269.070 County may drain land — Payment of cost — Acquisition of necessary land.
269.270 County surface water drainage districts.

(2) The following KRS sections are repealed on July 15, 1984:

74.020 Appointment of commissioners — Number — Terms — Removal — Vacancies — Organization — Bond — Compensation.
74.030 Legal services — Payment.
74.040 Superintendent — Employes — Expenses — Salary.
74.050 Treasurer — Duties — Compensation — Bond.
74.070 Duties and powers of commission.
74.075 Establishment of fire protection district by water district.
74.076 Limits — Commissioners.
74.077 Postponement of organization pending decision on prior action.
74.080 Rates and regulations.
74.090 Condemnation.
74.100 Acquisition of existing systems — Extension of mains and laterals — How paid for.
74.120 Incorporated city may be included in district — Contract with city.
74.130 Classification of lands for assessments — Report.
74.140 Acceptance of report — Notice — Final hearing.
74.150 Assessment roll — Statement of costs — Hearing — Final order.
74.160 Striking assessments from roll — Procedure.
74.170 Payment of assessments in thirty days — Constructive consent to bond issue.
74.180 Issuance of bonds for unpaid assessments.
74.190 Collection of unpaid installments — Sale of land — Redemption — Settlement with collecting officers — Fees.

74.200 Modification of assessment — Relevy.
74.210 Lien of assessments.
74.220 Assessment roll as evidence — Enforcement of liens — Proceedings — Costs.
74.230 Effect of irregularity — Exclusive remedies — Effect of release.
74.240 Record of expenses to be kept — Apportionment of expenses — Financial report to consumers — Books to be open for inspection.
74.250 Fees — Costs.
74.260 Letting of work — Notice — Procedure — Bond of bidder.
74.270 Monthly estimates — Payment.
74.280 Additions may be acquired.
74.290 Issuance of bonds for additions.
74.300 Payment of bonds for additions — Operating and depreciation funds.
74.310 Receiver on default.
74.320 Refunding bonds authorized.
74.330 Issuance — Form of bonds — Signatures.
74.340 Interest payments and repurchase of bonds out of sinking fund — Bonds negotiable and nontaxable.
74.350 County may pay part costs.
74.360 Manner of giving notices required by this chapter.
74.370 Construction, acquisition or enlargement of system by issuance of revenue bonds.
74.380 Refunding assessment bonds with revenue bonds.
74.390 Revenue bond plan is alternative.
74.400 District may acquire, develop, maintain and operate gas system — Procedure.
74.401 Gas system established only if primary supply in district or county.
74.405 Gas distribution system to be administered by water commissioners.
74.407 Operation of sewage disposal systems.
74.408 Board to determine order in which water, gas or sewage service is to be commenced.
74.410 Revenue bonds may be issued as provided in KRS 58.010 to 58.140.
74.412 Extending lines through territory of other political subdivision.
74.414 Contract with other municipality or district for services.
74.415 Commissioners may specify standards for fire hydrant spacing for new water lines.
74.990 Penalties.
76.258 Financing by apportionment warrants.
104.450 Definitions for KRS 104.450 to 104.680.
104.470 Districts — When may be established — Purpose — Boundaries.
104.570 Office and records of district.
104.580 Board of directors — Appointment — Qualifications — Term — Vacancies — Removal of board members.
104.590 Oath and bond of directors.
104.600 Quorum of board — How business conducted.
104.610 Officers and employes of board — Seal — Records — Expenses — Rules and regulations — Civil liabilities — Audits.
104.620 Secretary — Duties — Attestation of records.
104.630 Treasurer — Duties — Bond — Countersigning of checks.
104.640 Attorney, engineer, and other employes — Supplies and equipment.
104.650 Contracts for work, materials or supplies.
104.660 Stream and rain gages, scientific survey, etc. — Reports.
104.670 Tax for district, levy and collection of.
104.680 Depreciation fund — Operation and maintenance fund.
107.310 Definitions.
107.330 Purpose of district.
107.340 Board of commissioners — Membership — Term — Officers — Quorum — Removal of board members.
107.350 Levy of ad valorem tax.
107.360 Submission of question of project to voters — Procedure on approval.
107.370 Powers of board.
107.380 Annual report.
107.390 Condemnation powers of board.
107.400 Approval necessary to condemnation action.
107.410 Lease of buildings and facilities to governmental units — Sublease.
107.420 Contract of lease prior to acquisition of site and construction of buildings.

107.430 Lease options.
107.440 Conveyance or lease of land by governmental unit to district.
107.450 Revenue bonds authorized.
107.460 Prerequisites to issuance of bonds.
107.470 Power to borrow money — Pledge of taxes or anticipated income.
107.480 Applicability of KRS 61.390.
107.490 Contract with county for administrative functions — Approval of expenditures.
107.500 Conveyance to federal government not limited.
108.010 Authority to create districts.
108.020 District's powers.
108.040 Director — Appointment — Powers and duties.
108.060 Civil service for employes.
108.080 Definitions for KRS 108.090 to 108.180.
108.090 Legislative purpose.
108.110 Board of directors — Appointment — Term of office — Vacancies — Quorum — Removal of board members.
108.120 Oath and compensation of directors.
108.130 Employment of attorney.
108.140 Powers and duties of directors.
108.150 Minute book.
108.160 Dissolution of single city or county districts.
108.170 Dissolution of multi-county or multi-city districts.
108.180 Withdrawal of membership by city or county.
184.070 Oath and bond of directors.
184.080 Powers and duties of directors — Officers — Employes — Compensation — Regulations — Approval of accounts and acts of directors — Dissolution of district.
184.090 Meetings of board.
184.100 Approval of plans and specifications by board — Preliminary costs.
184.110 Advertisement for bids for road construction or maintenance — Letting of contract.
184.120 Determination of cost — Assessment against owners.
184.130 Lien of assessments.
184.140 Notice of assessment — Methods of payment.
184.150 Agreements for payment on ten-year plan — When payments due.
184.160 Entire assessment due in absence of agreement — Interest — Collection.
184.170 Execution of agreement by life tenant or person under disability.
184.180 Privilege of prepayment.
184.190 Notice of maturity of instalments.
184.200 Penalty in case of instalment default — Acceleration — Enforcement of lien.
184.210 Application of money from instalment payments, interest and penalties.
184.220 Foreclosure of liens — Redemption.
184.230 Lis pendens notices make liens effective.
184.240 Authority to issue apportionment warrants or road district bonds.
184.250 Form of apportionment warrants — Sale.
184.260 Road improvement bonds — Form — Terms — Tax exemptions — Rights of holders — Payment.
184.270 Sale of bonds — Sources of payment.
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268.620 Use of other improvements or property in plan to prevent overflow.

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269.190 Collection of taxes by rule — Enforcement of lien.

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269.230 Fee collected by circuit and county clerks — Annual financial statement of directors of corporation.

269.240 Removal of obstructions from nonnavigable streams or drains by owner in counties of over 250,000 — Inspection and notice by county engineer.

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269.260 Withdrawal of land from drainage district.

Section 61. Sections 50 through 59 of this Act shall become effective on July 15, 1984.

Committee Amendment No. 1 to **HB 582:**

Amend printed copy of **HB 582,** as follows:

On page 17, line 3, by deleting "*sixty (60)*" and by substituting therefor "*thirty (30)*";

and on page 17, line 6, by deleting "*sixty (60)*" and by substituting therefor "*thirty (30)*";

and on page 19, line 2, by deleting "*sixty (60)*" and by substituting therfor "*thirty (30)*";

and on page 19, line 5, by deleting "*sixty (60)*" and by substituting therefor "*thirty (30)*";

and on page 20, line 16, by inserting an opening bracket "[" before the comma and by striking through ", at"

and on page 20, line 17, by inserting a closing bracket "]" after the comma and by striking through "least once every four years,";

and on page 20, line 19, by inserting after "an" the following: "*annual*";

and on page 20, line 24, by inserting an opening bracket "[" before "A" and by striking through "A unit of government";

and on page 20, lines 25 and 26, by striking through all of lines 25 and 26;

and on page 21, lines 1 through 4, by striking through all of lines 1 through 4;

and on page 21, line 4, by inserting a closing bracket "]" after "required."

and on page 41, lines 16-20, by deleting all of lines 16-20;

and on page 41, line 21, by deleting "Section 40." and by substituting therefor "Section 39." and by renumbering all subsequent sections accordingly;

and on page 123, lines 16 and 17 by deleting all of lines 16 and 17 and on page 135, line 10, by deleting "50 through 59" and by substituting therefor "49 through 58".

HB 456, AN ACT relating to compensation of county officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire record thereof does not exceed three pages	$ 5.00
Exceeding three pages, for each page	1.50
Copy and certification of same when ordered	3.50
Each bond required to be taken or prepared by the clerk	2.00
Copy of any bond when ordered	1.50
Recording a bond, each bond	5.00
Receiving the acknowledgment or proof of any deed, mortgage or agreement, power of attorney, or other written instrument required by law to be done and certifying same	1.25
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate	*a fee of twenty-five cents (25¢) for each five hundred dollars ($500) of value or fraction thereof, which value is declared in the deed or an accompanying affidavit upon the privilge of transferring title to real property, but a minimum fee of five dollars ($5.00)* [~~, provided the entire record thereof does not exceed three pages~~ ~~5.00~~
~~Exceeding three pages, for each page~~	~~1.50~~]
Certified copy of deed	3.50
Recording a mortgage of real estate, certificates, and all services connected with the same	*twenty-five cents (25¢) for each five hundred dollars ($500) of the declared mortgage note amount, which value is declared in the mortgage document or an accompanying affidavit, but a minimum fee of five dollars ($5.00)*[~~, provided the entire record thereof does not exceed three pages~~ ~~5.00~~
~~Exceeding three pages, for each page~~	~~1.50~~]
Certified copy of real estate mortgage	3.50
Recording deed of assignment of real estate mortgage	5.00
Noting release of any lien, mortgage or redemption other than a deed of release	*5.00*[~~1.50~~]
Receiving the acknowledgment, recording and certifying each deed of release of a mortgage or lien under KRS 382.360	5.00

Each additional marginal notation relating to same instrument	*5.00*[~~1.50~~]
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	10.00
Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	10.00
Every order concerning the establishment, changing, closing or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed or discontinued, and by the applicant when it is not	1.00
Administering an oath and certificate thereof	1.00
Issuing license for which no other fee is fixed by law	1.50
Marriage license, bond, certificate and recording	*6.50*[~~4.00~~]
For filing and indexing an original or continuation financing statement, and noting the security interest on the required receipt for one motor vehicle	6.00
For filing and indexing an assignment of a financing statement	6.00
For filing and noting a statement of release of collateral under a financing statement	1.00
Recording real estate options, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording plats, maps and surveys, not exceeding 24 inches by 36 inches, per page	10.00
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Marginal notation to same instrument	*5.00*[~~1.50~~]
Filing or recording of certification of intention to operate a business under an assumed name	5.00
Filing a lien on a delinquent motor vehicle or trailer bill	6.00
Releasing a lien on a delinquent motor vehicle or trailer bill	1.50
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	5.00
Filing or recording of notice of lien issued by the Internal Revenue Service	5.00
Filing or recording of notice of lien discharges issued by the Internal Revenue Service	5.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording United States liens, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording state tax or other state liens, other than liens on delinquent motor vehicles or trailers	5.00
Filing release of a state tax or other state lien, other than a lien on a delinquent motor vehicle or trailer	5.00
Filing notification and declaration and petition of candidates for office	5.00
[~~Deposit of wills under KRS 394.110~~	~~5.00~~]
Recording wills or other probate documents under KRS 394.300	5.00
Issuance of fish and game licenses or tags costing more than $1.00 each	*ten percent (10%) of the state license fee* [~~.50~~]
Registration of licenses for professional persons required to register with the county clerk	5.00
Recording and issuing articles, statements, or reports of corporations pursuant to KRS Chapters 271A, 272 and 273, including articles of incorporation, amendment, restatement of incorporation, merger, consolidation, or dissolution and statements of establishment of a series of shares, cancellation of a series of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, or any other statement or report of a foreign or domestic corporation, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three pages (except military discharges)	5.00

Exceeding three pages, each additional page	1.50
Filing miscellaneous documents for which no specific fee is set, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, each additional page	1.50
Filing certification required by KRS 65.070 (1) (a)	2.00
Certification of franchise tax assessment	*2.50*

Section 2. KRS 138.460 is amended to read as follows:

(1) On and after July 1, 1972 a tax levied upon its retail price at the rate of five percent shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of trucks of gross weight in excess of ten thousand pounds (10,000 lbs.) the tax shall be levied upon ninety percent of the retail price of the vehicle.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state,

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the department of revenue on forms provided by the department and on such forms as the department may prescribe. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to *three* [~~two~~] and one-half percent *(3 ½%)* [~~2 ½%)~~] of the tax collected and accounted for.

(4) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration and license fees.

(5) When a resident of this state offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and ownership mailed to the department.

(7) Notwithstanding the provisions of KRS 138.450(3), in no case shall the tax be less than five dollars ($5.00) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where such vehicle is exempt from tax under KRS 138.470.

(8) Where a new motor vehicle is sold by a dealer in this state and the original purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a new vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the department of revenue as a result of the registration of the returned vehicle. The registration of the returned vehicle shall be cancelled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the department of revenue as a result of the first registration. No person shall be entitled to a refund unless he shall have filed with the department of revenue an affidavit from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

Section 3. KRS 186.040 is amended to read as follows:

(1) Upon receiving the application and fee, the county clerk shall issue to the owner a certificate of registration and ownership containing the information required by subsection (2) and a registration plate. If the department finds that there is a shortage of materials suitable for making plates, or that a substantial saving will result, it may require by regulation with the approval of the governor that previously issued plates continue to be used for a designated period. For services performed the owner shall pay the county clerk the sum of *two dollars ($2.00)* [~~one dollar ($1.00)~~] for each registration.

(2) The certificate of registration and ownership shall contain the registration number, the names and post office addresses of the owner and the secured party as shown by the financing statement on file in the office of the county clerk and such other information as the department may require. The owner's copy of such certificate shall bear the seal of the county clerk who issued same. No fee shall be charged for placing such seal on the owner's copy of the certificate.

(3) If a motor vehicle, other than a new motor vehicle, is registered in this state under the authority of a bill of sale, registration receipt or title, the certificate of registration and ownership shall show the title or the registration number and the name of the state issuing same under which the motor vehicle was last registered in addition to the other required information.

Section 4. KRS 142.010 is amended to read as follows:

(1) The following taxes shall be paid:

(a) A tax of three dollars fifty cents ($3.50) on each marriage license;

(b) A tax of one dollar ($1) on each power of attorney to convey real or personal property; on each mortgage, financing statement, security agreement or conveyance of real or personal property, and on each lien or conveyance of coal, oil, gas or other mineral right or privilege.

(2) The tax imposed by this section shall be collected by each county clerk as a prerequisite to the filing of an instrument subject to the tax or the issuance of a marriage license. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.

(3) Taxes imposed under this section [~~and vehicle lienholder penalties imposed by KRS 186.045(3)~~] shall be reported and paid to the department of revenue by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the department.

(4) Any county clerk liable for the taxes imposed by this section who fails to file a report and pay the tax to the department on or before the due date shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of the tax due. In every case, any tax not paid on or before the due date shall bear interest at the rate of eight percent (8%) per annum from the date due until the date of payment.

Section 5. KRS 134.480 is amended to read as follows:

(1) The delinquent taxpayer or any person owning or having a legal or equitable interest in real property covered by a certificate of delinquency may at any time pay the total amount of the certificate to any purchaser thereof, and any person whatsoever may likewise pay a certificate of delinquency when the state, county or taxing district was the purchaser. When a certificate is paid to an owner other than the state, county or taxing district the certified copy of the certificate shall be surrendered to the person making payment, and if he is the person primarily liable on the certificate he may, by exhibiting it to the county clerk, have the certificate released of record. When a certificate of delinquency has been fully paid to the state, county and taxing districts, the clerk shall note the name and address of the person making the payment, the amount paid by him, and such other information as the department of revenue may require. Payment in such instance by one (1) other than the person primarily liable on the certificate will amount to an assignment thereof. Anyone (1) other than the person primarily liable who pays a certificate or purchases it from an owner other than the state, county and taxing district may, by paying a fee of fifty cents (50¢), have the clerk record the payment or purchase and such recordation shall constitute an assignment thereof. Failure to obtain such an assignment shall render the claim of such payor or purchaser to any real estate represented thereby inferior to rights of other bona fide purchasers, payors or creditors. Any owner of a certificate of delinquency once having paid the assignment fee may have a change of his address noted of record by the clerk without paying an additional charge, otherwise he shall pay a fee of fifty cents (50¢) to the clerk for entering such change on the certificate.

(2) The county clerk may receive payment of the amount due on certificates of delinquency owned by the state, county and taxing districts, and he shall give a receipt to the payor and make a report to the department of revenue, the county treasurer, and the proper officials of the taxing districts as often as such units may require, and not less than once in every thirty (30) days. He shall pay to the department of revenue for deposit with the state treasurer all moneys collected by him due the state, to the county treasurer all moneys due the county, and to the authorized officers of the taxing districts the amount due each such district. He shall pay the amount of fees, costs, commissions and penalties to the persons, agencies or parties entitled thereto. He shall retain *twelve and one-half percent (12.5%)* [~~five per cent (5%)~~] of the amount due each taxing unit for his services.

(3) If the person entitled to pay a certificate of delinquency sends a registered letter addressed to the owner of record of the certificate, other than the state, county or taxing district, and the letter is returned by mail unclaimed, the sender thereof may make payment to the county clerk, who shall make the necessary assignment or release and deposit the money to the account of the owner of record in the nearest bank having its deposits insured with the federal deposit insurance corporation. The clerk may deduct the sum of fifty cents (50¢) as a fee for such service. The name of the bank in which the money is deposited shall be noted on the certificate.

(4) If any clerk fails to pay to the person entitled thereto, upon demand, the money received in payment of a certificate of delinquency, he and his sureties shall be liable for the same and twenty per cent (20%) interest thereon annually from the time he received it until paid.

(5) Copies of the records provided for in KRS 134.450 and 134.480, certified by the county clerk, shall be evidence of the facts stated in them in all the courts of this state.

Section 6. KRS 134.500 is amended to read as follows:

(1) Within fifty (50) days after the issuance of a certificate of tax delinquency to the state, county and taxing district, the county attorney shall cause a notice of the purchase to be served by the sheriff on the person in whose name the property was assessed, and advise him that the certificate is a lien of record against his land that bears interest at twelve per cent (12%) per annum, and if not paid the county attorney will proceed as provided by law to collect same. A copy of the return of the sheriff shall be filed in the office of the county clerk in the manner prescribed by the department of revenue. Failure to prepare such notice shall not affect the validity of the claim of the state, county and taxing district.

(2) The county attorney shall prosecute the remedy or remedies provided in this chapter that are most likely to effect collection of the amount due on the certificate of delinquency. Upon the failure of the county attorney to give the notices provided in this section, or to prosecute the remedies for collection of certificates within twelve (12) months after the right to collect accrued, or to duly complete the performance of any other duties necessary to collect the claims of the state, county and taxing districts for taxes, the department of revenue may perform such duties.

(3) The county attorney who prepares the notice and has it filed, as provided in subsection (1) of this section, and performs his other duties in respect to the certificate of delinquency, shall be entitled to *twelve and one-half percent (12.5%)* [~~twenty percent (20%)~~] of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and such commission shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the commission on the amount collected for each taxing unit. When the department performs the duties of the county attorney without his assistance or cooperation, the fee which would otherwise be paid the county attorney shall be paid to the department for deposit in the delinquent tax fund provided for under KRS 134.400.

(4) Any action on behalf of the state, county and taxing districts authorized by this section or by KRS 134.470, 134.490 or 134.540 must be filed on relation of the commissioner of revenue, and the petition shall be sent to the department, which may require revision thereof in instances where it deems revision or amendment necessary. The department shall advise the county attorney in all such actions, and may send him special assistance when the commissioner deems such assistance necessary. A copy of the judgment shall also be sent to the department. If the department sends assistance to a county attorney who cooperates in prosecuting the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

Section 7. KRS 394.110 is amended to read as follows:

A will may be deposited by the person making it, or anyone for him, with the *county* [~~district~~] clerk of the county of his residence for safekeeping[~~, upon payment of a fee as provided for in KRS 64.012 to the clerk~~]. The clerk shall receive, keep, and deliver the will according to the directions on a sealed envelope. If there are no such directions, or the party entitled does not apply, the will shall be handed to and opened by the district court, after the death of the testator, and there retained for probate.

Committee Amendment No. 1 to **HB 456:**

Amend printed copy of **HB 456** as follows:

On page 3, line 19, by deleting "*6.50*" and by deleting all brackets and strike throughs;

and on page 6, line 1, by deleting "*ten percent (10%)*" and by substituting therefor: "*seven and one half percent (7 ½%)*".

The Committee on Business Organizations and Professions reported **HB 555, HB 562** with Committee Amendments attached thereto, and **HB 566** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 555, AN ACT relating to public accountancy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 325.330 is amended to read as follows:

(1) Permits to engage in the practice of public accounting in this state shall be issued by the board to individuals, partnerships and corporations qualifying under KRS 325.261 to 325.321 after the payment

by each such certificate holder, individual, partnership or corporation of an annual permit fee to be fixed by the board not to exceed fifty dollars ($50). All permits shall expire on the first day of July of each year, but may, annually, be renewed for a period of one (1) year by permit holders in good standing upon the payment of a fee for renewal as herein provided. The renewal fee is due on or before the expiration date of the holder's permit, but failure to renew a permit before expiration thereof, except as provided in subsection (10) of KRS 325.340, shall not deprive a permit holder of the right to renewal; in such cases a permit holder in good standing may renew his permit by payment of any and all annual fees unpaid by him since the expiration of his permit and by payment of a penalty of ten dollars ($10.00) in addition thereto.

(2) Effective for the year ending June 30, 1983, every application by a certified public accountant for renewal of a permit to practice shall be accompanied or supported by such evidence as the board shall prescribe of satisfactory completion of twenty (20) hours of continuing professional education courses, which are professionally enhancing, during the twelve (12) month period prior to permit renewal. The board may provide for lesser, prorated education requirements for applicants whose initial permit was issued substantially less than one (1) year prior to the renewal date.

(3) The board may, in its discretion, waive or lower the annual continuing education requirement for reasons of age, disability or individual hardship.

HB 562, AN ACT relating to real estate errors and omissions insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established a special fund in the state treasury known as the "real estate errors and omissions insurance fund" (hereinafter referred to as the "fund") which shall be maintained by the Kentucky Real Estate Commission. The fund shall be used in the manner provided under this chapter for the payment of judgments where the aggrieved person has suffered a direct monetary loss by reason of certain negligent acts committed by any person licensed under this chapter while acting in the capacity of a licensee under this chapter.

(2) On original licensure and again on renewal of every broker's or sales associate's license, the commission shall charge each of the licensees an amount not to exceed fifty dollars ($50.00) per year, after the fund is established, to be included in the fund. Failure to pay this fee will lead to suspension of the license of the licensee until the fee is paid.

(3) The commission shall maintain a minimum level of one million dollars ($1,000,000) for purposes of this fund. The commission shall charge the smallest amount necessary from each licensee in order to achieve the minimum level within the first year of operation. The commission may invest and reinvest the monies in the fund in the same manner as funds of the state employes' retirement system. The interest from said investments shall be deposited to the credit of the fund. Sufficient liquidity shall be maintained so that there will be money available to satisfy any and all claims which may be processed through the commission by the means outlined in this chapter. If at any time the money on deposit in the fund is insufficient to satisfy any authorized claim, the commission shall, when sufficient money has been deposited in the fund, satisfy the unpaid claim including accumulated interest at the rate of ten percent (10%) per annum.

SECTION 2. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

The purpose of the real estate errors and omissions insurance fund is to provide a base insurance coverage per incident of an amount not to exceed fifty thousand dollars ($50,000) for a licensee or licensees found guilty in a court of law of negligence in the duties of a licensee causing the aggrieved party to suffer a direct monetary loss due to that negligence. The first twenty-five hundred dollars ($2,500) shall be paid by each licensee against whom determination of damages has been made.

SECTION 3. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

The following procedures shall be used in order to recover from the fund:

(1) The licensee shall, as a condition precedent to their right to protection afforded by this Act, give the commission immediate notice of any claim made against them or the receipt of notice from any person of an intention to hold the licensee responsible for any act, error, or omission likely to give rise to a claim under this Act.

(2) A licensee against whom a suit is filed must make a good faith defense unless written permission is received from the commission to admit guilt and agree to settlement.

(3) The commission in its discretion may use monies from the fund to pay reasonable costs incurred in the defense of a licensee.

(4) The commission may promulgate administrative regulations governing the procedures for filing a claim under this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

No aggrieved party shall be entitled to compensation from the fund unless:

(1) The cause of action against the licensee occurred on or after the effective date of this Act;

(2) The action against the licensee is commenced within two (2) years from actual knowledge of the cause of action or from such time as circumstances should reasonably have put the aggrieved party on notice of such cause of action; and

(3) The act, error, or omission occurred within the state of Kentucky.

SECTION 5. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

When a final order has been entered by a court of law, finding that a licensee is guilty of negligence in the performance of the duties of a licensee, that such negligence caused a direct monetary loss to the aggrieved party, and that a determination of damages has been made, then on certification to the commission the aggrieved party or parties shall be paid such amount in full up to, but not to exceed the fifty thousand dollar ($50,000) limit, with the first twenty-five hundred dollars ($2,500) paid by the licensee.

SECTION 6. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

When a settlement offer is made, the licensee shall forward a statement of the offer to the commission. The commission may make such inquiry into the settlement offer as it deems expedient. If the commission determines the offer is reasonable it may recommend to the licensee to accept it. The decision to settle or proceed in court is solely that of the licensee; however, the commission may limit the fund's liability by sending a written statement to the aggrieved party and the licensee stating the amount of the settlement offer and that the fund will provide coverage only up to that amount. Any court costs or damages above that limiting amount are to be paid by the licensee. If the commission determines the settlement offer is unreasonable, it may require the licensee to fight the claim in court after agreeing to pay any additional expenses.

SECTION 7. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

The interest of the licensee under this Act shall not be assignable to any other person. In the event of death or incompetency of the licensee, this Act shall cover the licensee's legal representative as respects any liability previously incurred by the licensee and covered by this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

In the event of any payment by the commission under the provisions of this Act, the commission shall be subrogated to all the licensee's rights of recovery therefor against any person or organization and the licensee shall execute and deliver instruments, papers, and whatever else is necessary to secure such rights. The licensee shall do nothing to prejudice these rights to which the commission is subrogated as such action may prevent coverage by this Act after a full hearing by the commission.

SECTION 9. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

Coverage under this Act shall be as excess insurance over any other valid and collectible insurance carried by and held by the licensee and in force at the time of the filing of the claim, unless such other insurance specifically applies as excess insurance over the limit of base insurance coverage provided by this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

The commission is authorized to bring an action attacking a judgment against a licensee on the grounds of fraud on the part of the claimant and to seek recovery of any monies wrongfully paid out of the fund to satisfy such a judgment.

SECTION 11. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

Recovery under this Act will not be allowed for:

(1) Libel or slander claims;

(2) Any punitive or exemplary damages;

(3) Any fraudulent, criminal, malicious, collusive or intentional act by a licensee;

(4) Any activities arising out of a licensee's activities as a mortgage banker, escrow agent or construction manager. A licensee will not be considered an escrow agent merely for holding earnest money [illegible] deposits, rental deposits, or similar items;

(5) Injury, sickness or death of a person or injury to, destruction or loss of use of any tangible property;

(6) Any claim made by or on behalf of an investor, shareholder or partner in any corporation, partnership, real estate trust or joint venture in which the licensee against whom the claim is made has at least a ten percent (10%) ownership or direct or indirect participating interest in the profits or losses thereof; or

(7) Any collusive or fraudulent act between the claimant and the licensee or by the claimant himself that results in a claim against the fund.

Committee Amendment No. 1 to **HB 562:**

Amend printed copy of **HB 562,** page 2, line 24, by deleting the word "*found*", by deleting line 25 in its entirety, and on line 26, by deleting the word "*licensee*"; and

On page 3, line 1, by deleting the word "*that*"; and

On page 3, line 3, by deleting the words, "*against whom determination of damages has been*" and on line 4 by deleting the word "*made*", and inserting in lieu thereof the following, "*who has been found guilty of negligence by a court of law*"; and

On page 3, line 20, by deleting the words "*in its discretion may*" and inserting in lieu thereof the word "*shall*".

Committee Amendment No. 2 to **HB 562:**

Amend printed copy of **HB 562,** page 3, line 4, as follows:

After the word "*made.*" by adding the following: "*The commission shall furnish each licensee with explicit information concerning coverage provided under this Act and the terms of such coverage.*"

HB 566, AN ACT relating to hairdressers and cosmetologists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317A.050 is amended to read as follows:

(1) The cosmetologist board shall issue an apprentice cosmetologist license to any person who:

(a) Is of good moral character and temperate habit, and at least sixteen (16) years of age;

(b) Has at least two (2) years high school education or its equivalent;

(c) Has graduated from a licensed school of cosmetology;

(d) Has passed an examination prescribed by the board to determine fitness to practice as an apprentice cosmetologist; and

(e) Has paid a fee of twelve dollars ($12).

(2) The cosmetologist board shall issue a cosmetologist license to any person who:

(a) Has at least *two (2)* [~~four (4)~~] years high school education, or its equivalent;

(b) Has practiced as a licensed cosmetology apprentice for at least six (6) months under the immediate supervision of a licensed cosmetologist;

(c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice cosmetology; and

(d) Has paid a fee of fifteen dollars ($15).

(3) The cosmetologist board shall issue a license to act as a manicurist to any person who:

(a) Is of good moral character and temperate habit;

(b) Has completed satisfactorily a manicuring course of study of three hundred (300) hours in a licensed school of cosmetology;

(c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice as a manicurist;

(d) Has *two (2)* [~~four (4)~~] years of high school education or its equivalent; and

(e) Has paid a fee of twelve dollars ($12).

(4) The cosmetologist board shall issue a license to operate a beauty salon to any licensed cosmetologist upon receipt of the completed application provided by the board, accompanied by a fee of twenty-five

dollars ($25). The board may refuse to issue such a license upon the failure to comply with the provisions of this chapter or the rules and regulations of the board adopted pursuant thereto; however, an owner who is not a licensed cosmetologist shall have a licensed cosmetologist as manager of said salon at all times. In the event of a change of owner or manager or location, a new license must be purchased.

(5) The cosmetologist board shall issue an apprentice license to teach cosmetology to any person who:

(a) Has paid a fee of twenty-five dollars ($25);

(b) Has a high school education and one (1) year experience as a licensed cosmetologist;

(c) Has submitted a joint application signed also by the owners of the school in which the applicant will study. The course of instruction shall be for a period of one thousand (1,000) hours and not less than six (6) months at one (1) school providing this instruction. The school owner shall certify to the board the completion of one thousand (1,000) hours. No more than one (1) apprentice instructor shall be enrolled in any one cosmetology school at any given time.

(6) The cosmetologist board shall issue a license to teach cosmetology to any person who:

(a) Is of good moral character and temperate habit;

(b) Has a high school education;

(c) Has held an apprentice instructor license for at least six (6) months;

(d) Has satisfactorily passed the examination prescribed by the board; and

(e) Has paid a fee of thirty-five dollars ($35).

(7) The cosmetologist board may issue a license to operate a school of cosmetology to any person, firm or corporation who or which:

(a) Has complied with the rules and regulations of the board including, but not limited thereto, the necessary equipment, supplies and facilities;

(b) Has furnished evidence or proof deemed necessary by the board in its sound discretion that the granting of said license to operate a school of cosmetology is needed and that the person, firm or corporation is otherwise qualified to operate a school of cosmetology, and that it is the purpose of the applicant to establish a bona fide school for the education and training of competent cosmetologists and that said applicant will employ a sufficient number of licensed instructors of cosmetology to conduct such school;

(c) That the licensee shall have as manager at all times a person licensed as an instructor who will be charged with the responsibility of having a sufficient number of licensed instructors of cosmetology to conduct such school. The designated manager as defined herein shall be approved by the board before a license may be issued;

(d) Complies with the rules and regulations of the board including, but not limited thereto, regarding courses, curriculum and hours of instruction;

(e) Otherwise complies with this chapter;

(f) Has paid a fee of one thousand dollars ($1,000);

(g) Has been a resident of Kentucky for five (5) years if the applicant is an individual. If not, the firm or corporation shall be a Kentucky corporation or is licensed or qualified to do business in Kentucky and shall be in existence for a period of at least five (5) years before said firm or corporation may be eligible to file an application;

(h) Any student enrolling in said school shall pay a fee of five dollars ($5) to the board before enrollment shall be allowed; and

(i) The transfer of any license to operate a school of cosmetology shall require the approval of the board and a new application filed with the board and a fee of one thousand dollars ($1,000) paid.

(8) Licenses issued by the board shall be renewed beginning July 1 through July 31 of each year. Any license shall be renewed by the board upon receipt, provided the application is completed in full and accompanied by the appropriate renewal fee required by subsection (9) of this section and the applicant for renewal is in compliance with the provisions of this chapter and the rules and regulations of the board adopted pursuant thereto. Any license application received or postmarked later than July 31 shall be considered expired and the appropriate restoration fee required by subsection (11) of this section shall be applicable for restoration of such license;

(9) The annual renewal license fee for each type of license renewal shall be as follows:

(a) Apprentice cosmetologist — $10.00;

(b) Cosmetologist — $12.00;

(c) Manicurist — $10.00;

(d) Beauty salon — $15.00;

(e) Apprentice instructor of cosmetology — $15.00;

(f) Instructor of cosmetology — $25.00; and

(g) Cosmetology school — $100.00.

(10) Applications for examinations required by this section shall be accompanied by an examination fee as follows:

(a) Apprentice cosmetologist — $25.00;

(b) Cosmetologist — $35.00;
(c) Manicurists — $20.00;
(d) Instructor of cosmetology — $50.00;
(e) Cosmetologist out-of-state — $75.00;
(f) Instructor out-of-state — $150.00; and
(g) Where examination is not required by the board, the fee shall be $50.00.

(11) The fee for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration, shall be as follows:
(a) Apprentice cosmetologist — $50.00;
(b) Cosmetologist — $50.00;
(c) Manicurist — $50.00;
(d) Beauty salon — $50.00;
(e) Cosmetology school — $500.00;
(f) Instructor — $75.00;
(g) Apprentice instructor — $50.00.

(12) The requirements for a new license for any person whose license has expired for a period exceeding five (5) years shall be as follows:
(a) Cosmetologists shall retake and pass examination in practical only;
(b) Apprentice cosmetologist shall complete one hundred and fifty (150) additional hours training in a licensed school of cosmetology and pass prescribed examination;
(c) Instructor of cosmetology shall retake and pass both the practical and science examination;
(d) Manicurist shall retake and pass examination, practical only; and
(e) The appropriate restoration fee as set forth in subsection (11) shall be required.

(13) Guest artists or demonstrators appearing and demonstrating before persons other than licensed hairdressers and cosmetologists shall pay a fee of thirty-five dollars ($35) for a permit for ten (10) days; but this fee is not required to be paid by guest artists performing before a nonprofit recognized professional hairdressers and cosmetologists group.

(14) The fee for certifications shall be five dollars ($5).

(15) The fee for duplicate license shall be five dollars ($5).

[~~(16) Instructors of cosmetology shall present proof of continuing education for renewal of instructors license, according to the regulations prescribed by the board.~~

~~(17) Any educational requirements for licensure contained in this section shall not apply to persons licensed prior to July 15, 1980.~~]

The Committee on Counties and Special Districts reported **HB 141,** with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Second committee substitute to **HB 141** is as follows:

HB 141, AN ACT relating to court costs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire record thereof does not exceed three pages	$ 5.00
Exceeding three pages, for each page	1.50
Copy and certification of same when ordered	3.50
Each bond required to be taken or prepared by the clerk	2.00
Copy of any bond when ordered	1.50
Recording a bond, each bond	5.00
Receiving the acknowledgment or proof of any deed, mortgage or agreement, power of attorney, or other written instrument required by law to be done and certifying same	1.25
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Certified copy of deed	3.50
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed three pages	5.00

Exceeding three pages, for each page	1.50
Certified copy of real estate mortgage	3.50
Recording deed of assignment of real estate mortgage	5.00
Noting release of any lien, mortgage or redemption other than a deed of release	1.50
Receiving the acknowledgment, recording and certifying each deed of release of a mortgage or lien under KRS 382.360	5.00
Each additional marginal notation relating to same instrument	1.50
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	10.00
Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	10.00
Every order concerning the establishment, changing, closing or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed or discontinued, and by the applicant when it is not	1.00
Administering an oath and certificate thereof	1.00
Issuing license for which no other fee is fixed by law	1.50
Marriage license, bond, certificate and recording	*14.00*[~~4.00~~]
For filing and indexing an original or continuation financing statement, and noting the security interest on the required receipt for one motor vehicle	6.00
For filing and indexing an assignment of a financing statement	6.00
For filing and noting a statement of release of collateral under a financing statement	1.00
Recording real estate options, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording plats, maps and surveys, not exceeding 24 inches by 36 inches, per page	10.00
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Marginal notation to same instrument	1.50
Filing or recording of certification of intention to operate a business under an assumed name	5.00
Filing a lien on a delinquent motor vehicle or trailer bill	6.00
Releasing a lien on a delinquent motor vehicle or trailer bill	1.50
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	5.00
Filing or recording of notice of lien issued by the Internal Revenue Service	5.00
Filing or recording of notice of lien discharges issued by the Internal Revenue Service	5.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording United States liens, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording state tax or other state liens, other than liens on delinquent motor vehicles or trailers	5.00
Filing release of a state tax or other state lien, other than a lien on a delinquent motor vehicle or trailer	5.00
Filing notification and declaration and petition of candidates for office	5.00
Deposit of wills under KRS 394.110	5.00
Recording wills or other probate documents under KRS 394.300	5.00
Issuance of fish and game licenses or tags costing more than $1.00 each	.50
Registration of licenses for professional persons required to register with the county clerk	5.00
Recording and issuing articles, statements, or reports of corporations pursuant to KRS Chapters 271A, 272 and 273, including articles of incorporation, amendment, restatement of incorporation, merger, consolidation, or dissolution and statements of establishment of a series of shares, cancellation of a series	

of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, or any other statement or report of a foreign or domestic corporation, provided the entire record thereof does not exceed three pages 5.00

Exceeding three pages, for each page 1.50

Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three pages (except military discharges) 5.00

Exceeding three pages, each additional page 1.50

Filing miscellaneous documents for which no specific fee is set, provided the entire record thereof does not exceed three pages 5.00

Exceeding three pages, each additional page 1.50

Filing certification required by KRS 65.070 (1) (a) 2.00

SECTION 2. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

There is hereby created a trust and agency account in the state treasury to be known as the spouse abuse shelter fund. Each county clerk shall remit to the fund, by the tenth (10th) of the month, ten dollars ($10) from each fourteen dollars ($14) collected during the previous month from the issuance of marriage licenses. The fund shall be administered by the department. The department shall use the funds for the purpose of providing protective shelter services for spouse abuse victims.

Adjournment

Representative LeMaster moved that the House adjourn until 3:00 p.m., Monday, March 8, 1982.

On the roll call the vote was yeas 30-Arnold, Bennett, Burch, Crupper, Curd, Donnermeyer, Dunn, Farrow, Freibert, Gray, Handy, Harper, Head, Hines, Kidd, Layman, McBee, Meyer, Nett, O'Brien, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, F. Smith, Thomason, Van Horn, Yates. Nays 10-Blevins, Boswell, Clark, Endicott, Kenton, Lile, Mann, Noe, Pearman, Schmidt.

The motion to adjourn was adopted.

MONDAY, MARCH 8, 1982

FORTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Billy G. Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Burnette.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of Journal of March 5, 1982, be dispensed with and the same approved. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HCR 48** has been examined and found correctly enrolled. **HCR 48** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 3:10 p.m.)

HCR 48 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Senate Message

Announcing passage of **SB 144, SB 197, SB 219, SB 226, SB 243, SB 264, SCR 20, SJR 38, HB 119** with Senate Amendment, **HB 177,** and **HJR 19.**

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **SB 206, SB 315.**

Business Organizations and Professions: **SB 268.**

Health and Welfare: **SB 296.**

Judiciary-Civil: **SB 222, SB 269.**

State Government: **HB 808, SB 284.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **HB 770, HB 427, SB 18.**

Labor and Industry: **SB 274, HB 617.**

Report of Committees

The Committee on Rules reported **HB 314, HB 421, HB 438, HB 450, HB 469, HB 574, HB 98, HB 143, HB 293, HB 345, HB 430, HB 478, HB 525, HB 565, HB 623, HR 33, HR 42,** and **SB 35** have been posted for passage in Orders of the Day, March 9, 1982.

The Committee on Appropriations and Revenue reported **HB 1, HB 41, HB 208** with Committee Substitutes and Committee Amendment attached thereto, **HB 269,** and **HB 484** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Second Committee Substitute to **HB 208** is as follows:

HB 208, AN ACT relating to cruelty to animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.130 is amended to read as follows:

(1) A person is guilty of cruelty to animals *in the second degree* when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, *participates other than as provided in Section 2 of this Act in* causing it to fight for pleasure or profit, *(including, but not limited to being a vendor at an event where an animal is caused to fight for pleasure or profit)* mutilation, beating, torturing, tormenting, failing to provide adequate food, drink, space or health care, or by any other means; or

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal.

(2) Nothing in this section shall apply to the killing of animals:

(a) Pursuant to a license to hunt, fish or trap;

(b) Incident to the processing as food or for other commercial purposes;

(c) For humane purposes;

(d) For any other purpose authorized by law.

(3) Cruelty to animals *in the second degree* is a Class A misdemeanor.

SECTION 2. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) The following persons are guilty of cruelty to animals in the first degree whenever a four-legged animal is caused to fight for pleasure or profit:

(a) The owner of the animal;

(b) The owner of the property on which the fight is conducted;

(c) Anyone who participates in the organization of the fight.

(2) Cruelty to animals in the first degree is a Class D felony.

SECTION 3. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

All animals of the same species, which are on the property when an animal is caused to fight for pleasure or profit, in violation of the provisions of this Act, shall be confiscated and turned over to the county dog warden appointed pursuant to KRS 258.195.

The Committee on Appropriations and Revenue reported **HB 436, HB 527, HB 528,** and **HB 648** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 436, AN ACT relating to public retirement systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.350 is amended to read as follows:

(1) A bill which would increase the benefits or increase participation in the benefits or change the financial liability of any public retirement system administered by an agency of state government shall not

be reported from a legislative committee of either house of the general assembly for consideration by the full membership of that house unless the bill is accompanied by an actuarial analysis.

(2) (a) An actuarial analysis required by this section must show the economic effect of the bill on the public retirement system, including a projection of the annual cost to the system of implementing the legislation for at least ten (10) years. If a bill proposes to increase benefits, increase benefit participation, or provide liability assumption for more than one (1) public retirement system, the actuarial analysis shall project costs for each affected state-administered public retirement system. An actuarial analysis shall state the actuarial assumptions and methods of computation used in the analysis and shall state whether or not the bill or resolution, if enacted, would, in the opinion of the actuary, make the affected public retirement system actuarially unsound or, in the case of a system already actuarially unsound, more unsound. An advanced funding actuarial cost method shall be used in all cost projections.

(b) An actuarial analysis required by this section shall be prepared by an actuary who is a fellow of the society of actuaries, a member of the American academy of actuaries, or an enrolled actuary under the Employes' Retirement Income Security Act of 1974.

(3) An actuary commissioned to make an actuarial study that is required by this section, or for the purpose of seeking appropriations for a public retirement system administered by an agency of state government, shall include in the study a complete definition of each actuarial term used in the study and, either in the study or in a separate report made available as a public record, an enumeration and explanation of each actuarial assumption used in the valuation made for the study.

(4) Actuarial analysis required by this section shall be considered "necessary governmental expense" and paid from funds appropriated by the general assembly as "necessary governmental expense."

HB 527, AN ACT relating to the allocation of taxes to county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.480 is amended to read as follows:

(1) On or before July 1, 1981, and each year thereafter, the secretary, department of finance, shall provide the legislative body of each local government eligible for funds under the provisions of KRS 42.450 to 42.495, an estimate of the funds that will be allocated to the local government for fiscal year 1981-82, and each year thereafter.

(2) On or before the *last day* [~~fifteenth (15th)~~] of the first month of a quarter, the secretary, department of finance, shall cause to be remitted to the legislative bodies of the local governments eligible for funds under the provisions of KRS 42.450 to 42.495, the funds allocated to the respective local governments for the prior quarter; except that the remittance for the last quarter of a fiscal year shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual allocation due the local government.

Section 2. KRS 143.990 is amended to read as follows:

Any taxpayer who fails to file required returns or remit the tax due under this chapter *or fails to provide county allocation data as required by the department* shall be guilty of a misdemeanor and upon conviction therefor shall be fined an amount not *less than one hundred dollars ($100) nor more than* [~~to exceed~~] one thousand dollars or imprisoned for a period not to exceed six months, or both.

Section 3. KRS 143A.991 is amended to read as follows:

(1) Any taxpayer who fails to file required returns *or* [~~and~~] remit the tax due under this chapter *or fails to provide county allocation data as required by the department* shall be guilty of a misdemeanor and upon conviction therefor shall be fined an amount not less than *one hundred* [~~ten~~] dollars *($100)* [~~($10.00)~~] nor more than one *thousand* [~~hundred~~] dollars *($1,000)* [~~($100)~~], or imprisoned for a period not to exceed thirty (30) days, or both such fine and imprisonment.

(2) Any taxpayer, including any officer of a corporation, who engages in the severing and/or processing of natural resources in this state or sells or uses natural resources so severed or processed without obtaining a certificate of registration or after a certificate of registration has been suspended or revoked, shall be guilty of a misdemeanor and upon conviction therefor, shall be fined an amount not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months, or both such fine and imprisonment.

HB 528, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 143.035 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, where the department *determines that the collection of the taxes due under this chapter would be accomplished in a more efficient and effective manner through the processor, and to prevent the evasion of the tax, any person who purchases coal for the purpose of processing or purchases coal for further processing, after it has been severed in Kentucky, shall be liable for the collection of the taxes imposed under this chapter when required by the department. In such cases, he shall collect the taxes from the person from whom he has purchased the coal on behalf of the person who severed or severed and processed the coal. The processor shall remit the taxes collected to the department at the same time he is required to remit the tax on processing of the coal in accordance with the provisions of this chapter. In order to facilitate the administration of this subsection, no deduction for the cost of purchased coal shall be allowed to the processor who under this subsection is liable for both the severance and processing taxes.*

(2) In those cases under subsection (1) of this section where the department determines that the collection of the taxes due under this chapter from the severance or severance and processing of coal would be accomplished in a more efficient and effective manner through the processor collecting and remitting the taxes, the department shall set out its determination in writing, stating its reasons for so finding, and so advise the processor at least fifteen (15) days in advance of the first reporting period for which such action would be effective.

(3) The provisions of subsections (1) and (2) of this section shall not apply to the purchases of coal from taxpayers who hold valid certificates of registration issued under the provisions of KRS 143.030 and who are otherwise in compliance with the requirements of this chapter.

(4) Notwithstanding the provisions of KRS 131.190 and for the purpose of administering this section, the department may make known to any person determined to be liable under the provisions of subsection (1) of this section the names of taxpayers from whom he is purchasing coal who are in compliance with the requirements of this chapter and such other information necessary to inform him of the identity of taxpayers from whom he is required to collect the taxes imposed under the provisions of subsection (1) of this section. [~~finds that it would facilitate and expedite the collection of the tax imposed by this chapter, the department may authorize the taxpayer processing the coal to report and pay the tax which would be due from the taxpayer severing the coal. Authorization from the department shall be in the form of an agreement executed by the taxpayer processing the coal, the taxpayer severing the coal and the department. The agreement shall be in such form as the department may prescribe. The agreement must be signed by the owners if the taxpayers are natural persons; in the case of a partnership or association by a partner or member; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application. The director of the sales and severance tax division shall sign for the department. The agreement may be terminated by any party to the agreement upon giving thirty (30) days written notice to the other parties to the agreement; however, the department may terminate the agreement immediately upon written notice to the other parties when either the taxpayer processing the coal or the taxpayer severing the coal fails to comply with the terms of the agreement.~~]

HB 648, AN ACT relating to block grants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Block grant" means any federal block grant authorized by the federal omnibus budget reconciliation act of 1981 (P.L. 97-35) and any subsequent amendments thereto and any federal block grant authorized by the United States congress after the effective date of this Act.

(2) "Commission" means the legislative research commission.

(3) "Designated legislative body" means either:

(a) Any interim joint committee, as designated by the commission at any time when the general assembly is not in session, whose subject jurisdiction relates to the block grant under review; or

(b) Any interim joint committee, as designated by the commission at any time when the general assembly is not in session, whose subject jurisdiction relates to the block grant under review plus the interim joint committee on appropriations and revenue; or

(c) Any standing committee, as designated by the committee on committees during any legislative session, whose subject jurisdiction relates to the block grant under review; or

(d) Any standing committee, as designated by the committee on committees during any legislative session, whose subject jurisdiction relates to the block grant under review plus the senate and house standing committees on appropriations and revenue.

(4) "Federal administering agency" means any agency of the United States government administering any block grant.

(5) "State administering agency" means any agency of the Commonwealth submitting an application for block grant funding to the secretary or chief public official of the federal administering agency.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) Every state administering agency shall submit any block grant application for the following fiscal year to the legislative research commission no less than ninety (90) days prior to the date of submission, as required by federal law, of the block grant application to the federal administering agency.

(2) Each state administering agency shall, upon request of the commission, make available to the commission all background data and supporting information related to each block grant application under review by the commission as will enable the commission to perform its functions in an informed and efficient manner.

(3) Each block grant application submitted by the state administering agency to the legislative research commission shall specify:

(a) The programs and services to be provided with the block grant funds;

(b) The categories or characteristics of individuals to be served by the block grant programs and services;

(c) The data used by the state administering agency to determine the proposed use and distribution of the block grant funds for all programs and services;

(d) Whether the programs and services to be provided under the block grant are mandated by the laws of the Commonwealth;

(e) Whether the programs and services to be provided under the block grant are those which the Commonwealth currently administers and funds;

(f) The agencies expected to provide the services including whether such agencies are public or private or state or local;

(g) The manner in which the allocation of funds will be targeted to need;

(h) Geographic areas to be served by the programs and services;

(i) Standards of eligibility for services;

(j) The criteria and method that will be used by the state administering agency to distribute the block grant funds;

(k) Whether and how block grant funds would be transferred from one block grant to another;

(l) The proportion of the block grant funds to be used for administrative costs; and

(m) Estimated receipt of federal funds applied for by block grant.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) State administering agencies shall not have continuation block grant application requests. Each application for a block grant shall be deemed a new application.

(2) No state administering agency shall submit any block grant application to a federal administering agency unless approved by the legislative research commission as provided under this Act or by the Kentucky general assembly.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) The legislative research commission shall, within ten (10) days of receiving any block grant application from the state administering agency, provide for statewide notice, pursuant to KRS Chapter 424, of public hearings to be conducted by the commission for the purpose of receiving comments on the block grant application.

(2) The commission shall, no later than sixty (60) days prior to the submission of the block grant application to the federal administering agency, provide for a public hearing on each block grant application. The hearing may be held at such time, place and location as the commission shall determine. All hearings and deliberations of the commission pursuant to this Act shall be electronically recorded. The recordings shall constitute a public record.

SECTION 5. A NEW SECTION Of KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall refer each block grant application received to the designated legislative body for review and consideration of the state administering agency's proposed use and distribution of funds to be provided under the block grant.

(2) The designated legislative body shall review and consider each block grant application according to the following criteria:

(a) General fund monies available in the Commonwealth to match federal financial participation provided under the block grant;

(b) The relationship of the block grant programs and services to programs and services mandated by the laws of the Commonwealth;

(c) The need for the programs and services funded under the block grant;

(d) The continuing fiscal cost to the Commonwealth should federal financial participation for the program cease subsequent to its acceptance by the Commonwealth;

(e) Whether the block grant program and services would duplicate or supplant existing programs and services funded by the private sector;

(f) Whether the block grant includes programs and services which the Commonwealth currently administers and funds;

(g) The relative merit of the block grant when viewed against other available block grants;

(h) Desires of the Commonwealth's citizenry as expressed during the respective block grant hearing;

(i) With regard to any block grant applied for, for which federal funds were received during the preceding year, the results of the commission's prior year review of the actual use and distribution of the block grant funds by the state administering agency; and

(j) Such other criteria as the designated legislative body shall deem necessary.

SECTION 6. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) No later than thirty (30) days prior to the state administering agency submission of the block grant application to the federal administering agency, the designated legislative body shall consider and advise the commission in writing;

(a) Of the ranking, by the designated legislative body, of programs and services within each block grant application based on the criteria provided in Section 5 of this Act;

(b) Of the ranking, by the designated legislative body, of block grant applications within state administering agencies and for the Commonwealth as a whole based on the criteria provided in Section 5 of this Act;

(c) Whether and in what manner any block grant application should be modified; or

(d) Whether the block grant funds under review shall be sought by the state administering agency.

(2) The commission shall review the report of the designated legislative body and may recommend to the state administering agency:

(a) The ranking of the programs and services within each block grant application based on the criteria provided in Section 5 of this Act;

(b) The ranking of block grant applications within state administering agencies and for the Commonwealth as a whole based on the criteria provided in Section 5 of this Act;

(c) Whether and in what manner any block grant application should be modified; or

(d) Whether the block grant funds under review shall be sought by the state administering agency.

(3) If the commission elects to take no action under subsection (2) of this section, the block grant application shall be considered approved by the commission.

SECTION 7. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) If the commission recommends that any block grant application be modified or not be sought as provided under Section 6 of this Act, the commission shall within ten (10) days provide written notice of the recommendation, including the reasons therefor, to the state administering agency.

(2) The state administering agency shall within ten (10) days either withdraw, or revise and resubmit, the block grant application to comply with the commission's objections.

(3) Within ten (10) days after the resubmission of the revised block grant application by the state administering agency, the commission shall approve or disapprove the resubmitted block grant application in the same manner as provided in subsection (2) of Section 6 of this Act. The determination made by the commission shall be final.

SECTION 8. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall review the actual use and distribution of all block grant funds made available during the preceding year to any state administering agency.

(2) Any state administering agency receiving block grant funds shall, within thirty (30) days following December 31, 1982, June 30, 1983, and each six (6) months thereafter, submit to the commission a report for each block grant received to be known as the "block grant program status report".

(3) The block grant program status report shall show for the programs and services provided under each block grant for the preceding six (6) months the following:

(a) Appropriations, allotments, expenditures, encumbrances, and available balance.

(b) The level of service budgeted, defined in terms of objectives and beneficiaries.

(c) The level of services delivered during the period.

(d) Alternatives for improved service delivery.

(e) Any changes in service authorized or necessary as a result of unanticipated changes in clientele, resources, or for other reasons.

(f) An evaluation of results, including a description of measurements used.

SECTION 9. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a block grant legislative oversight fund which may be expended by the commission for the purpose of implementing and administering the provisions of this Act.

(2) Each state administering agency shall, to the extent permitted by federal law, withhold and place in the block grant legislative oversight fund one percent (1%) of the federal funds made available under the block grant. The funds placed in the block grant legislative oversight fund shall not lapse to the general fund.

Calendar

HR 31, HR 43, SB 20, HB 92, Regulation 810 KAR 1:018, Regulation 810 KAR 1:009, **HB 346, HB 559, HB 572, HB 582, HB 456, HB 555, HB 562,** and **HB 566** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative LeMaster moved that the House recess for one hour and one-half for Majority Caucus, Room 104. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

HB 325, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the Committee Substitute to **HB 325.** Agreed.

Representative Arnold moved that **HB 325,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 73-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Bruce, Burch, Caldwell, Clark, Clarke, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Fryman, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, T. Jones, Layman, Lefevers, LeMaster, Lile, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Todd, Turner, Van Horn, White, Yates. Nays 0.

HB 325, by way of Committee Substitute, was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 325,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 498, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the Committee Substitute to **HB 498.** Agreed.

Representative Arnold moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 498.** Agreed.

Representative Arnold moved that **HB 498,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 85-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0.

HB 498, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 498,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 501 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of **HB 501.**

On the roll call the vote was yeas 75-Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Bronger, Bruce, Burch, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Guenthner, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, List, Little, Maggard, Mann, McBee, McNutt, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White. Nays 0.

HB 501 was passed and the title agreed.

Representative Farrow moved that the vote by which **HB 501** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 39, HB 65, HB 69, HB 177, HB 187, HJR 19, SB 4,** and **SB 53** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 5:22 p.m.)

HB 39, HB 65, HB 69, HB 177, HB 187, and **HJR 19** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

Speaker Pro Tempore Thomason presiding.

HB 188 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that **HB 188** be passed.

On the roll call the vote was yeas 74-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Head, Hines, Holbrook, Johnson, Kenton, Lefevers, Lile, Little, Long, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, White, Worthington, Yates. Nays 3-Perkins, Van Horn, Williams.

HB 188 was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 188** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 281 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 281** be passed.

Representative Guenthner moved that **HB 281** be laid on the Clerk's desk. Rejected.

On the roll call the vote was yeas 46-Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Clapp, Clark, Clarke, Cline, Craddock, Curd, Deskins, Donnermeyer, Dunn, Gray, Handy, Heleringer, Hines, Holbrook, Johnson, Layman, LeMaster, List, Little, McBee, Meyer, Nett, Noe, Overstreet, Perkins, Petty, Priddy, Rapier, Richards, Riner, Schmidt, F. Smith, Stone, Stumbo, Thomason, Van Horn, Williams, Yates. Nays 33-Allen, Arnold, Barrows, Bendl, Caldwell, Cowan, Crupper, Dawahare, Endicott, Farrow, Foster, Fryman, Guenthner, Haering, Hancock, Head, Kenton, Lefevers, Lile, Long, McNutt, Moberly, Morris, O'Brien, Patrick, Pearman, Robinson, B. Smith, Thomas, Tobin, Todd, Turner, Worthington.

HB 281 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 281** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 172, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative List moved the adoption of the Committee Substitute to **HB 172.** Agreed.

Representative List moved that **HB 172,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 85-Arnold, Barrows, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 6-Allen, Brown, Haering, Layman, Maggard, Tobin.

HB 172, by way of Committee Substitute, was passed and the title agreed to.

Representative List moved that the vote by which **HB 172,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 171** had been examined and found correctly enrolled. **SB 171** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 5:43 p.m.)

Orders of the Day (continued)

HB 363 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 363** be passed.

On the roll call the vote was yeas 88-Arnold, Barrows, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Maggard, Mann, McBee, McNutt, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Moberly.

HB 363 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 363** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 477 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **HB 477** be passed.

On the roll call the vote was yeas 82-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, Riner, Schmidt, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Yates. Nays 2-Farrow, Hancock.

HB 477 was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 477** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 516 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Schmidt moved that **HB 516** be passed.

On the roll call the vote was yeas 81-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, Riner, Schmidt, B. Smith, F. Smith, Stone, Thomas, Tobin, Turner, Van Horn, White, Worthington, Yates. Nays 4-Allen, Barrows, Moberly, Noe.

HB 516 was passed and the title agreed to.

Representative Schmidt moved that the vote by which **HB 516** was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker resumed the Chair.

HB 578 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that **HB 578** be passed.

On the roll call the vote was yeas 76-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Ford, Freibert, Gray, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Kenton, Layman, Lefevers, LeMaster, Lile, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Schmidt, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Yates. Nays 5-Ellington, Farrow, Haering, Hancock, List.

HB 578 was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 578** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 595 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bronger moved that **HB 595** be passed.

On the roll call the vote was yeas 88-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 595 was passed and the title agreed to.

Representative Bronger moved that the vote by which **HB 595** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 468 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 468** be passed.

On the roll call the vote was yeas 88-Allen, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 468 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 468** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 161, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved the adoption of the Committee Amendment No. 1 to **SB 161**. Agreed.

Representative Freibert moved that **SB 161,** as amended, be passed.

On the roll call the vote was yeas 84-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Brown, Bruce, Burch, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, McBee, McNutt, Meyer, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 6-Barrows, Clarke, Guenthner, Hancock, Moberly, Tobin.

SB 161, as amended, was passed and the title agreed to.

Representative Freibert moved that the vote by which **SB 161,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 113, with Senate Amendments attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that the House concur in the following Senate Amendment No. 4 to **HB 113:**

Amend printed copy of **HB 113** as follows: on page 12, line 25, after the word "therefore" by placing brackets around and striking through the ";" and inserting the words: "*, provided that any personal service contracts entered into shall be subject to review by the legislative personal service contract review committee;*"

Agreed.

Representative LeMaster moved that the House concur in the following Senate Amendment No. 6 to **HB 113:**

Amend printed copy of **HB 113** as follows: On page 5, line 3, after the quotation marks by placing brackets and strike through around the words "means persons and familites of insufficient personal or family income to afford decent, safe and sanitary residential housing without the financial assistance of the corporation as determined from time to time by the standards established by the corporation acting by and through its board of directors" and inserting in lieu thereof the following: "*shall include only those individuals whose family income combined does not exceed twenty-five thousand dollars ($25,000) per year, or as shall be determined from time to time by the legislative program review and investigation committee of the Kentucky general assembly established as set forth in KRS 6.905*"

and on page 5, line 8, by deleting "*and approved by the Regulations Review Subcommittee of the Legislative Research Commission*"

and on page 23, line 5, after the word "*corporation*" by adding the following: "*in an amount not to exceed seven hundred million dollars ($700,000,000)*"

and on page 23, line 6, after the word "*powers*" by deleting the following: "*; provided, however, that not more than one billion one hundred twenty-five million dollars ($1,125,000,000) in bonds shall be outstanding at any one (1) time*" and inserting in lieu thereof the following: "*except as provided for in subsection (2) of this section.*"

and on page 23, line 12, after the period, by inserting the following: "*(2) The corporation is hereby authorized to provide for the issuance of an additional four hundred twenty-five million dollars ($425,000,000) in bonds of the corporation with the consent of a majority of the legislative program review and investigations committee of the Kentucky general assembly established as set forth in KRS 6.905. The legislative program review and investigations committee shall oversee in its entirety the bonding program herein set forth. (3)*"

and on page 23, line 21, after the period, by inserting "*(4)*"

and on page 25, line 10, before "(2)" by inserting "*(5)*", and by placing brackets and strike through around "(2)" and on page 25, line 16, before "(3)" by inserting "*(6)*", and by placing brackets and strike through around "(3)"

and on page 25, line 24, before "(4)" by inserting "*(7)*", and by placing brackets and strike through around "(4)"

and on page 25, line 26, by placing brackets and strike through around the words "state property and buildings commission, pursuant to the provisions of KRS Chapter 56" and inserting in lieu thereof the following: "*legislative program review and investigations committee of the Kentucky general assembly*"

and on page 26, line 2, before "(5)" by inserting "*(8)*", and by placing brackets and strike through around "(5)"

Agreed.

Representative LeMaster moved that **HB 113,** as amended by the Senate, be passed.

On the roll call the vote was yeas 83-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Allen, Schmidt.

HB 113, as amended by the Senate, was passed and the title agreed to.

Representative Kidd moved that the vote by which **HB 113,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions.

Floor Amendment No. 1 to Committee Substitute No. 2 to **HB 208,** by Representative Guenthner:

Amend printed copy of Committee Substitute No. 2 to **HB 208,** on page 2, line 13, by inserting after the word "*conducted*" the following: "*if he had knowledge of the criminal activity*"

Floor Amendment No. 1 to **HB 345,** by Representative Thomason:

Amend printed copy of **HB 345,** page 3, line 3, by inserting after "*may*" the phrase "*, between sessions of the general assembly,*"; and

on page 3, line 7, by adding before "*interim*" the words "*legislative research commission after review by the*"; and

on page 4, line 21, by deleting all words after "*the proposal.*"; and

on page 4, by deleting lines 22 through 26; and

on page 5, by deleting lines 1 through 3; and

on page 5, line 4, by inserting "*the legislative research commission's*" after "to"; and

on page 5, line 9, by inserting after "*government.*" the words "*The committee shall report its findings to the legislative research commission.*"; and by inserting after "*review*" the words "*and report on the plan*" and by inserting before "*act*" the words "*the legislative research commission shall*"; and on page 5, line 11, by deleting "*committee*" and inserting in lieu thereof "*legislative research commission*"; and

on page 5, line 14, by deleting "*disapprove*" and inserting in lieu thereof "*not approve*"; and

on page 5, line 15, by deleting "*committee*" and inserting in lieu thereof "*commission*"; and

on page 5, lines 17 and 18, by deleting "*appropriate interim joint legislative committee*" and inserting in lieu thereof "*legislative research commission*".

Floor Amendment No. 2 to **HB 345,** by Representative Thomason:

Amend printed copy of **HB 345,** page 6, between lines 2 and 3, by inserting the following: "*If the general assembly fails to enact a temporary reorganization plan, the governor shall not effect the plan prior to the next succeeding session of the general assembly.*"

Floor Amendment No. 1 to **HB 430,** by Representative Morris:

Amend printed copy of **HB 430,** page 1, line 5, by adding after "services" the following words: "*and any related capital improvements*"

Floor Amendment No. 2 to **HB 430,** by Representative Freibert:

Amend printed copy of **HB 430,** on page 1, line 3, by adding after "contract" the following: "*with private sector businesses only*"

Floor Amendment No. 3 to **HB 430,** by Representative Freibert:

Amend printed copy of **HB 430,** page 1, after line 14, by adding the following: "*(2) State owned or leased facilities may be used only through lease rental agreements with private sector businesses.*"

Floor Amendment No. 4 to **HB 430,** by Representative Freibert:

Amend printed copy of **HB 430,** page 1, after line 18, by adding the following: "*(3) State owned or leased facilities may be used only through lease rental agreements with private sector businesses.*"

Floor Amendment No. 1 to **HB 574,** by Representative Barrows:

Amend printed copy of **HB 574,** page 2, line 8, by inserting the following after the word "*The*": "*individual*"

and on page 2, line 12, by inserting the following after the word "*request*": "*of that individual holder*"

Floor Amendment No. 1 to Committee Substitute to **HB 611,** by Representative Endicott:

Amend printed copy of Committee Substitute to **HB 611,** page 1, line 8, by deleting the words "*two hundred and fifty (250)*" and inserting in lieu thereof the words "*three hundred and fifty (350)*".

Floor Amendment No. 2 to **SB 44,** by Representative Deskins:

Amend printed copy of **SB 44,** page 13, following line 4, by inserting the following:

"Section 17. KRS 149.010 is amended to read as follows:

(1) *There is hereby created and there shall be maintained in* [~~The~~] *the* department for natural resources and environmental protection [~~shall~~] *a division of forestry to* supervise all forestry property and advance forest interests of the state through development of such property and interests. It shall initiate such projects as will promote public appreciation of forest protection and of reforestation; encourage tree planting in general and on the public highways in particular; grow, collect and distribute seedlings; form and foster junior forestry clubs; cooperate with local civic organizations in the care of trees and planting of more trees; provide for organized forest fire protection; cooperate with the federal government, state departments and

landowners in the perpetuation of forests, the promotion of tree growth and the redemption of wasteland for agricultural purposes; and encourage an interest in forestry by correspondence, press, pamphlets, reports, moving pictures and organizations.

(2) The *director of the division of forestry with the approval of the* secretary for natural resources and environmental protection [~~with the approval of the commissioner of natural resources~~] shall adopt and enforce such rules and regulations as may be necessary to carry out the functions assigned the division by law."; and

on page 13, line 5, by changing "Section 17" to read "Section 18".

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsor of Bills and Resolutions: Representative Guenthner, **HR 75;** Representative F. Smith, **HB 525, HB 595.**

Representative Meyer requested that his name be withdrawn from **HB 610.**

Representative Moberly moved that he be recorded as voting "yea" on **HB 363.** Agreed.

Representative Turner moved the adoption of the following Legislative Citations No. 43, 44, 45, and 46. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends the Gamaliel High School FUTURE FARMERS CHAPTER of Monroe county for your admirable contribution to the welfare of our nation as exemplified in your wise selection of the very vital vocation of agriculture. As you celebrate National Future Farmers of America Week, we are highly honored to know that you have shared and participated in such an indispensable endeavor. Your philosophy as expressed "We believe in the future of farmers because Kentucky's future depends on the success of agriculture" is paramount. We as a state and nation will be the great beneficiaries of your dedication, hard work and great sacrifices.

This body salutes you for your courage and determination reflected in your being most useful and deserving citizens. (Sponsored by Representative Turner)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Tompkinsville High School FUTURE FARMERS CHAPTER of Monroe county for your admirable contribution to the welfare of our nation as exemplified in your wise selection of the very vital vocation of agriculture. As you celebrate National Future Farmers of America Week, we are highly honored to know that you have shared and participated in such an indispensable endeavor. Your philosophy as expressed "We believe in the future of farmers because Kentucky's future depends on the success of agriculture" is paramount. We as a state and nation will be the great beneficiaries of your dedication, hard work and great sacrifices.

This body salutes you for your courage and determination reflected in your being most useful and deserving citizens. (Sponsored by Representative Turner)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Allen County High School FUTURE FARMERS CHAPTER of Allen county for your admirable contribution to the welfare of our nation as exemplified in your wise selection of the very vital vocation of agriculture. As you celebrate National Future Farmers of America Week, we are highly honored to know that you have shared and participated in such an indispensable endeavor. Your philosophy as expressed "We believe in the future of farmers because Kentucky's future depends on the success of agriculture" is paramount. We as a state and nation will be the great beneficiaries of your dedication, hard work and great sacrifices.

This body salutes you for your courage and determination reflected in your being most useful and deserving citizens. (Sponsored by Representative Turner)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Franklin Simpson High School FUTURE FARMERS CHAPTER of Simpson county for your admirable contribution to the welfare of our nation as exemplified in your wise selection of the very vital vocation of agriculture. As you celebrate National Future Farmers of America Week, we are highly honored to know that you have shared and participated in such an indispensable endeavor. Your philosophy as expressed "We believe in the future of farmers because Kentucky's future depends on the success of agriculture" is paramount. We as a state and nation will be the great beneficiaries of your dedication, hard work and great sacrifices.

This body salutes you for your courage and determination reflected in your being most useful and deserving citizens. (Sponsored by Representative Turner)

Representative LeMaster moved that the rules be suspended for Report of Committees. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 571, HB 807.**

State Government: **HR 61, HR 75, HB 657, HB 573, HB 785, HB 190, HB 213, HB 804, SB 175.**

Cities: **HB 620.**

Natural Resources and Environment: **HB 639.**

Business Organizations and Professions: **HB 394.**

Labor and Industry: **SB 255, HB 788, HB 675, HB 746.**

Agriculture and Small Business: **HB 110, HB 744, HB 799, HCR 63, HB 802.**

Judiciary-Criminal: **HCR 67, HCR 68, HB 272.**

The Clerk reported the following Bills have been withdrawn from Committee consideration:

Appropriations and Revenue: **HB 529.**

Judiciary-Criminal: **HB 541, HB 647.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 594** with Committee Substitute and Committee Title Amendment attached thereto, and **HB 526** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 594, AN ACT relating to revenue and taxation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.210 is amended to read as follows:
As used in KRS 138.220 to 138.340, unless the context requires otherwise:
(1) "Accountable loss" of gasoline means loss or destruction of "received" gasoline through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or "received" gasoline contaminated and returned to storage; Provided That any such loss shall have been reported within ten (10) days after discovery of such loss to the department in a manner and form prescribed by the department, supported by proper evidence which in the sole judgment of the department substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the department. The department may make any investigation deemed necessary to establish the bona fide claim of the loss.

(2) "Dealer" means any person who:

(a) Imports into this state and stores, or causes to be imported into and stored in this state, gasoline for use, distribution or sale and delivery in this state after it has been stored in this state; Provided That the term "dealer" as used in KRS 138.220 to 138.340 shall not include any person who imports gasoline acquired from a refiner or other supplier who, at the time of such importation, is a duly licensed dealer in this state, except as may otherwise be provided under regulations of the department.

(b) Receives or accepts delivery of gasoline within this state into bulk storage facilities owned or operated for the storage of gasoline for transhipment within or without this state.

(c) Refines, produces, distills, manufactures, blends or compounds gasoline in this state.

(d) Receives or accepts delivery within this state of gasoline for resale within this state in amounts of not less than an average of 100,000 gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the department, such person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer.

(3) "Department" means the department of revenue.

(4) "Gasoline" means all liquid fuels, including liquids ordinarily, practically and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments and all other products so usable except propane, butane or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel and crude oil.

(5) "Received" or "received gasoline" shall have the following meanings:

(a) Gasoline produced, manufactured or compounded at any refinery in this state or gasoline acquired by any dealer and delivered into or stored in refinery, marine or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state unless the contrary is established by the dealer pursuant to rules and regulations prescribed by the department.

(b) Gasoline acquired by any dealer in this state, and not delivered into refinery, marine or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale or other distribution. Dealers may sell gasoline to licensed bonded dealers in this state in transport truckload, carload or cargo lots, withdrawing such gasoline from refinery, marine, pipeline terminal or bulk storage tanks, without paying the tax on such gasoline. In such instances the licensed bonded dealer purchasing such gasoline shall be deemed to have received such gasoline at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon and shall report and pay the tax on such gasoline purchased and received.

(6) "Refinery" means any place where gasoline is refined, manufactured, compounded or otherwise prepared for use.

(7) "Storage" means all gasoline produced, refined, distilled, manufactured, blended or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage or delivered by pipeline at a pipeline terminal, delivery station or tank farm for storage.

(8) "Transporter" means any person who transports gasoline on which the tax has not been paid or assumed.

(9) "Bulk storage facility" means gasoline storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline for resale or delivery to retail outlets or consumers.

(10) "Average wholesale price" shall mean:

(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the four cents (4¢) per gallon federal tax in effect on January 1, 1980, as determined by the department of revenue from information furnished by licensed gasoline dealers. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, such information regarding wholesale selling prices for the previous month as may be reasonably required by the department.

(b) Notwithstanding the provisions of paragraph (a) above, for purposes of the taxes levied in KRS 138.220, 138.565, 138.660 and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar ($1.00) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83 the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year.

(11) "Gasoline-alcohol blend" means any mixture of gasoline and fuel-grade alcohol.

(12) "Fuel-grade alcohol" means ethyl or methyl alcohol derived from domestic renewable resources that is at least one hundred ninety-eight (198) proof when used as a straight fuel, is denatured in accordance with legal requirements and is used in an internal combustion engine.

(13) Straight alcohol means methyl or at least 150 proof ethyl alcohol derived from United States produced coal or United States produced renewable resources that is used as an unblended fuel and denatured in accordance with legal requirements and is used in an internal combustion engine.

SECTION 2. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Any dealer who distills or purchases straight alcohol for his own use or for distribution shall be exempted from the tax imposed by KRS 138.220 for such gallonage of straight alcohol for the time period beginning July 1, 1982 to June 30, 1986.

(2) Any dealer in gasoline shall receive a credit on each gallon of gasoline-alcohol blend which is blended or purchased by the dealer and on which the tax imposed by KRS 138.220 is due and payable. The credit shall be thirty-five cents (35¢) for every gallon of fuel-grade alcohol blended or purchased in a gasoline-alcohol blend in the time period beginning July 1, 1982 to June 30, 1986.

(3) Under no circumstances shall the allowable credit to a dealer exceed that dealer's total tax liability under KRS 138.220. Any residual credit may be carried over to following months.

(4) No credit or exemption shall be authorized unless the dealer provides all necessary information as defined in subsection (5) of this section to be filed at the same time as the dealer's report defined in KRS 138.240.

(5) Information required from the dealer by the department of revenue in the dealer's report when reporting gasoline-alcohol blends or straight alcohol shall include the following:

(a) Name and address of dealer and permit number.

(b) Total number of gallons of at least one hundred ninety-eight (198) proof fuel-grade alcohol blended or purchased in a gasoline-alcohol blend.

(c) Total number of gallons of at least one hundred fifty (150) proof straight alcohol distilled or purchased and which is not to be used in blending with gasoline.

(d) The name and address of each supplier and the quantity and point of origin of fuel-grade and straight alcohol received from each supplier.

(e) The total number of gallons of fuel-grade alcohol on which the gasoline-alcohol blend credit is claimed.

(f) The total number of gallons of straight alcohol on which the exemption is claimed.

(g) The total number of gallons of fuel-grade alcohol on which the gasoline-alcohol blend credit is claimed.

(h) Each application for credit or exemption shall contain the signature of the dealer or an agent of the dealer verifying that the gallonage of fuel-grade alcohol for which a credit or an exemption is claimed shall be utilized as a fuel in an internal combustion engine.

(6) Fuel grade and straight alcohol shall be produced in a plant or facility that is powered primarily by United States produced coal or United States produced renewable resources.

(7) Upon determination by the department of revenue of an applicant's right to receive a credit for a gasoline-alcohol blend, the credit shall be determined by multiplying the number of gallons of fuel-grade alcohol for which the credit is claimed by the appropriate amount as provided under subsection (2) of this section. This credit shall be applicable to the following month's tax liability.

(8) Dealers who claim an exemption for straight alcohol may incorporate this exemption into their calculated tax liability at the time of submission of their monthly report, subject to the approval of this exemption by the department of revenue.

(9) The gasoline-alcohol blend or the straight alcohol eligible for the credit or exemption set forth under subsections (1) and (2) of this section, shall not contain alcohol distilled outside the Commonwealth of Kentucky except as provided by paragraphs (a) and (b) of this subsection.

(a) If the department of revenue certifies that another state provides an exemption, credit, or refund from that state's motor fuel excise tax or sales tax that is applicable to a gasoline-alcohol blend or straight alcohol which is distilled in Kentucky, and if the alcohol produced in the other state meets the specifications provided by subsections (11), (12) and (13) of KRS 138.210, then the alcohol distilled in the other state shall be eligible for the credit or exemption provided in this section to the extent that this credit or exemption would be allowed by such other state.

(b) Under no circumstances shall the value of the credit or exemption for alcohol distilled in the other state as provided by paragraph (a) of this subsection exceed the value of the credit or exemption provided for either a gasoline-alcohol blend or straight fuel-grade alcohol distilled in Kentucky.

(10) The exemption and credit provisions of this section shall apply only to the twenty (20) million gallons of fuel-grade alcohol per fiscal year for which the exemption or credit is claimed.

Section 3. Whereas, the General Assembly finds that there is a grave need to conserve energy due to the world energy crisis, an emergency is declared to exist, and this Act shall become effective July 1, 1982.

Committee Title Amendment to Committee Substitute to **HB 594** is as follows:

HB 594, AN ACT relating to revenue and taxation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.340, unless the context requires otherwise:

(1) "Accountable loss" of gasoline means loss or destruction of "received" gasoline through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or "received" gasoline contaminated and returned to storage; Provided That any such loss shall have been reported within ten (10) days after discovery of such loss to the department in a manner and form prescribed by the department, supported by proper evidence which in the sole judgment of the department substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the department. The department may make any investigation deemed necessary to establish the bona fide claim of the loss.

(2) "Dealer" means any person who:

(a) Imports into this state and stores, or causes to be imported into and stored in this state, gasoline for use, distribution or sale and delivery in this state after it has been stored in this state; Provided That the term "dealer" as used in KRS 138.220 to 138.340 shall not include any person who imports gasoline acquired from a refiner or other supplier who, at the time of such importation, is a duly licensed dealer in this state, except as may otherwise be provided under regulations of the department.

(b) Receives or accepts delivery of gasoline within this state into bulk storage facilities owned or operated for the storage of gasoline for transhipment within or without this state.

(c) Refines, produces, distills, manufactures, blends or compounds gasoline in this state.

(d) Receives or accepts delivery within this state of gasoline for resale within this state in amounts of not less than an average of 100,000 gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the department, such person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer.

(3) "Department" means the department of revenue.

(4) "Gasoline" means all liquid fuels, including liquids ordinarily, practically and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments and all other products so usable except propane, butane or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel and crude oil.

(5) "Received" or "received gasoline" shall have the following meanings:

(a) Gasoline produced, manufactured or compounded at any refinery in this state or gasoline acquired by any dealer and delivered into or stored in refinery, marine or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state unless the contrary is established by the dealer pursuant to rules and regulations prescribed by the department.

(b) Gasoline acquired by any dealer in this state, and not delivered into refinery, marine or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale or other distribution. Dealers may sell gasoline to licensed bonded dealers in this state in transport truckload, carload or cargo lots, withdrawing such gasoline from refinery, marine, pipeline terminal or bulk storage tanks, without paying the tax on such gasoline. In such instances the licensed bonded dealer purchasing such gasoline shall be deemed to have received such gasoline at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon and shall report and pay the tax on such gasoline purchased and received.

(6) "Refinery" means any place where gasoline is refined, manufactured, compounded or otherwise prepared for use.

(7) "Storage" means all gasoline produced, refined, distilled, manufactured, blended or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage or delivered by pipeline at a pipeline terminal, delivery station or tank farm for storage.

(8) "Transporter" means any person who transports gasoline on which the tax has not been paid or assumed.

(9) "Bulk storage facility" means gasoline storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline for resale or delivery to retail outlets or consumers.

(10) "Average wholesale price" shall mean:

(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the four cents (4¢) per gallon federal tax in effect on January 1, 1980, as determined by the department of revenue from information furnished by licensed gasoline dealers. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, such information regarding wholesale selling prices for the previous month as may be reasonably required by the department.

(b) Notwithstanding the provisions of paragraph (a) above, for purposes of the taxes levied in KRS 138.220, 138.565, 138.660 and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar ($1.00) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83 the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year.

(11) "Gasoline-alcohol blend" means a mixture of gasoline and fuel-grade alcohol in which the fuel-grade alcohol content is ten percent (10%) or less of the mixture.

(12) "Fuel-grade alcohol" means methyl alcohol or at least one hundred ninety-eight (198) proof ethyl alcohol derived from United States produced coal or United States produced renewable resources that is denatured in accordance with legal requirements and is used in an internal combustion engine.

SECTION 2. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Any dealer in gasoline shall receive a credit for each gallon of gasoline-alcohol blend which is blended or purchased by the dealer and on which the tax imposed by KRS 138.220 is due and payable. The credit shall be thirty-five cents (35¢) for every gallon of fuel-grade alcohol blended or purchased in a gasoline-alcohol blend in the time period beginning July 1, 1982 to June 30, 1986.

(2) Under no circumstances shall the allowable credit to a dealer exceed that dealer's total tax liability under KRS 138.220. Any residual credit may be carried over to following months.

(3) No credit shall be authorized unless the dealer provides all necessary information as defined in subsection (4) of this section to be filed at the same time as the dealer's report defined in KRS 138.240.

(4) Information required from the dealer by the department of revenue in the dealer's report when reporting gasoline-alcohol blends shall include the following:

(a) Name and address of dealer and permit number.

(b) Total number of gallons of fuel-grade alcohol blended or purchased in a gasoline-alcohol blend.

(c) The name and address of each supplier and the quantity and point of origin of fuel-grade alcohol received from each supplier.

(d) The total number of gallons of fuel-grade alcohol on which the gasoline-alcohol blend credit is claimed.

(e) Each application for credit shall contain the signature of the dealer or an agent of the dealer verifying that the gallonage of fuel-grade alcohol for which a credit is claimed shall be utilized as a fuel in an internal combustion engine.

(5) Fuel grade alcohol shall be produced in a plant or facility that is powered primarily by United States produced coal or United States produced renewable resources.

(6) Upon determination by the department of revenue of an applicant's right to receive a credit for a gasoline-alcohol blend, the credit shall be determined by multiplying the number of gallons of fuel-grade alcohol for which the credit is claimed by the appropriate amount as provided under subsection (1) of this section. This credit shall be applicable to the following month's tax liability.

(7) The gasoline-alcohol blend eligible for the credit set forth under subsection (1) of this section, shall not contain alcohol distilled outside the Commonwealth of Kentucky except as provided by paragraphs (a) and (b) of this subsection.

(a) If the department of revenue certifies that another state provides an exemption, credit, or refund from that state's motor fuel excise tax or sales tax that is applicable to a gasoline-alcohol blend which contains fuel-grade alcohol distilled in Kentucky, and if the alcohol produced in the other state meets the specifications provided by subsections (11) and (12) of KRS 138.210, then the alcohol distilled in the other state shall be eligible for the credit provided in this section to the extent that this credit would be allowed by such other state.

(b) Under no circumstances shall the value of the credit for alcohol distilled in the other state as provided by paragraph (a) of this subsection exceed the value of the credit provided for a gasoline-alcohol blend distilled in Kentucky.

Committee Title Amendment to Committee Substitute to **HB 594** is as follows:

Amend printed copy of Committee Substitute to **HB 594**, by deleting the title and inserting in lieu thereof the following: AN ACT relating to revenue and taxation.

HB 526, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.400 is amended to read as follows:

Before entering upon the duties of [~~his~~] office, the property valuation administrator shall execute a bond conditioned upon the faithful performance of the duties of *the* [~~his~~] office with a surety to be approved by the department of revenue. In counties containing a city of the first class, the bond shall be in the sum of *one hundred thousand dollars ($100,000)* [~~ten thousand dollars ($10,000)~~]; in counties containing a city of the second class, *fifty thousand dollars ($50,000)* [~~five thousand dollars ($5,000)~~]; in all other counties, *twenty thousand dollars ($20,000)* [~~two thousand dollars ($2,000)~~].

Section 2. KRS 132.590 is amended to read as follows:

(1) The compensation of the property valuation administrator shall be based on (1) the area, (2) the population, and (3) the assessed value of property in the county in accordance with the provisions of the following scale, with one (1) point per each ten (10) square miles or fraction thereof of the area of the county; one (1) point per one thousand (1,000) population of the county; one (1) point per million dollars of assessment on the first one hundred (100) million and one-half (½) point per million dollars of assessment over one hundred (100) million:

Number of Points		Grade
At Least	But Less Than	Classification
5,000	—	22
1,000	5,000	21
350	1,000	20
300	350	19
225	300	18
150	225	17
125	150	16
100	125	15
—	100	14

Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

(2) The grade classification system provided in subsection (1) of this section shall in all respects, be equivalent to the grade classification for state employes as established by the department of personnel and subject to the provisions of subsection (4) of this section and be determined on the basis of the total area of the county as determined from information provided by the Kentucky agricultural statistics or other reliable data, the United States Bureau of the Census and the assessment of property subject to state tax as certified by the department of revenue, including the amount of assessment on which taxes are deferred under the provisions of the agricultural and horticultural land act, except that the amount of assessment of livestock and farm machinery shall be excluded in determining the grade classification.

(3) The provisions of this section shall be computed on the 1978 assessment and on each annual assessment thereafter.

(4) Each property valuation administrator shall upon taking office for the first time be placed in the first step in grade and shall annually, effective January 1 after serving no less than twelve months, be advanced one step in grade; except, that any person appointed or elected to fill a vacancy in the office of property valuation administrator shall be eligible for advancement one step in grade effective January 1 following completion of at least six months service. The department of revenue is authorized to make grade classification changes corresponding to any approved for department employes in comparable positions so long as such changes do not violate the integrity of the classification system and, except further, subject to availability of funds, that the department may extend cost-of-living increases approved for department employes to the property valuation administrators by advancement in grade.

(5) Deputy property valuation administrators and other authorized personnel likewise may be advanced one step in grade upon completion of twelve months continuous service and given such other benefits

relating to reclassification of position or cost-of-living adjustments as are provided in subsection (4) of this section for property valuation administrators.

(6) The property valuation administrator's office shall be allowed by the state as compensation for deputies, other authorized personnel, and for other authorized expenditures, one and one-quarter cents on each one hundred dollars of the property assessed, including the amount of assessment on which taxes are deferred under the agricultural and horticultural land act but exclusive of livestock and farm machinery, on the first two hundred fifty million dollars and one cent on each one hundred dollars of the property assessed over two hundred fifty million dollars; but the total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed [~~the limits set forth in the following table:~~

~~Assessed Value of Property of:~~		
~~At Least~~	~~But Less Than~~	~~Limit~~
—	~~$ 300,000,000~~	~~$ 35,000~~
~~$ 300,000,000~~	~~500,000,000~~	~~50,000~~
~~500,000,000~~	~~2,000,000,000~~	~~100,000~~
~~2,000,000,000~~	—]	the amount fixed by the department of revenue.

However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for one full time deputy. Each property valuation administrator shall submit each *fiscal year* [~~biennium~~] to the department of revenue a budget for his office which shall be based upon the state, county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. Each property valuation administrator may appoint any persons approved by the department of revenue to assist him in the discharge of his duties. Each deputy must be more than twenty-one years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the department of revenue and shall be subject to the approval of the department of revenue. Any deputy property valuation administrator employed, or promoted to a higher position may be examined by the department of revenue in accordance with standards of the department of personnel, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the department of revenue prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(7) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280 an amount determined as follows:

Assessment Subject to County Tax of:		
At Least	But Less Than	Amount
—	$100,000,000	$.005 for each $100 of the first $50,000,000 and $.002 for each $100 over $50,000,000.
$100,000,000	150,000,000	$.004 for each $100 of the first $100,000,000 and $.002 for each $100 over $100,000,000.
150,000,000	300,000,000	$.004 for each $100 of the first $150,000,000 and $.003 for each $100 over $150,000,000.
300,000,000	—	$.004 for each $100.

(8) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (7) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to County Tax of:		
At Least	But Less Than	Limit
—	$ 700,000,000	$ 25,000
$ 700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	—	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

(9) Annually, after appropriation by the county of funds required of it by KRS 132.590(7), the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the state treasury and shall be expended by the department of revenue only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the state treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated, shall be returned to the county from which they were received and shall be subject to the provision of subsection (10) of this section. Each property valuation administrator shall at the end of each month file a claim with the fiscal court for expenses of his office other than personnel incurred during the month which are payable from county funds. The court shall order payment made provided the total of all claims filed with the court does not exceed the total sum available under this section. During county election years the property valuation administrator shall not be allowed to expend in excess of forty percent of the allowances available to his office from county funds during the first five months of the fiscal year in which the general election is held.

(10) Any county funds appropriated under the provisions of this section but unexpended by the close of each fiscal year for which such funds are appropriated shall carry over and be added to the amount required to be appropriated for the next fiscal year except that the department of revenue may release such funds or any part thereof that the department deems not necessary for operations of the property valuation administrator's office.

(11) The provisions of this section shall apply to urban-county governments. In an urban-county government, all the rights and obligations conferred on fiscal courts by the provisions of this section, shall be exercised by the urban-county government.

(12) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars ($100,000) for any urban-county government with an assessment subject to county wide tax of less than three billion dollars ($3,000,000,000), one hundred twenty-five thousand dollars ($125,000) for an urban-county government with an assessment subject to county-wide tax between three billion dollars ($3,000,000,000) and five billion dollars ($5,000,000,000) and two hundred thousand dollars ($200,000) for an urban-county government with an assessment subject to county-wide tax in excess of five billion dollars ($5,000,000,000). For purposes of this subsection the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.

(13) Notwithstanding the provisions of subsection (1) of this section, any property valuation administrator whose county classification would be reduced from that existing as of June 17, 1978 shall not have his compensation reduced but shall continue to be compensated at his then current salary until such time as an increase in points earned by his county or a departmental adjustment, under subsection (4) of this section, qualify him for an increase in compensation.

(14) The county classification system provided in subsections (1) and (2) of this section shall in no way affect reclassification approved prior to this enactment nor shall they be construed to affect any future reclassifications provided under subsection (4) of this section.

Section 3. KRS 132.670 is amended to read as follows:

The department of revenue shall prepare detailed maps identifying every parcel of real property within each county of the state by July 1, *1988* [~~1984~~]. Each county shall furnish to the department adequate facilities in the county courthouse in which to work. The department of revenue shall prescribe methods and specifications for the mapping of property. Personnel authorized to assist in making property identification maps under this section may be given the same authority as a deputy property valuation administrator. In addition to the state allowance provided to the property valuation administrator's office by KRS 132.590(6), the department may allocate sufficient additional funds from the legislative appropriation for mapping projects to compensate the additional local personnel employed for the mapping project. Locally employed mapping project personnel shall be compensated in the same manner as deputies or assistants in the property valuation administrator's office.

Section 4. KRS 107.020 is amended to read as follows:

(1) The term "governing body," as used in this chapter, means and includes the legislative body of any city, whether the same be designated by applicable statutes as a general council, a common council, a city council, a board of trustees, a board of commissioners, or otherwise.

(2) The term "ordinance" means and includes any ordinance enacted in accordance with the general laws applicable to ordinances of the class of city in question, and the form of government thereof, and in accordance with the provisions of this chapter.

(3) The term "public way" means and includes streets, boulevards, avenues, roads, lanes, alleys, parkways, courts, terraces, and other courses of travel open to the general public by whatsoever name designated. As applied to metropolitan sewer districts "public ways" also has the same meaning as used in KRS 93.010(2).

(4) The terms "improvement" and "project" mean and include

(a) The construction of public ways or the substantial reconstruction or widening thereof,

(b) The construction, installation or substantial reconstruction of sanitary, storm, or combined sewers and appurtenances,

(c) The construction, enlargement or substantial reconstruction of sewage treatment plants for rendering sewage less hazardous to public health, safety and general welfare,

(d) The construction, installation or substantial replacement of fire hydrants in cities of the third through sixth classes, necessary water mains and appurtenances in a city in a county containing a city of the first or second class, or

(e) Any combination of the same. Bonds for improvements defined in paragraphs (b), (c) and (d) of this subsection may be caused to mature as to principal in term or serial maturities not to exceed thirty (30) years from date of issue, instead of being limited to twenty (20) years from date of issue as otherwise provided in KRS 107.090.

(5) The term "costs" as applied to any project undertaken under this chapter includes the cost of labor, materials, and equipment necessary to complete the project in a satisfactory manner, cost of land acquired, and every expense connected with the project, including preliminary and other surveys, inspections of the work, engineers' fees and costs, attorneys' fees, preparation of plans and specifications, publication of ordinances and notices, interest which will accrue on the bonds until the due date of the first annual improvement assessment levied in connection therewith, a sum equal to any discount in the sale of the bonds (if discount bids are authorized and permitted by the governing body), a reasonable allowance for unforeseen contingencies, the printing of bonds, and other costs of financing which may include the payment of a fee to a fiscal agent for advice and assistance in the preparation and marketing of the bonds. As applied to wastewater collection projects undertaken by metropolitan sewer districts "costs" also include: (a) the cost of inspections of work as construction progresses, (b) interest which will accrue on the bonds until the due date of the first annual improvement assessment if a lump sum is not paid, (c) capitalized interest on the bonds for a period not to exceed three years, (d) all or any portion of the debt service reserve requirement, if determination is made to finance same from bond proceeds (e) payment of attorneys' fees, underwriting and fiscal agency fees, trustees' fees, rating service fees if approved by the fiscal court and (f) other costs of issuance of bonds.

(6) The term "assessed value basis" means the plan for the levying of annual improvement benefit assessments on the basis of the assessed values of the benefited properties, as authorized by this chapter. As applied to wastewater collection projects undertaken by metropolitan sewer districts, "assessed value basis" means the plan for the levying of annual improvement benefit assessments upon benefited property for the benefits conferred by the construction of projects on the basis of the ad valorem assessed values (land only) of the benefited property, whether the owners pay such levies in full or on an annual basis to amortize bonds. Identical annual improvement benefit assessments upon classified zones of benefited property may also be included in this plan where determination is made by order of a metropolitan sewer district, as provided in KRS 107.030, that benefits conferred by construction of a project are substantially equal and that the assessed value (land only) of all benefited property or designated zones thereof shall therefor be deemed equal in respect of a given wastewater collection project.

(7) The term "front-foot basis" refers to the plan for financing improvements by apportioning the cost among benefited properties upon the basis of the number of linear feet thereof abutting upon the improvement project, as otherwise provided by law.

(8) The terms "property to be benefited," "properties to be benefited," "benefited property" and "benefited properties" all mean and refer to the property or properties defined in KRS 107.140. As applied

to wastewater collection projects undertaken by metropolitan sewer districts, "benefited property" and "property to be benefited" mean the property (land only) proposed to be benefited by construction of a wastewater collection project instituted by a metropolitan sewer district and against which lump sum or annual improvement benefit assessments are to be levied.

(9) "Construction" means the following services and facilities provided by a metropolitan sewer district:

(a) Preliminary planning to determine the economic and engineering feasibility of construction of wastewater collection projects, and any engineering, architectural, legal, fiscal, and economic investigations and studies necessary. Also included are all necessary surveys, designs, plans, working drawings, specifications, procedures, and other required actions incident to the construction of wastewater collection projects;

(b) The building, acquisition, installation, erection, alteration, remodeling, improvement, expansion, or extension of wastewater collection projects and any other physical devices reasonably associated with such projects;

(c) The provision of sewer collection services and facilities to benefited property although not directly financed by the issuance of bonds; and

(d) Inspection and supervision incident to the acquisition, construction, and installation of wastewater collection projects.

(10) "Debt service reserve requirement" means with respect to any particular issue of bonds for a wastewater collection project of a metropolitan sewer district, the maximum annual requirements for payment of principal of and interest on such bond issue funded either in whole or in part by application of bond proceeds or accrued by the levying of improvement benefit assessments as provided in KRS Chapters 76 and 107.

(11) "Metropolitan sewer district" means a joint metropolitan sewer district which has been duly created under KRS 76.005 to 76.210.

(12) "Order" means a formal and binding enactment of the board of a metropolitan sewer district entered in connection with the financing by such district of a wastewater collection project.

(13) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants.

(14) "Wastewater collection project" means treatment plants and all or part of any facilities and systems of a metropolitan sewer district used in the collection, holding, or transmission of wastewater from a benefited property to wastewater treatment plants or other similar facilities for final disposition. These terms shall include, without being limited to, sanitary sewage collection lines, intercepting sewers, outfall sewers, sewer laterals, power stations and pumping stations, and other equipment and their appurtenances necessary to enable the project to fulfill its function, including land acquisition, if required, whether such project facilities are provided by funds derived from issuance of bonds or otherwise provided by a district in any manner.

(15) "Classified zone" means any portion of any construction phase of a wastewater collection project designated by a metropolitan sewer district after a determination that all property located in such zone is benefited substantially equally by such construction.

[~~(16) "Agricultural land" means a tract of land containing a residence within a wastewater collection project of a metropolitan sewer district of contiguous acreage for the production of agricultural or horticultural crops, including but not limited to livestock products, poultry, poultry products, grain, soybeans, tobacco, timber, orchards, fruits, vegetables, flowers or ornamental plants, where such activities produced an average gross income of at least $1,000 per year during the preceding two years.~~

~~(17) "Undeveloped land" means a tract of land within a wastewater collection project of a metropolitan sewer district which contains no temporary or permanent residence.~~

~~(18) "Single-family tract" means a tract of land within a wastewater collection project of a metropolitan sewer district which contains no more than one temporary or permanent residence.~~]

Section 5. Any unexpended balance in the Kentucky wastewater revolving fund shall revert to the general fund.

Section 6. KRS 136.180 is amended to read as follows:

The department of revenue shall, immediately after fixing the assessed value of the operating property and other property of a public service corporation for taxation, notify the corporation of the valuation, and the amount of assessment for state and local purposes. When the valuation has been finally determined, the department shall immediately certify to the county clerk of each county in which any of the operating property or nonoperating tangible property assessment of the corporation is liable to local taxation, the amount thereof liable for county, city, or district tax. The certificate shall be filed by each county clerk in his office, and by him certified to the proper collecting officer of the county, city, or taxing district for collection. *Any district which has such value certified by the department shall pay annually to the department a fee which represents an allocation of departmental operating and overhead expenses incurred in generating said valuations. This fee shall be determined by the department and shall apply to valuations for tax periods beginning on or after December 31, 1981.*

Section 7. The following KRS sections are repealed:
107.600 Kentucky wastewater revolving fund.
107.610 Uniformity of benefit assessments — Payment.
107.620 Return of lump sum improvement benefit assessments to owners of property not benefited if project not completed.

The Committee on Judiciary-Civil reported **SB 72, HB 646** with Committee Amendment attached thereto, and **HB 720** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 72, AN ACT relating to notaries public.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 423.110 is amended to read as follows:

For the purposes of KRS 423.110 to 423.190, "notarial acts" means acts which the laws and regulations of this state authorize notaries public of this state to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this state for use in this state with the same effect as if performed by a notary public of this state by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of this state:

(1) A notary public authorized to perform notarial acts in the place in which the act is performed;

(2) A judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed;

(3) An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States department of state to perform notarial acts in the place in which the act is performed;

(4) A commissioned officer in active service with the armed forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for one of the following or his dependents: a merchant seaman of the United States, a member of the armed forces of the United States, or any other person serving with or accompanying the armed forces of the United States;

(5) Any other person authorized to perform notarial acts in the place in which the act is performed; or

(6) A person, either a resident or a nonresident of Kentucky, who is appointed by the governor of Kentucky to perform notarial acts *in or* outside this state covering writings prepared for recordation in this state.

HB 646, AN ACT relating to personal jurisdiction of courts over nonresidents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 454.210 is amended to read as follows:

(1) As used in this section, "person" includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth.

(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person's:

1. Transacting any business in this Commonwealth;
2. Contracting to supply services or goods in this Commonwealth;
3. Causing tortious injury by an act or omission in this Commonwealth;
4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth, provided that the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth;
5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when the seller knew such person would use, consume,

or be affected by, the goods in this Commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;

6. Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;

7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting.

8. Committing sexual intercourse in this state which intercourse causes the birth of a child when:

a. The father or mother or both are domiciled in this state, or

b. There is a repeated pattern of intercourse between the father and mother in this state, or

c. Said intercourse is a tort or a crime in this state.

(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made on such person, or any agent of such person, in any county in this Commonwealth, where he may be found, or on the secretary of state who, for this purpose, shall be deemed to be the statutory agent of such person.

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint [~~and direct it to the sheriff of Franklin County~~]. The *clerk* [~~sheriff~~] shall execute the summons by *sending by certified mail* [~~delivering~~] a true copy to the secretary of state and shall also *mail* [~~deliver~~] with the summons an attested copy of plaintiff's complaint. The secretary of state shall immediately mail the copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by certified mail, return receipt requested and shall bear the return address of the secretary of state. The sheriff shall make the usual return to the court, and in addition the secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the secretary of state and the action shall proceed as provided in the Rules of Civil Procedure.

(c) The sheriff *mailing* [~~serving~~] the summons *to* [~~upon~~] the secretary of state shall *mail* [~~pay~~] to him, at the *same* time [~~of service~~] a fee of four dollars ($4.00), which shall be taxed as costs in the action.

(4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose.

(5) A court of this Commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding this section.

Committee Amendment No. 1 to **HB 646** is as follows:

Amend printed copy of **HB 646,** on page 4, line 3, after the word "The" by inserting the word "*clerk*"; and

on page 4, line 3, by placing brackets "[]" around and striking through the word "sheriff"; and

on page 4, line 11, after the word "The" by inserting the word "*clerk*"; and

on page 4, line 11, by placing brackets "[]" around and striking through the word "sheriff".

REVISER'S BILL - EXPLANATORY NOTES

Section 1

A technical amendment has been made.

Section 2

Words inserted were included in amendment which passed, but were inadvertently omitted from enrolled bill.

Sections 3 - 7

Amendment is so that all references to legislators' retirement plan will be consistent.

Section 8

A technical amendment has been made.

Section 9

Obsolete reference is replaced with correct reference.

Section 10

A reference to a specific statute has been inserted.

Section 11

Obsolete provision is replaced with a correct reference.

Section 12

Obsolete language has been deleted.

Section 13

Obsolete references are replaced with correct references.

Section 14

Incorrect reference has been corrected.

Section 15

Reference to a specific subsection has been inserted.

Section 16

A section has been moved to the appropriate chapter.

Section 17

Correct references have been inserted.

Section 18

Subsection is moved out of definition section as it is not a definition.

Section 19

A subsection which was erroneously placed in the definition section has been placed in the appropriate section.

Sections 20 - 21

A technical amendment has been made in each of these sections.

Section 22

Redundant language has been deleted.

Section 23

A technical amendment has been made.

Section 24

Amendment clarifies language in the section.

Section 25

A technical correction has been made.

Section 26

Correct references have been inserted in place of obsolete references.

Sections 27 - 29

Incorrect reference has been replaced with correct reference.

Sections 30 - 31

Obsolete references replaced with correct reference.

Sections 32 - 34

Obsolete material has been deleted.

Sections 35 - 36

Obsolete references are replaced with correct references.

Sections 37 - 38

Obsolete material has been deleted.

Section 39

Jones v. County of Laurel, 600 S.W. (2d) 489, held the deletion in the 1979 special session of certain words void as being beyond the subject matter proclamation for the session. Therefore, these words are being inserted.

Section 40

Obsolete reference has been deleted.

Section 41

Incorrect reference has been corrected.

Section 42

Obsolete reference has been replaced with correct reference.

Section 43

A technical change has been made in wording for purposes of clarity.

Section 44

Obsolete reference has been deleted.

Section 45

The appropriate date has been inserted for clarity.

Section 46

Obsolete reference has been replaced with correct reference.

Section 47

A comma has been inserted for clarity.

Section 48

Section is amended to make uniform the type of mail used. Conforms with 1980 Acts Chapter 114.

Section 49

Obsolete reference has been replaced with correct reference.

Section 50

Obsolete reference has been removed.

Section 51

Obsolete reference has been replaced with correct reference.

Sections 52 - 54

Obsolete references have been deleted.

Sections 55 - 56

Obsolete reference has been replaced with correct reference.

Section 57

Obsolete reference has been deleted.

Sections 58 - 60

Correction has been made in reference to subsection.

Sections 61 - 62

Obsolete reference has been deleted.

Section 63

An incorrect reference has been replaced with a correct reference.

Section 64

Section is placed in appropriate part of chapter.

Section 65

A technical change has been made to conform with a change in a KRS reference.

Section 66 - 70

Sections are placed in appropriate part of chapter.

Section 71

Incorrect reference has been replaced with correct reference.

Section 72

Obsolete reference has been deleted.

Section 73

The article "a" has been inserted for clarity.

Sections 74 - 78

These changes in numbering were requested by the subcommittee on waste statute review. They affect the numbering of sections within the subcommittee's jurisdiction.

Section 79

Words have been removed for purposes of clarity.

Sections 80 - 81

Corrections have been made in references to subsections.

Section 82

Technical corrections have been made for the purpose of clarity.

Sections 83 - 84

Corrections have been made in reference to subsection.

Section 85

Obsolete provision has been deleted.

Section 86

A technical correction has been made.

Section 87

Incorrect references to subsections have been corrected.

Section 88

A technical correction has been made for purposes of clarity.

Section 89

An erroneous reference has been corrected.

Section 90

A technical correction has been made.

Section 91

The article "a" is moved for purposes of clarity.

Sections 92 - 99

These sections have been moved to the appropriate chapter.

Section 100

A correction has been made for purposes of conformity.

Section 101

Section is amended for purposes of clarity.

Sections 102 - 103

An incorrect reference has been deleted.

Section 104

Obsolete references have been replaced with correct references.

Sections 105 - 107

A technical correction has been made.

Section 108

An incorrect reference has been replaced with a correct reference.

Section 109

A typographical error has been corrected.

Sections 110 - 112

Obsolete reference has been replaced with correct reference.

Section 113

A technical correction has been made.

Section 114

An incorrect reference has been replaced with a correct reference.

Sections 115 - 116

Obsolete references have been deleted.

Section 117

Amendment to conform with provision in KRS 186.4101 which provides for a two or four year license.

Section 118

Incorrect reference has been deleted.

Section 119

A correction has been made in reference to a subsection.

Sections 120 - 121

An incorrect reference to a department has been corrected.

Section 122

Amendment is to conform with sections that are being moved from KRS Chapter 336 to KRS Chapter 198B.

Section 123

Obsolete reference replaced with correct reference.

Section 124

Word inserted for clarity.

Section 125

Amendment for purposes of clarity and to correct an incorrect reference.

Section 126

Obsolete reference has been deleted.

Section 127

Obsolete reference has been replaced with correct reference.

Section 128

Technical amendment has been made in this section.

Section 129 - 136

Obsolete references have been replaced with correct references.

Section 137

Incorrect reference has been replaced with a correct reference.

Sections 138 - 151

These changes in numbering were requested by the subcommittee on waste statute review. They affect the numbering of sections within the subcommittee's jurisdiction.

Sections 152 - 154

A technical correction has been made in each of these sections.

Section 155

Material providing a penalty has been moved to the appropriate section.

Sections 156 - 157

Amendment for purposes of clarity.

Section 158

Penalty provision has been inserted in appropriate section.

Section 159

Amendment for clarification purposes.

Section 160

An amendment has been made to conform with renumbering of section referred to in text.

Section 161

Amendment for purposes of consistency.

Section 162

Subsection is deleted because the same language appears in the penalty section.

Sections 163 - 164

A technical correction has been made in each of these sections.

Section 165

Section has been moved to appropriate chapter.

Section 166

Incorrect reference replaced with correct reference.

Section 167

Technical correction has been made.

Sections 168 - 170

Incorrect reference is replaced with correct reference.

Section 171

Reworded for purposes of clarity.

Sections 172 - 173

Subsection is moved to the penalty section.

Section 174

Technical correction has been made.

Section 175

A section has been moved to the appropriate part of the chapter and technical corrections have been made therein.

Section 176

A provision relating only to cosmetologists and beauticians has been removed from provisions concerning barbers.

Section 177

A new section is created to codify a section enacted in 1976 but never codified.

Section 178

Amendment to conform with changes in 1980 Acts Chapter 114, eliminating the use of registered mail.

Sections 179 - 180

Amendment is made to conform with other references to the board.

Sections 181 - 196

Since the 1980 reorganization bill, Acts Chapter 295, moved the jurisdiction over elevator inspection from KRS Chapter 336 to KRS Chapter 198B, these sections have been moved to KRS Chapter 198B.

Section 197

A technical correction has been made.

Section 198

Correction has been made in reference to a subsection.

Sections 199 - 200

Technical corrections have been made.

Section 201

Incorrect reference has been corrected.

Section 202

Incorrect references have been deleted.

Section 203

Incorrect reference has been replaced with correct reference.

Section 204

Incorrect reference has been deleted.

Section 205

A reference to registered mail has been deleted for conformity.

Sections 206 - 207

A technical correction has been made in this section.

Section 208

Incorrect reference has been corrected.

Section 209

A technical correction has been made.

Section 210

Registered mail has been deleted to conform with 1980 Acts Chapter 114, whereby statutes uniformly include only certified mail.

Section 211

Obsolete references have been replaced with correct reference.

Section 212 - 214

A technical correction has been made in each of these sections.

Sections 215 - 224

These changes were requested by the subcommittee on waste statute revision. They are technical in nature and are within the subcommittee's jurisdiction.

Section 225

This section is being moved to a more appropriate part of the chapter.

Sections 226 - 227

These amendments are made to conform with renumbering in other sections.

Section 228

A technical amendment has been made in this section.

Section 229

A technical correction has been made in this section.

Section 230

A correction has been made in reference to a subsection.

Section 231

Amendment clarifies language in the section.

Section 232

Technical corrections have been made for purposes of clarity.

Section 233

Obsolete language has been deleted and obsolete references have been replaced with correct references.

Section 234

A technical correction has been made.

Section 235

Obsolete provisions are repealed.

HB 720, AN ACT to revise and correct the Kentucky Revised Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.031 is amended to read as follows:
The Commonwealth of Kentucky is divided into representative districts as follows:
(1) First District: Ballard, Carlisle, Fulton, and Hickman Counties.
(2) Second District: Graves County.
(3) Third District: That part of McCracken County contained in the city of Paducah.
(4) Fourth District: Livingston County and that part of McCracken County not contained in the Third District.

(5) Fifth District: Calloway County and that part of Trigg County contained in the voting precincts of Canton, West Cadiz, South Cadiz 1 and South Cadiz 2.

(6) Sixth District: Lyon and Marshall Counties and Crittenden County except for voting precincts Marion 4, Marion 6, Rosebud 11, and Shady Grove 12.

(7) Seventh District: Union County; that part of Henderson County not contained in the Eleventh District; that part of Daviess County contained in the voting precincts of Pleasure Ridge, Utica, Snyder School, West Louisville, Curdsville, St. Joseph, Rome, Sorgo, Masonville, Stanley, North Town, South Town, Fields, Habit.

(8) Eighth District: That part of Trigg County contained in the voting precincts of North Cadiz 1, North Cadiz 2, Wallonia, Cerulean, Bethesda, Maggie and Caledonia-Roaring Spring; that part of Christian County contained within the following voting precincts: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 24, 25.

(9) Ninth District: That part of Christian County contained within the following voting precincts: 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32; that part of Hopkins County contained within the following voting precincts: 14, 16, 17.

(10) Tenth District: Hopkins County except for voting precincts: 14, 16, 17.

(11) Eleventh District: Henderson County, except for the voting precincts of South Corydon, Niagara and Hebbardsville, and that portion of the county lying south of Kentucky Highway 416, beginning at its junction with U.S. 41A and proceeding eastward to its junction with Niagara precinct.

(12) Twelfth District: Caldwell and Webster Counties; that part of Crittenden County not included in the Sixth District; that part of McLean County not contained in the Fifteenth District.

(13) Thirteenth District: That part of Daviess County contained in the city of Owensboro but excluding the following voting precincts: 4, 6, 7, 10, 11, 15, 17, 18, 19, 20, 32.

(14) Fourteenth District: That part of Daviess County not contained in the Seventh District or in the Thirteenth District.

(15) Fifteenth District: Muhlenberg County and that part of McLean County contained in voting precincts: 2, 3, 6, 8.

(16) Sixteenth District: Todd and Logan Counties.

(17) Seventeenth District: Hancock, Ohio and Butler Counties.

(18) Eighteenth District: Meade County and Breckinridge County.

(19) Nineteenth District: Edmonson and Grayson Counties; that part of Hart County contained in voting precincts: 3, 13, 14, 16, 17.

(20) Twentieth District: That part of Warren County containing all of the city of Bowling Green excluding the voting precincts of Reels Garage, Octogan Inn, Green Meadows and Delefield but including the voting precincts of Miller's Bottled Gas, Watts Mill and Mt. Victor.

(21) Twenty-first District: That part of Simpson County contained in the voting precincts of Harristown, Public School, West Door and Prospect Hill and that part of Warren County not contained in the Twentieth District.

(22) Twenty-second District: Allen and Monroe Counties, and that part of Simpson County not contained in the Twenty-first District.

(23) Twenty-third District: Barren County and that part of Metcalfe County containing voting precincts Randolph-Wisdom No. 3, Knob Lick No. 4, Savoyard No. 5, Summer Shade No. 8 and Willow Shade-Beaumont No. 9.

(24) Twenty-fourth District: Larue County; Marion County; that part of Hart County not contained in the Nineteenth District.

(25) Twenty-fifth District: That part of Hardin County contained in the voting precincts of Elizabethtown East, Elizabethtown West, Elizabethtown Northeast, Elizabethtown Northwest, Elizabethtown North, Helmwood Heights, Mantle, Valley Creek, City Park, Colesburg, Tunnel Hill, Helm, Chelf, Van Meter, South Dixie, Glendale, Nolin, Sonora, Upton, Melrose and White Mills, and that part of the Fort Knox Military Reservation that lies east of a line beginning at the intersection of the southern boundary of the Fort Knox Military Reservation and State Road 447, and extends northward along State Road 447 and a line extending northward through Pleasant View Cemetery [~~and Fort Hill Cemetery~~] and Fort Hill Cemetery to the Jefferson County line at Salt River.

(26) Twenty-sixth District: That part of Hardin County contained in the voting precincts of Radcliff North, Radcliff South, Radcliff West, Vine Grove North, Vine Grove South, Vine Grove West, Longview, Yates, Rineyville, Howevalley, St. John, Cecilia, East View, Meeting Creek, and Long Grove and that part of the Fort Knox Military Reservation not included in the Twenty-fifth and Twenty-seventh Districts.

(27) Twenty-seventh District: That part of Hardin County not contained in the Twenty-fifth and Twenty-sixth Districts, that part of the Fort Knox Military Reservation whose southern boundary is Chaffee Avenue extended westward to the Hardin-Meade County line and eastward to State Road 447, thence northward on State Road 447 and a line extending northward through Pleasant View Cemetery and Fort

Hill Cemetery to the Jefferson County line at Salt River and that part of Jefferson County contained in voting precincts C8, C18, C19, C23, C44, C53, C70 and C87 of C District of the county.

(28) Twenty-eighth District: That part of Jefferson County containing voting precincts C7, C31, C33, C40, C43, C45, C47, C56, C57, C58, C65, C66, C72, C73, C78, C79, C82, C90 and C91 of C District of the county.

(29) Twenty-ninth District: That part of Jefferson County containing voting precincts C5, C6, C11, C21, C30, C34, C39, C46, C50, C54, C55, C59, C60, C64, C67, C69, C71, C74, C75, C80, C81, C85, and C94 of C District of the county.

(30) Thirtieth District: That part of Jefferson County containing voting precinct 37 of the Third Ward of the city of Louisville, and voting precincts B7, B10, B13, B14, B15, B18, B19, B21, B22, B24, B38, B42, B43, B48, B54, B58, B64 and B67 of B District of the county.

(31) Thirty-first District: That part of Jefferson County containing voting precincts 16, 17, 19, 26, 29, 34, 35, 36 and 38 of the Second Ward of the city of Louisville; voting precincts A22, A35, A36, A39, A43, A63, A80, A81 and A123 of A District of the county, and voting precincts B4, B5, B6, B9, B17, B27, B28, B35, B39, B45, B55, B56 and B68 of B District of the county.

(32) Thirty-second District: That part of Jefferson County containing voting precincts 3, 4, 5, 6, 7, 9, 10, 13, 14, 20, 21, 23, 24, 25, 27, 28, 29, 30, 32 and 33 of the First Ward; voting precincts 1, 2, 3, 4, 5 and 6 of the Second Ward; voting precincts 1 and 2 of the Third Ward of the city of Louisville, and voting precincts A2, A5, A18, A19, A26, A29, A34, A49, A51, A60 and A73 of A District of the county.

(33) Thirty-Third District: That part of Jefferson County containing voting precincts 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 21, 23, 24, 27, 28, 30, 31, 32 and 33 of the second ward of the city of Louisville; voting precinct A 17 of A District of the county, and voting precincts B1, B2, B3, B29, B30, B31, B33, B34, B59 and B70 of B District of the county.

(34) Thirty-fourth District: That part of Jefferson County containing voting precincts 11, 12, 16, 17 and 19 of the First Ward, and voting precincts 7, 8, 9, 10, 11, 12, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the third ward, voting precinct 11 of the fifth ward of the city of Louisville, and voting precinct B16 of B District of the county.

(35) Thirty-fifth District: That part of Jefferson County containing voting precincts 17 and 29 of the Third Ward, and voting precincts 5A, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32, and 33 of the Fourth Ward, voting precincts 10 and 13 of the Eighth Ward of the city of Louisville, and voting precincts B8, B11, B12 and B32 of B District of the county.

(36) Thirty-sixth District: That part of Jefferson County containing voting precinct 15 of the First Ward; voting precincts 13 and 16 of the Third Ward; voting precincts 21 and 23 of the Fourth Ward; voting precincts 5, 6, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 of the Fifth Ward, voting precincts 9, 11, 12 and 14A of the Eighth Ward of the city of Louisville.

(37) Thirty-seventh District: That part of Jefferson County containing voting precinct 34 of the Fourth Ward, voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 29 of the Sixth Ward, and voting precincts 6, 8 and 9 of the Seventh Ward, voting precinct 16 of the Eighth Ward of the city of Louisville, and voting precincts C24 and C88 of C District of the county.

(38) Thirty-eighth District: That part of Jefferson County containing voting precincts 12, 13, 15, 16, 27, 28, 30, 31, and 32 of the Sixth Ward, voting precincts 3A, 5, 7, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the Seventh Ward of the city of Louisville.

(39) Thirty-ninth District: That part of Jefferson County containing voting precincts 1, 2 and 31 of the First Ward, voting precincts 2, 3 and 4 of the Fifth Ward, voting precinct 5 of the Sixth Ward, voting precincts 1, 2, 3, 4, 5, 6, 7, 8 and 15 of the Eighth Ward, and voting precinct 21 of the Ninth Ward, voting precincts 3, 18, 19 and 27 of the Tenth Ward of the city of Louisville.

(40) Fortieth District: That part of Jefferson County containing voting precincts 2 and 4 of the Seventh Ward, voting precincts 17, 18, 19, 20 and 21 of the Eighth Ward, voting precincts 8, 10, 11, 12, 13, 14A, 15A, 16, 17 and 18 of the Ninth Ward, and voting precincts 22, 23, 24, 25 and 26 of the Tenth Ward of the city of Louisville, and voting precincts C9, C25, C27, C35, C51, C63 and C68 of C District of the county.

(41) Forty-first District: That part of Jefferson County containing voting precincts 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21 and 28 of the Tenth Ward, voting precincts 1, 5, 9, 18, 19, 20 and 21A of the Eleventh Ward of the city of Louisville.

(42) Forty-second District: That part of Jefferson County containing voting precincts 1, 2, 3, 4, 5, 6, 7A, 9, 19 and 20 of the Ninth Ward, voting precincts 8, 10, 11, 12, 13, 14, 15, 16 and 17 of the Eleventh Ward, and voting precincts 21, 22, 23, 24 and 25 of the Twelfth Ward of the city of Louisville.

(43) Forty-third District: That part of Jefferson County containing voting precincts 2, 3, 4, 6 and 7 of the Eleventh Ward, and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 12, 13, 14, 15, 16A, 17, 18, 19 and 20 of the Twelfth Ward of the city of Louisville.

(44) Forty-fourth District: That part of Jefferson County containing voting precincts C1, C2, C3, C4, C10, C13, C15, C20, C26, C28, C29, C36, C37, C38, C41, C48, C49, C52, C62, C76, C77, C86, C92 and C93 of C District of the county.

(45) Forty-fifth District: That part of Jefferson County containing voting precincts B23, B63, and B66 of the B District of the county; voting precincts C12, C14, C16, C17, C22, C32, C42, C61, C83, C84 and C89 of C District of the county.

(46) Forty-sixth District: That part of Jefferson County containing voting precincts B20, B25, B26, B36, B37, B40, B41, B44, B46, B47, B49, B50, B51, B52, B53, B57, B60, B61, B62, B65 and B69 of B District of the county.

(47) Forty-seventh District: That part of Jefferson County containing voting precincts A4, A6, A8, A12, A13, A15, A16, A20, A21, A23, A24, A25, A27, A28, A31, A32, A33, A37, A38, A41, A42, A45, A46, A50, A53, A58, A64, A68, A69, A71, A72, A74, A77, A136 and A149 of A District of the county.

(48) Forty-eighth District: That part of Jefferson County containing voting precincts A1, A3, A7, A9, A10, A11, A14, A30, A40, A44, A47, A48, A52, A54, A55, A56, A57, A59, A61, A62, A65, A66, A67, A70, A75, A76, A78 and A79 of A District of the county.

(49) Forty-ninth District: Bullitt and Spencer Counties.

(50) Fiftieth District: Nelson County and that part of Washington County not contained in the Fifty-fourth District.

(51) Fifty-first District: Green and Taylor Counties, and that part of Metcalfe County not contained in the Twenty-third District.

(52) Fifty-second District: Adair and Casey Counties and that part of Russell County not contained in the Fifty-third District.

(53) Fifty-third District: Wayne, Clinton and Cumberland Counties; that part of Russell County contained within the county census division of Eli bounded by: State Highway 80; county line, Lake Cumberland, Caney Creek, Caney Fork, Clear Fork, Dunbar Trail, Dunbar Road, West Wilson Road, State Highway 80, that part of Russell County contained within the county census division of Bryan bounded by: State Highway 92, Greasy Creek, Bethel Creek Fork, Blankenship Road, State Highway 55, Helen Road, State Highway 35, county line.

(54) Fifty-fourth District: Boyle County; that part of Washington County contained in voting precincts 5, 6, 7, 8, 9, 10.

(55) Fifty-fifth District: Garrard, Mercer and Anderson Counties.

(56) Fifty-sixth District: Jessamine and Woodford Counties.

(57) Fifty-seventh District: Franklin County.

(58) Fifty-eighth District: Henry and Shelby Counties.

(59) Fifty-ninth District: Carroll, Gallatin, Oldham, and Trimble Counties.

(60) Sixtieth District: Boone County.

(61) Sixty-first District: Bracken, Grant and Owen Counties and Pendleton County except for the voting precincts of Bonar and Sandsuck.

(62) Sixty-second District: Harrison and Scott Counties.

(63) Sixty-third District: That part of Kenton County containing the following voting precincts: Crestview, Edgewood 1, 2 and 3; Elsmere 4; Erlanger 1, 2, 3, and 7; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2 and 3; Park Hills 1, 2 and 3; and Sandfordtown.

(64) Sixty-fourth District: That part of Kenton County containing the following voting precincts: Bracht, Cherokee, Covington 26, 27, 29, 30, 40, 41, 42 and 43, Decoursey, Independence 1 and 2, Morningview, Nicholson, Oakridge, Piner, Richardson, Taylor Mill 1 and 2, Visalia, Whites Tower, Winston Park.

(65) Sixty-fifth District: That part of Kenton County containing the following voting precincts: Covington 12, 14, 15, 17, 18, 19, 20, 20A, 23, 24, 25, 31, 33, 34, 35, 36 and 39.

(66) Sixty-sixth District: That part of Kenton County containing the following voting precincts: Covington 6, 7, 10, 10A and 13, Bromley, Crescent Springs, Elsmere 1, 2 and 3, Erlanger 4, 5, 6, 8 and 9, Ludlow 1, 2, 3, 4 and 5, Villa Hills 1 and 2.

(67) Sixty-seventh District: That part of Campbell County containing all of the voting precincts in the city of Newport, the city of Wilder, the city of Southgate except voting precinct Southgate B; that part of Kenton County containing voting precincts Covington 1, 3.

(68) Sixty-eighth District: That part of Campbell County containing all the voting precincts in the city of Bellevue; all the voting precincts in the city of Dayton; voting precincts A, B, C, D, E, G, L and P in the city of Fort Thomas and the voting precincts of Woodlawn, Brent, Crestview, Silver Grove, Hayfield, Carthage, Camp Springs and Melbourne.

(69) Sixty-ninth District: That part of Campbell County not contained in the Sixty-seventh and Sixty-eighth Districts; that part of Pendleton County contained in the voting precincts of Bonar and Sandsuck.

(70) Seventieth District: Mason, Fleming and Robertson Counties; that part of Rowan County contained in census enumeration district 3 bounded by Bath County line, Triplett Creek, Morehead city limits, Kentucky Highway 32, Fleming County line.

(71) Seventy-first District: Morgan and Menifee Counties; that part of Rowan County not contained in the Seventieth District; the Northern part of Wolfe County bounded by Kentucky Highway 15, Campton City limits, Kentucky Highway 746, Mountain Parkway Extension, Morgan County line, Menifee County line, Powell County line, including the city of Campton.

(72) Seventy-second District: Bourbon County and that part of Fayette County not contained in the Seventy-fifth District, the Seventy-sixth, Seventy-seventh, Seventy-eighth and Seventy-ninth Districts.

(73) Seventy-third District: Clark and Powell Counties.

(74) Seventy-fourth District: Bath, Nicholas and Montgomery Counties.

(75) Seventy-fifth District: That part of Fayette County contained within the following described boundaries: Beginning at the intersection of South Broadway and Mason Headley Road; then with the center line of South Broadway in a northeastwardly direction to the intersection of South Broadway and Virginia Avenue; then in a northwestwardly direction with the western boundary of the Kentucky Trotting Horse Breeders Association property (Red Mile) to the Versailles Pike across from the intersection of Forbes Road; then in a generally northwardly direction with the center line of Forbes Road to its intersection with the Old Frankfort Pike to its intersection with Leestown Pike (West Main Street); then in a southeastwardly direction with the center line of West Main Street to its intersection with Newtown Pike; then in a northwestwardly direction with the center line of Newtown Pike to its intersection with West Fourth Street; then in a southeastwardly direction with the center line of West Fourth Street to the Louisville and Nashville Railroad Company crossing; then in a northeastwardly direction with the center line of the right-of-way of the Louisville and Nashville Railroad Company to its crossing of the Russell Cave Pike (Ky 353); then in a generally southwardly direction along the center line of the Russell Cave Pike to Louden Avenue; then in a southeastwardly direction with the center line of Louden Avenue to its intersection with Maple Avenue; then in a southeastwardly direction with the center line of Maple Avenue to its intersection with East Seventh Street and in a southeastwardly direction along the center line of East Seventh Street to its intersection with Shropshire; then in a southwestwardly direction with the center line of Shropshire Avenue to East Sixth Street and in a northwestwardly direction with the center line of East Sixth Street to its intersection with Pemberton; then in a southwestwardly direction with the center line of Pemberton to its intersection with East Fifth Street; then in a southeastwardly direction with the center line of East Fifth Street to its intersection with Race Street and in a southwestwardly direction with the center line of Race Street to its intersection with East Third Street; then in a southeastwardly direction with the center line of East Third Street to its intersection with Walton Avenue; then in a southwestwardly direction with the center line of Walton Avenue to its intersection with East Main Street; then in a southeastwardly direction with the center line of East Main Street to its intersection with Irvine Road; then in a southwestwardly direction with the center line of Irvine Road to its intersection with Fontaine Road; then in a northwestwardly direction with the center line of Fontaine Road to its intersection with East High Street; then in a generally southwardly direction with the center line of East High Street to the northwest property line of Cassidy school; then following the property line of Cassidy school back to the southwest boundary of East High Street; then with the center line of East High Street to its intersection with Cooper Drive; then westwardly along the center line of Cooper Drive where it meets the eastern property boundary of the University of Kentucky Experimental Farm; then south around the property line of the University of Kentucky Experimental Farm to the western boundary where it meets Iroquois; then northwestwardly to the intersection of Iroquois and South Limestone; then southwardly along the center line of South Limestone to the intersection of Southland Drive; then northwestwardly along the center line of Southland Drive to the intersection of Southland Drive and Southview Drive; then southwestwardly along Southview Drive to the intersection of Southview Drive and Hollyhill Drive; then westwardly along the rear property line of Hollyhill Drive to the intersection of Hollyhill Drive and Clays Mill Road; then northwardly along the center line to the intersection of Clays Mill Road and South Broadway and with the center line of South Broadway to the Mason Headley Road, to the point of beginning.

(76) Seventy-sixth District: That part of Fayette County contained within the following boundaries: Beginning at the intersection of East Third Street and Race Street; then in a southeastwardly direction along the center line of East Third Street to its intersection with Walton Avenue; then in a southeastwardly direction with the center line of Walton Avenue to its intersection with East Main Street; then in a southeastwardly direction with the center line of East Main Street to its intersection with West Fairway Drive; then in a northeastwardly direction with the center line of West Fairway Drive to its intersection with Henry Clay Boulevard; then in a northeastwardly direction with the center line of Henry Clay Boulevard to its intersection with Menifee Avenue and in a southeastwardly direction with the center line of Menifee Avenue to a point in the southeast property line of Holiday Road; then in a southwestwardly direction with the southeast property line of Holiday Road to East Main Street; then in a southeastwardly direction with the center line of East Main Street to its intersection with New Circle Road (Ky 4); then in a generally

northwardly direction along the center line of New Circle Road to its intersection with Winchester Pike (US 60); then in a generally eastward direction with the center line of Winchester Pike to its intersection with Interstate 64-75; then in a northwestwardly direction with the right-of-way of Interstate 64-75 to its overpass on the Russell Cave Pike (Ky 353); then in a southwestwardly direction with the center line of Russell Cave Pike to its intersection with the New Circle Road; then in a southeastwardly direction with the center line of New Circle Road to its intersection with the Old Paris Pike (North Limestone); then in a southwestwardly direction with the center line of North Limestone to its intersection with Carlisle Avenue; then in a southeastwardly direction along the center line of Carlisle Avenue to its intersection of Bryan Avenue; then in a southwestwardly direction with the center line of Bryan Avenue to its intersection with Louden Avenue; then in a southeastwardly direction with the center line of Louden Avenue to its intersection with Maple Avenue; then in a southwestwardly direction with the center line of Maple Avenue to East Seventh Street; then in a southeastwardly direction along the center line of East Seventh Street to Shropshire; then in a southwestwardly direction along the center line of Shropshire to East Sixth Street; then in a northwestwardly direction along the center line of East Sixth Street to Pemberton; then in a southwestwardly direction along the center line of Pemberton to East Sixth Street; then in a southeastwardly direction with the center line of East Fifth Street to Race Street; then in a southwestwardly direction along the center line of Race Street to its intersection with East Third Street, the point of beginning.

(77) Seventy-seventh District: That part of Fayette County contained within the following boundaries: Beginning at the intersection of the Versailles Road (US 60) and the New Circle Road (Ky 4); then with the New Circle Road in a generally northeastwardly direction to the following intersections: Old Frankfort Pike, Leestown Pike, Georgetown Pike, Newtown Pike, Russell Cave Pike and North Broadway to its intersection with the Old Paris Pike (North Limestone); then in a southwestwardly direction along the center line of North Limestone to Carlisle Avenue; then in a southeastwardly direction with the center line of Carlisle Avenue to Bryan Avenue; then in a southwestwardly direction with the center line of Bryan Avenue to its intersection with Louden Avenue and in a northwestwardly direction with the center line of Louden Avenue to its intersection with Russell Cave Pike and in a generally northwardly direction with the center line of the Russell Cave Pike to the Louisville and Nashville Railroad crossing; then in a southwestwardly direction with the right-of-way with the Louisville and Nashville Railroad to West Fourth Street; then in a northwestwardly direction along the center line of West Fourth Street to the Newtown Pike and in a southwestwardly direction along the center line of the Newtown Pike to West Main Street; then in a northwestwardly direction with West Main Street (Leestown Pike) to Forbes Road; then in a southwestwardly direction along the center line of Forbes Road to the Versailles Road and across the Versailles Road and along the western property line of the Kentucky Trotting Horse Breeders Association (Red Mile) to South Broadway and in a southwestwardly direction along the center line of South Broadway to Clays Mill Road and continuing in a southwestwardly direction along the center line of Clays Mill Road to Longview Drive; then in a northwestwardly direction along the center line of Longview Drive to the Harrodsburg Road; then in a southwestwardly direction along the center line of the Harrodsburg Road to the New Circle Road and in a northwestwardly direction along the center line of New Circle Road to a point opposite the center line of Lansill Road and in a northeastwardly direction along the center line of Lansill Road to a point on the Lane Allen Road; then continuing in a northeastwardly direction along the center line of Traveller Road to the northwest property line of Antietam Road; then in a generally northwardly direction along the line between the rear property lines of Traveller Road and Alexandria Drive to the Parkers Mill Road; then continuing in a generally northwardly direction along the center line of the Parkers Mill Road to Versailles Road; then in a westwardly direction along the center line of Versailles Road to the New Circle Road, the point of beginning.

(78) Seventy-eighth District: That part of Fayette County contained within the following boundaries: Beginning on Versailles Pike (US 60) at the Woodford County line; then eastwardly with the center line of the Versailles Pike to the intersection with the New Circle Road, then continuing along the Versailles Pike to Parkers Mill Road; then in a generally southwardly direction along the center line of Parkers Mill Road and continuing in a southerly direction along the rear property lines of Traveller Road and Alexandria Drive to the northwestwardly property line of Antietam Road and in a southwestwardly direction with said property line of Antietam Road to the center line of Traveller Road and with the center line of Traveller Road to the Lane Allen Road; then in a southwestwardly direction to the center line of Lansill Road, continuing along the center line of Lansill Road and on to New Circle Road and in a southeastwardly direction along the center line of the New Circle Road to the Harrodsburg Road; then in a northeastwardly direction along the center line of Harrodsburg Road to its intersection with Longview Drive; then in a southeastwardly direction along the center line of Longview Drive to Clays Mill Road; then in a southwestwardly direction along Clays Mill Road to the intersection of Hollyhill Drive; then along the rear property line in a southeastwardly direction to Southview Drive; then northeastwardly along the center line of Southview Drive to the intersection of Southland Drive; then southeastwardly along the center line of Southland Drive to the intersection of Southland Drive and South Limestone; then northeastwardly to the intersection of Iroquois and South Limestone; then eastwardly along Iroquois to the western property line of the University of Kentucky Experimental

Farm and along the southern boundaries of the University of Kentucky Experimental Farm property to the eastern boundary of the University of Kentucky Experimental Farm property where it meets Cooper Drive; then along the center line in a southeastwardly direction to the intersection of Cooper Drive and East High Street (Tates Creek Pike); then in a generally southerly direction along the center line of Tates Creek Pike to the Fayette County line; then along the Fayette County line in a generally northwestwardly direction to the Versailles Pike (US 60), the point of beginning.

(79) Seventy-ninth District: That part of the county of Fayette contained within the following boundaries: Beginning at the Kentucky River at the landing of Tates Creek Pike; then in a generally northwestwardly direction along the center line of the Tates Creek Pike (East High Street) to its intersection with Fontaine Road; then in a southeastwardly direction with the center line of Fontaine Road to its intersection with Irvine Road; then in a northeastwardly direction with the center line of Irvine Road to its intersection with East Main Street; then with the center line of East Main Street in a southeastwardly direction to its intersection with West Fairway Drive; then in a northeastwardly direction with the center line of East Fairway Drive to its intersection with Henry Clay Boulevard; then continuing in a northeastwardly direction with the center line of Henry Clay Road to its intersection with Menifee Avenue; then in a southeastwardly direction with the center line of Menifee Avenue to the southeast property line of Holiday Road; then in a southwestwardly direction with the southeast property line of Holiday Road to its intersection with East Main Street; then in a southeastwardly direction with the center line of East Main Street to its intersection with New Circle Road (Ky 4); then with the center line of New Circle Road to its intersection with the Winchester Pike (US 60); then in a generally eastwardly direction with the center line of the Winchester Pike to its intersection with Interstate 64-75; then in a northwestwardly direction with the right-of-way of Interstate 64-75 to the Bryan Station Pike (Ky 956) and in a northwestwardly direction along the center line of the Bryan Station Pike to the Muir Station Pike; then in a southeastwardly direction along center line of the Muir Station Pike to the Briar Hill Pike; then in a northeastwardly direction along the center line of the Briar Hill Pike to the Bourbon County line; then following the Fayette County line in a generally southerly direction to the Kentucky River and along the Kentucky River to the Tates Creek Pike, the point of beginning.

(80) Eightieth District: Lincoln and Rockcastle Counties and that part of Pulaski County contained within the following voting precincts: Eubank 25, Estesburg 26, Hazeldell 27, Good Hope 28 and Catron 31.

(81) Eighty-first District: That part of Madison County not contained in the Eighty-fourth District.

(82) Eighty-second District: Whitley County; that part of McCreary County contained within the county census division of Pine Knot bounded by: Blue Heron Road extended, Blue Heron Road, State Highway 742, U. S. Highway 27, Laurel Creek, Marsh Creek, Duck Run, county line, state line, South Fork Cumberland River; that part of McCreary County contained within the County Census Division of Cooperative bounded by: South Fork Cumberland River, state line, county line; that part of McCreary County contained within the county census division of Stearns bounded by: Lick Creek, Bridge Fork, Laurel Creek, U. S. Highway 27, State Highway 742, Blue Heron Road, Blue Heron Road extended, South Fork Cumberland River.

(83) Eighty-third District: That part of Pulaski County not contained in the Eightieth District.

(84) Eighty-fourth District: Estill and Jackson Counties and that part of Madison County contained in the city of Berea and in voting precincts 19 and 20.

(85) Eighty-fifth District: Laurel County and that part of McCreary County not contained in the Eighty-second District.

(86) Eighty-sixth District: Knox County; that part of Clay County contained in voting precincts 1, 8, 12, 13, 14, 15.

(87) Eighty-seventh District: Bell County and that part of Harlan County contained in voting precinct Pathfork 41.

(88) Eighty-eighth District: That part of Harlan County not contained in the Eighty-seventh and Ninetieth Districts.

(89) Eighty-ninth District: Breathitt and Lee Counties and that part of Wolfe County not contained in the Seventy-first District, and that part of Perry County contained in census county division of Big Creek, Blue Diamond Buckhorn, Yerkes-Busy and Krypton lying north and east of the following boundary: Leslie County line, Big Creek-Right Fork Divide, Buffalo Fork Big Creek-Buffalo Creek Divide, Brown's Fork-Buffalo Creek Divide, Messer Branch-Davidson Branch Divide, Happy Hollow, Hazard City limits, Walker Branch-North Fork Kentucky River Divide; Laurel Fork-Lost Creek-First Creek Divide, Sixteenmile Creek-Lower Second Creek Divide, Lost Creek, Grapevine Creek Divide, Tenmile Creek-Grapevine Creek Divide, Breathitt County line, Owsley County line, and Clay County line.

(90) Ninetieth District: Leslie and Owsley Counties, and that part of Harlan County contained in the voting precincts of Pine Mountain-Big Laurel No. 11, Bledsoe No. 12, New Baxter No. 9, Old Baxter No. 8, School House Loyall No. 35, City Hall Loyall No. 34, Rio Vista No. 36, and Putney No. 10, and that part of Clay County contained in voting precincts 2, 3, 4, 5, 6, 7, 9, 10, 11.

(91) Ninety-first District: That part of Perry County not contained in the Eighty-ninth district, and that part of Letcher County not contained in the Ninety-second District.

(92) Ninety-second District: Knott and Magoffin Counties; that part of Letcher County contained in census county division of Blackey, Colson, Fleming-Neon, and census enumeration districts 21 and 22, lying northwest of the following boundary: Perry County line, Turkey Creek-Defeated Creek Divide, Whittaker Branch Road, Tolson Branch Road, Kentucky Highway 588, Mills Branch Road, Mills Branch Spur Road, Rockhouse Creek-Smoot Creek Divide, Kentucky Highway 15, Smoot Creek-Dry Fork Divide, Rockhouse Creek-North Fork Kentucky River Divide, Millstone Creek Road, Kentucky Highway 803, State Highway 113, North Fork Kentucky River, U. S. Highway 119, Seco city limits, U.S. Highway 119, Jenkins city limits, McRoberts city limits, Fleming city limits, and from Hemphill-Jackhorn P.O. due north to Pike County line, including the cities of Seco and Fleming.

(93) Ninety-third District: That part of Pike County contained in voting precincts Caney 20, Yeager 21, Old Shelby 22, Long Fork 23, Dorton 24 and Elmwood in district 2; Marrowbone 30, Rockhouse 31, Henry Clay 32, Hellier 33, Ashcamp 34 and Rasnick 35 in district 3; Millard 40, Lick Creek 42, Grapevine 43, and Garden Village 46 in district 4; Raccoon 51 in district 5; Peter 70, Blackberry 71, Knox 72, Freeburn-Cline 73, Wolford 74, Bluesprings 75, Majestic 76 in district 7; Mouthcard 80, Upper Elkhorn 81, Elkhorn City Hall 82, Belcher 83, Feds Creek 84, Looney 85 in district 8.

(94) Ninety-fourth District: That part of Pike County not contained in the Ninety-third District; that part of Floyd County not contained in the Ninety-fifth District.

(95) Ninety-fifth District: Floyd County except for the voting precincts Herold, Toler Creek, Antioch, Branhams Creek, Head of Mud, Tickey.

(96) Ninety-sixth District: Carter and Lewis Counties.

(97) Ninety-seventh District: Johnson and Martin Counties, and that part of Lawrence County contained in voting precincts 7, 9, 10, 11, 12, 13 and 14.

(98) Ninety-eighth District: That part of Greenup County not contained in the Ninety-ninth District.

(99) Ninety-ninth District: Elliott County; that part of Lawrence County contained in voting precincts 1, 2, 3, 4, 5, 6 and 8; that part of Boyd County containing the following voting precincts: Court House 1, City Building 2, Argo 3, Hampton 4, Rockdale 5, England Hill 7, Durbin 8, East Fork 9, Cannonsburg 10, Princess 11, Garner 12, Hoods Creek 13, Fairview 14, Buckley 15, Westwood 16, Millseat 17; that part of Greenup County contained in census enumeration district 10, known as Bellefonte City, bounded by county line, Country Club Drive (State Highway 693) to its junction with State Highway 1725, then southeasterly to the county line.

(100) One hundredth District: That part of Boyd County not contained in the Ninety-ninth District.

Section 2. KRS 6.190 is amended to read as follows:

Beginning as of January 1, 1978, the members of the general assembly, other than the speaker of the house of representatives,the president pro-tempore of the senate and the majority and minority leadership of each house of the general assembly, shall each receive as compensation fifty dollars ($50) per day, the president of the senate, the president pro-tempore of the senate and the speaker of the house of representatives shall each receive as compensation seventy-five dollars ($75) per day, the majority and minority floor leaders of each house of the general assembly shall each receive as compensation seventy dollars ($70) per day, and the assistant president pro-tempore of the senate, the speaker pro-tempore and the majority and minority caucus chairmen and whips of each house of the general assembly shall each receive as compensation sixty-five dollars ($65) per day, during the session of the general assembly. Beginning as of January 1, 1984, the members of the general assembly, other than the speaker of the house of representatives, the president pro tempore of the senate and the majority and minority leadership of each house of the general assembly, shall each receive as compensation one hundred dollars ($100.00) per day, the president of the senate, the president pro tempore of the senate and the speaker of the house of representatives shall each receive as compensation one hundred twenty-five dollars ($125.00) per day, the majority and minority floor leaders of each house of the general assembly shall each receive as compensation one hundred twenty dollars ($120.00) per day, and the assistant president pro tempore of the senate, the speaker pro tempore and the majority and minority caucus chairmen and whips of each house of the general assembly shall each receive as compensation one hundred fifteen dollars ($115.00) per day, during the session of the general assembly. In addition to his compensation as a member of the general assembly, each chairman of a standing committee of the house of representatives or the senate shall receive compensation of ten dollars ($10) for each regularly scheduled meeting of the standing committee which he chairs during sessions of the general assembly. Effective January 1, 1976, each member of the general assembly, and the president of the senate, shall receive sixteen cents (16¢) per mile and reimbursement of road tolls for one (1) round trip for each week of the session between his home and the state capitol during regular sessions and extraordinary sessions of the general assembly and the necessary travel in going to and returning from the sessions of their respective houses. Beginning as of July 1, 1980 each member of the general assembly, and the president of the senate shall receive a mileage allowance equal to the maximum mileage allowance permitted by the federal government, to be increased *as federal mileage allowance is increased.*

Section 3. KRS 6.500 is amended to read as follows:

There hereby is created a retirement plan for the members of the general assembly (hereinafter "legislators"). Each legislator in office on the July 1, 1980, and each legislator thereafter taking office, may acquire membership in the plan in accordance with the provisions of KRS 6.505. In the event that a legislator in office during the 1980 regular session of the general assembly should die prior to July 1, 1980, then the person who would have been eligible for survivor benefits, had the legislator elected membership in the legislators' retirement plan, may elect such membership pursuant to KRS 6.505 and be eligible for survivor benefits of the *legislators'* [~~legislative~~] retirement plan.

Section 4. KRS 6.505 is amended to read as follows:

(1) Each legislator in office on July 1, 1980 may within thirty (30) days after that date, and any legislator thereafter taking office may within thirty (30) days after the date thereof, elect to make monthly contributions to the *legislators'* [~~legislators~~] retirement plan, in an amount equal to five (5) percent of his monthly creditable compensation, as defined in KRS 61.510(13). The election shall be effective to establish membership in the plan as of July 1, 1980 or as of the date from which the thirty (30)-day period is measured, as the case may be. Provided, however, that any legislator in office on July 1, 1980 may, after the expiration of the thirty (30) day period and until February 1, 1981, make the election, in which event he shall pay to the *legislators'* [~~legislators~~] retirement plan, for the months between July 1, 1980 and the date of his election such sum as, when added to any member's contribution by him that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. The election shall be addressed to and filed with the secretary of the department of finance and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five (5) percent thereof, as a voluntarily elected contribution by the member towards the funding of the *legislators'* [~~legislators~~] retirement plan. Such election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530.

(2) When any legislator elects membership in the *legislators'* [~~legislators~~] retirement plan in accordance with this section, his active membership in the Kentucky employes retirement system, county employes retirement system, or teachers retirement system shall terminate, as of the date his membership in the legislators' retirement plan becomes effective, to the extent that service as a legislator is concerned, and any credit that he then has in such other system or systems, earned for service as a legislator, shall be transferred to and counted as service credit in the *legislators'* [~~legislators~~] retirement plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected.

Section 5. KRS 6.530 is amended to read as follows:

There is hereby established, within the *legislators'* [~~legislators~~] retirement plan, a state fund to be known as the legislators' retirement fund, which shall consist of the plan members' contributions, state appropriations to the fund, transfers of money as provided in KRS 6.535 and Section 25 of Acts 1980, Chapter 407, and earnings from investment of the fund. The fund may have a subordinate administrative account. The benefits provided to be paid by reason of membership in the *legislators'* [~~legislators~~] retirement plan shall not be chargeable to any other retirement fund.

Section 6. KRS 21.530 is amended to read as follows:

For administrative purposes only, as hereinafter provided, the *legislators'* [~~legislative~~] retirement plan and the judicial retirement plan shall be coordinated under the name, judicial form retirement system, but each of the plans shall maintain its separate identity. A board of trustees of that system hereby is created, to consist of eight (8) members, three (3) of whom shall be appointed by the Supreme Court, two (2) by the governor, one (1) by the president pro tem of the senate, one (1) by the speaker of the house of representatives, and one (1) by such president and speaker jointly. The appointments by the governor shall not be from among the members of either of the plans in the system, or from among the persons drawing benefits from either of those plans. The members of the board shall serve for terms of four (4) years, commencing as of July 1, 1980, and until their successors are chosen and have qualified; provided that if a member of the board who was a member of one of the plans in the system when he was appointed ceases to be a member of that plan, a vacancy shall thereupon be deemed to exist in his position on the board; and provided further, that the members of the judicial retirement board in office on July 1, 1980 shall serve for the remainder of the terms for which they were appointed, as the members of the board created by this section, in the positions appointable by the Supreme Court and the governor. Vacancies shall be filled by the appointing authority for the unexpired term. The members shall annually elect a chairman. Board members who do not receive an annual salary from the state treasury, in another capacity, shall receive seventy-five dollars ($75) for each day they are in session. All members shall be reimbursed for their necessary expenses.

Section 7. KRS 21.560 is amended to read as follows:

The members of the board of trustees of the judicial form retirement system who are appointed by the president pro tem of the senate and the speaker of the house of representatives, singly or jointly, together with the members of the board who are appointed by the governor, shall constitute an investment committee for the *legislators'* [~~legislators~~] retirement plan, and as such shall have all the powers and duties with respect to the *legislators'* [~~legislators~~] retirement fund as are given by KRS 21.550 to the investment committee of the judicial retirement plan with respect to the judicial retirement fund. The committee provided for by this section may, with the concurrence of the investment committee for the judicial retirement plan, arrange for the *legislators'* [~~legislative~~] retirement fund and the judicial retirement fund to constitute a common fund for investment purposes only, to be under the management of the investment committee for the judicial retirement plan, each fund sharing in the common fund in proportion to the value of its assets contributed to the common fund.

Section 8. KRS 11.400 is amended to read as follows:

(1) In addition to the duties prescribed for the office by the constitution of the Commonwealth of Kentucky and by the rules of the senate, the duties of the lieutenant governor shall be as follows:

(a) To serve as vice-chairman of the state property and buildings commission as prescribed by KRS 56.450;

(b) To serve as vice-chairman of the Kentucky turnpike authority as prescribed in KRS 175.430;

(c) To serve as a member of the governor's council on agriculture in accordance with KRS 247.417;

(d) To serve as vice-chairman of the county debt commission as provided in KRS 66.300;

(e) To appoint three (3) members of the board of ethics of the Kentucky general assembly in accordance with KRS 6.810;

(f) To appoint one (1) member of the public officials' compensation *commission* [~~board~~] as provided in KRS 64.742;

(g) To serve as a member of the economic development commission;

(h) To serve as a member of the Kentucky port and river development authority pursuant to KRS 154.320;

(i) To serve as a member of the board of the Kentucky housing corporation in accordance with KRS 198A.030;

(j) To serve as a member of the appalachian development council as provided in KRS 154.600;

(k) To serve as a member of Kentucky delegations on the following interstate compact commissions or boards:

(i) The southern growth policies board as prescribed by KRS 147.585;

(ii) The breaks interstate park commission as provided in KRS 148.225;

(iii) The falls of the Ohio interstate park commission pursuant to KRS 148.242;

(iv) The Tennessee-Tombigbee waterway development authority pursuant to KRS 182.305;

(v) The interstate water sanitation control commissions as prescribed by KRS 224.205; and

(vi) The Kentucky mining advisory council for the interstate mining compact as provided by KRS 350.310.

(2) Nothing in this section shall prohibit the governor and lieutenant governor from agreeing upon additional duties within the executive branch of the state government to be performed by the lieutenant governor.

Section 9. KRS 15.220 is amended to read as follows:

Except as provided in KRS 15.190 to *15.240* [~~15.230~~], the powers and duties conferred upon or required of the attorney general by KRS 15.190 to *15.240* [~~15.230~~] shall not be construed to deprive prosecuting attorneys of any of their authority in respect to criminal prosecutions, or relieve them from any of their duties to enforce the criminal laws of the Commonwealth.

Section 10. KRS 15.310 is amended to read as follows:

As used in KRS 15.310 to 15.510 and KRS 15.990 to 15.992, unless the context otherwise requires:

(1) "Council" means the Kentucky law enforcement council established by KRS 15.310 to 15.510 and KRS 15.990 to 15.992.

(2) "Bureau" means the bureau of training of the department of justice.

(3) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus security officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and private security guards licensed pursuant to *KRS 61.360* [~~state statute~~].

(4) "Secretary" means the secretary of the department of justice.

Section 11. KRS 17.250 is amended to read as follows:

The commissioner of *the department of housing, buildings and construction* [~~insurance~~] shall allot on an annual basis the funds appropriated for fire department aid in the amounts not to exceed $2,000 to the fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and all other organized fire departments recognized by the commissioner of insurance as fire departments operated and maintained on a nonprofit basis in the interest of the health, safety, prosperity and security of the inhabitants of the Commonwealth. He shall prescribe regulations and standards for determining the amounts to be granted. Such standards shall be based on the number of both paid fire fighters and volunteer firemen, the amount of equipment, housing facilities available and such other matters or standards as will best effect the purposes of the fire department aid law. No allotment shall exceed the total value of the funds, equipment, lands and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and the remaining funds shall be distributed as set forth in this section.

Section 12. KRS 18.140 is amended to read as follows:

(1) The classified service to which KRS 18.110 to 18.360 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employes of the general assembly including the employes of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employes on the staff of the governor, the lieutenant governor, the office of the secretary of the governor's cabinet, and the office of program administration;

(e) Cabinet secretaries, commissioners, department heads, bureau commissioners and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(g) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the commissioner of personnel approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the personnel board may approve such an addition or additions on petition of the department head approved by the commissioner of personnel;

(h) Division directors subject to the provisions of KRS 18.150;

(i) Physicians employed as such;

(j) One (1) private secretary for each person exempted under subsections (1)(e), (1)(f) and (1)(g) of this section;

(k) The judicial department, referees, receivers, jurors, and notaries public;

(l) Officers and members of the staffs of state universities and colleges and student employes of such institutions; and officers, teachers, and employes of local boards of education;

(m) Patients or inmates employed in state institutions;

(n) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services [~~who are retained pursuant to application procedures, lists of eligibles, and classification and compensation systems developed by the commissioner of personnel and approved by the professional employment commission under the provisions of KRS 45.535~~];

(o) Seasonal, temporary, and emergency employes;

(p) Federally funded time-limited employes;

(q) Officers and members of the state militia;

(r) State police troopers and sworn officers in the bureau of state police, department of justice;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and commonwealth's attorneys and their respective appointees.

(2) Nothing in KRS 18.110 to 18.360 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and KRS 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Classified employes with status promoted to positions exempted from classified service may, upon termination of their employment in the exempted service, revert to their classified status, but not necessarily to a particular position in the classified service.

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 13. KRS 21.520 is amended to read as follows:

All of the assets of the special circuit judge fund established under KRS 23.350 to 23.370 hereby are transferred to the judicial retirement *fund* [~~board~~] established under KRS *21.550* [~~21.430~~] and shall be available to that *fund* [~~board~~] for the purposes of KRS 21.350 to 21.480; Provided, however, That so long as any of the special circuit judges appointed under KRS 23.300 to 23.380 prior to July 1, 1962, continue in service and so long as any circuit judge who made contributions to the special circuit judge fund prior to July 1, 1962, continues to be a member of the judicial retirement system established by KRS 21.350 to 21.480 or he draws benefits thereunder the assets so transferred and the income therefrom shall be held separate and apart for the purpose of paying compensation to such special circuit judges or benefits to such circuit judges; Provided, further, That the assets of the judicial retirement board as of June 30, 1962, and the income therefrom, shall also be held separate and apart for the purpose of paying benefits to the judges and regular commissioners of the Court of Appeals or their surviving spouses who are members of the judicial retirement system as of that date or who, having been members, have theretofore retired. Any appropriations or contributions to the judicial retirement board for fiscal years beginning on or after July 1, 1962, shall be available, without separation, for all of the purposes of KRS 21.350 to 21.480.

Section 14. KRS 31.150 is amended to read as follows:

(1) The public advocate, on behalf of the Commonwealth of Kentucky, shall recover where practical payment or reimbursement, as the case may be, from each person or his estate who has received legal assistance or another benefit under this chapter:

(a) To which he was not entitled;

(b) With respect to which he was not a needy person when he received it; or

(c) With respect to which he has failed to make the certification required by KRS 31.120(2);

(d) For funds not paid as ordered pursuant to KRS 31.120 *(4)*[~~(3)~~]; and

(e) For which he refuses to pay or reimburse. Suit must be brought within five (5) years after the date on which the aid was received.

(2) The public advocate, on behalf of the Commonwealth of Kentucky, shall recover where practical payment or reimbursement, as the case may be, from each person, other than a person covered by subsection (1), who has received legal assistance under this chapter and who, on the date on which suit is brought, is financially able to pay or reimburse the Commonwealth of Kentucky for it according to the standards of ability to pay applicable under KRS 31.100(3), 31.110(1) and 31.120(2), but refuses to do so. Suit must be brought within five (5) years after the date on which the benefit was received.

(3) Amounts recovered under this section shall be paid into a special account for the office for public advocacy.

(4) Any attorney participating in a public advocacy plan shall forward all information which he may have which indicates that payment or reimbursement may be obtained pursuant to subsections (1) and (2) of this section.

Section 15. KRS 32.070 is amended to read as follows:

Beginning July 1, 1976 or at such earlier date as may be fixed as hereinafter provided, grand jurors, petit jurors and persons summoned for jury service in circuit court eligible for payment of the compensation designated in KRS 29A.170 *(1)* shall be paid, in addition thereto, the sum of seven dollars and fifty cents ($7.50) per day as reimbursement of expenses incurred, which sum is hereby determined to be the equivalent of the minimum daily expenses reasonably to be incurred by such juror or person. Payment of such reimbursement for expenses may be made beginning as of such date prior to July 1, 1976, but not prior to July 1, 1974, as may be fixed by the governor upon recommendation of the secretary of justice if and to the extent that prior to July 1, 1976 the Commonwealth of Kentucky is awarded grant funds by the Law Enforcement Assistance Administration of the United States Department of Justice on a matching basis of not less than ninety percent (90%) federal funds and ten percent (10%) state funds which grant funds are sufficient to pay the full cost of the reimbursement of expenses, and of the administrative expenses related thereto, authorized by this section from the date so fixed through June 30, 1976. Eligible state funds appropriated for the 1974-1976 biennium may be used for matching purposes so long as such use does not reduce the level of services provided in the executive budget for that biennium.

SECTION 16. KRS 45.285 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 43:

(1) A state agency may request that an audit be performed by the auditor of public accounts. Such request shall be in writing and shall include a statement of the scope and nature of the proposed audit.

(2) No state agency shall enter into any contract with a certified public accountant for an audit unless the auditor of public accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request for an audit. Any contract with a certified public accountant entered into as a result of the auditor of public accounts' declining to perform the audit shall specify the following:

(a) The certified public accountant shall forward a copy of the audit report and management letters to the auditor of public accounts; and

(b) The auditor of public accounts shall have the right to review the certified public accountant's work papers.

Section 17. KRS 45.360 is amended to read as follows:

(1) The department of finance shall purchase, or shall delegate and control the purchase of, the combined requirements of all spending agencies of the state including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services, except that competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) When in the judgment of the department of finance food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies can be purchased otherwise to the best advantage of the state; and instructional materials available from only one (1) source;

(c) Where rates are fixed by law or ordinance;

(d) For library books;

(e) For commercial items that are purchased for resale;

(f) For professional, technical, scientific, or artistic services (Contracts exempted by this provision shall be reviewed and approved in accordance with KRS *45.710 to 45.720* [~~45.535~~]);

(g) For all other commodities, equipment and services which, in the reasonable discretion of the department of finance, are available from only one (1) source; and

(h) Interests in real property.

(2) Nothing in this section shall deprive the department of finance from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between the general service administration and the vendor affected.

(3) The department of finance shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and shall prescribe rules and regulations to govern purchasing by or for all such agencies, subject to the approval of the secretary of the department of finance, and shall publish a manual of procedures to be distributed to agencies and to be revised upon issuance of amendments to such procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the department or made under general regulations which the department of finance may prescribe.

(4) The department of finance shall adopt regulations to require agencies to take and maintain inventories of plant and equipment. The department of finance shall conduct periodic physical audits of inventories.

(5) The department of finance shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. It shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, all agencies shall submit to the department of finance prior to the beginning of each fiscal year an estimate of all needs for supplies, materials, and equipment during that year which will have to be acquired through competitive bidding.

(6) The department of finance shall have power, with the approval of the secretary of the department of finance, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(7) The department of finance shall sell or otherwise dispose of all property (including any interest in real property) of the state which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the secretary of the department of finance. The determination of the secretary of the department of finance shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. Such request shall describe the property and state the reasons why the agency believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the secretary of the department of finance and approved by the governor. Unless the secretary of the department of finance deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction, provided however that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the department, or the department of transportation for such requirements of that department.

(8) Except as provided in KRS Chapters 175, 176, 177 and 180, and subject to the provisions of KRS Chapter 45A, the department of finance shall purchase or otherwise acquire all real property determined to be needed for state use, upon the approval of the secretary of the department of finance as to the determination of need and as to the action of purchase or other acquisition, provided that the amount paid shall not exceed the appraised value as determined by the department, or the department of transportation (for such requirements of that department), or value set by eminent domain procedure.

(9) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employe of any agency of the state upon a finding by the department of finance, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the department of finance and the governor, that the employe has not either himself or through any other person influenced or attempted to influence either the agency requesting the purchase of the property or the department of finance in connection with such acquisition. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the secretary of state along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10) The department of finance shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the department of finance, the governor, and the general assembly. The department of finance shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities.

(11) For capital construction projects, subject to the provisions of KRS Chapter 45A, the bidding may be on a total design-bid basis; a package system commonly referred to as "turnkey"; phase bidding commonly referred to as "fast track"; or construction management, whichever in the judgment of the secretary of the department of finance offers the lowest real cost to the taxpayer. Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12) The department of finance shall attempt in every practicable way to insure the state's supplying its real needs at the lowest possible cost.

(13) The department of finance shall have control and supervision over all purchases of energy consuming equipment, supplies and related equipment purchased or acquired by any agency of the state as provided in KRS 45.360 to 45.990, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

Section 18. KRS 45A.335 is amended to read as follows:

As used in KRS 45A.330 to 45A.340 except as may be otherwise indicated by the context:

(1) "Agency" means any of the departments of the state government, and any division, board, bureau, commission or other instrumentality within such department and any independent state authority, commission, instrumentality or agency, but it does not include a school district or other political subdivision nor an authority, commission, instrumentality or agency created pursuant to compact or agreement between or among the state of Kentucky and another state or states;

(2) "Officer or employe" means a member of the boards of trustees, or regents of a state university except faculty and student members, and a person holding an office, position or employment in an agency, but it does not include other persons who serve without salary or other payment for their services and it does not include employes of school boards or district boards of education or faculty or staff of state institutions of higher learning;

(3) "Compensation" means any money, thing of value, or financial benefit conferred in return for services rendered or to be rendered, but it does not include the salary or other payment provided by law or appropriation for services rendered in a public office, position or employment[~~;~~

~~(4) No member of a board of trustees or regents shall have an interest in any contract with a state university unless such contract shall have been subjected to competitive bidding in compliance with KRS Chapter 45, unless such trustee or regent shall have been the lowest bidder and unless such trustee or regent shall have first notified in writing to the remaining members of the board, and to the newspaper having the largest circulation in the county in which the state university is located, of his intention to bid on such contract~~].

Section 19. KRS 45A.340 is amended to read as follows:

(1) No officer or employe of the general assembly, or officer or employe of an agency as defined in KRS 45A.335, shall knowingly receive or agree to receive, directly or indirectly, compensation for any services to be rendered, either by himself or another, in negotiations with the state or an agency for the purchase by the state or an agency of an interest in real property. This section shall not apply to appearances before any court, except that negotiations shall be prohibited as aforesaid at any time.

(2) No officer or employe of an agency or member of a state board or commission, may be in any manner interested, either directly or indirectly, in his own name or in the name of any other person, association, trust, or corporation, in any contract for the performance of any work in the making or letting or administration of which such officer or employe may be called upon to act or vote. No such officer or employe

may represent, either as agent or otherwise, any person, association, trust or corporation, with respect to any application or bid for any contract or work in regard to which such officer or employe may be called upon to act or vote. Nor may any such officer or employe take, solicit or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his vote or action in his official character. Any contract made and procured in violation hereof is void. For the purposes of this section the holding of less than five per cent (5%) of the stock of a corporation is not considered an interest.

(3) No officer or employe of the general assembly or officer or employe of any agency shall, for compensation, appear before an agency as an expert witness.

(4) No officer or employe of the general assembly, or officer or employe of any agency, shall act as officer or agent for the Commonwealth or any agency in the transaction of any business with himself, or with any corporation, company, association or firm in which he or his spouse has any interest greater than five per cent (5%) of the total value thereof.

(5) No officer or employe of an agency or appointee shall knowingly himself or by his partners or through any corporation which he controls or in which he owns or controls more than ten per cent (10%) of the stock, or by any other person for his use or benefit or on his account, undertake, execute, hold or enjoy, in whole or in part, any contract, agreement, sale or purchase of the value of twenty-five dollars ($25) or more, made, entered into, awarded or granted by any agency, unless said contract, agreement, sale or purchase was made or let after public notice and competitive bidding.

(6) No officer, employe or appointee of an agency, including persons who serve without salary or other payment for their services, shall knowingly receive or agree to receive, directly or indirectly, compensation for any services rendered or to be rendered, either by himself or another, in any cause, proceeding, application or other matter which is before said agency or before the department of state government in which said agency functions.

(7) No member of a board of trustees or regents shall have an interest in any contract with a state university unless such contract shall have been subjected to competitive bidding in compliance with KRS Chapter 45, unless such trustee or regent shall have been the lowest bidder and unless such trustee or regent shall have first notified in writing the remaining members of the board, and to the newspaper having the largest circulation in the county in which the state university is located, of his intention to bid on such contract.

Section 20. KRS 56.040 is amended to read as follows:

(1) When any land or interest in land is to be paid for out of state funds, the grantor shall submit with the deed a true abstract of the title to the land. The correctness of the abstract shall be attested by the county attorney. The abstract shall contain complete information concerning any action concerning the property or title, and all references to deed, mortgage, power of attorney, will, execution, lis pendens, option, mechanic's lien and other books, and tax bills, giving page numbers, dates, case numbers and all other references and the description of the property. The grantor shall submit with the abstract an accurate map of the boundaries, made by a competent surveyor within three (3) months prior to the date of the deed conveying the land to the state. The map shall show the corners, angles and calls of the boundaries. The abstract and map must be submitted to and approved by the attorney general before the executive department for finance and administration shall issue its warrant to pay for the land. When the attorney general has given his written approval to the title and purchase of the land, all records mentioned in this section pertaining thereto, including the opinion of the attorney general, shall be deposited with, recorded and safely kept by the secretary of state as provided in KRS 56.020.

(2) Before any *leasehold* [~~lease~~] of any land or building, except a *leasehold* [~~lease~~] of not more than six (6) offices in an office building, shall be occupied by any officer or agency of the state government for any governmental purpose, or be paid for out of state funds, the lessor shall submit the lease and a map of the kind mentioned in subsection (1) of this section, and have the lease and map approved by the attorney general and recorded and kept by the secretary of state as provided by KRS 56.020.

Section 21. KRS 56.440 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Commission" means the state property and buildings commission.

(2) "Real estate" includes lands together with improvements thereon and appurtenances thereto.

(3) "Building" includes any structure or improvement upon real estate of a permanent nature and additionally includes any sites, structures, equipment, machinery or devices for the purpose of establishing, developing or furthering television or related services in aid of education or in aid of any other proper public functions, whether or not the same would otherwise be legally defined as buildings; but only if used or to be used by the Commonwealth of Kentucky or one of its departments or agencies (not including independent municipal corporations or political subdivisions).

(4) "Building project" includes the construction, reconstruction and structural maintenance of buildings, the installation of utility services, including roads and sewers, and the purchase and installation of equipment, facilities and furnishings of a permanent nature for buildings, and the purchase and installation initially

of movable equipment, furnishings and appurtenances necessary to make a building operable, and for television or related purposes as referred to in subsection (3) of this section, for use by the state government or one of its departments or agencies, not including any independent municipal corporation or political subdivision.

(5) "State agency" means any state administrative body, agency, department or division as defined in KRS Chapter 12, or any board, commission, institution, or division exercising any function of the state but which is not an independent *municipal* corporation or political subdivision.

(6) "Department" means the department of finance.

Section 22. KRS 58.010 is amended to read as follows:

As used in KRS 58.010 to 58.140, unless the context requires otherwise:

(1) "Public project" means any lands, buildings, or structures, works or facilities (a) suitable for and intended for use as public property for public purposes or suitable for and intended for use in the promotion of the public health, public welfare or the conservation of natural resources, including medical office buildings contiguous to hospital facilities, and shall also include the planning of any such lands, buildings, structures, works or facilities; or (b) suitable for and intended for use for the purpose of creating or increasing the public recreational, cultural and related business facilities of a community, including such structures as concert halls, museums, stadiums, theaters and other public facilities, together with related and appurtenant parking garages, offices and office buildings for rental in whole or in part to private tenants, dwelling units and apartment buildings for rental in whole or in part to private tenants, commercial and retail businesses, stores or other establishments, and any structure or structures or combination of the foregoing, or other structures having as their primary purpose the creation, improvement, revitalization, renewal or modernization of a central business or shopping community, and shall also include existing lands, buildings, structures, works and facilities, as well as improvements or additions to any such lands, buildings, structures, works or facilities.

(2) "Public project" as defined herein shall include projects intended for use as public property for public purposes by another governmental agency, including the United States government, other than the governmental agency acquiring the land or constructing the building, structure or facility.

(3) "Governmental agency" means the Commonwealth of Kentucky as such acting by or through any department, instrumentality or agency thereof, or any county, city, agency or instrumentality or other political subdivision of the Commonwealth[~~, or agency, or instrumentality thereof~~].

Section 23. KRS 58.030 is amended to read as follows:

(1) The bonds may be issued to bear interest at the rate not to exceed seven per cent (7%) per annum, payable either annually or semiannually, and shall be executed in such manner, and be payable at such times not exceeding forty (40) years from date thereof and at such place or places as the governmental agency determines.

(2) The bonds may provide that they or any of them may be called for redemption prior to maturity, on interest payment dates not earlier than one (1) year from the date of issuance of the bonds, at a price not exceeding *one hundred and three percent (103%)* [~~103~~] and accrued interest, under conditions fixed by the governmental agency before issuing the bonds.

(3) Any governmental agency is authorized to rent or lease such public project or any portion thereof to or contract concerning same with any persons, partnerships, associations or corporations either public or private, profit or nonprofit. Notwithstanding any of the other provisions of KRS 58.010 to 58.140 or any other laws, any such renting, leasing or contracting may be accomplished without the necessity of awarding such lease or contract by advertisement or competitive bidding, provided the governmental agency so leasing such project or any portion thereof or contracting concerning same first makes a legislative determination that it is in the best interest of such governmental agency to enter into such lease or contract without the necessity for such advertisement or competitive bidding; and such lease may provide that the lessee therein is permitted or obligated to sublease the project or any portion thereof for the purpose of accomplishing the creation, improvement, revitalization, renewal or modernization of a central business or shopping community.

(4) A governmental agency is hereby empowered to accept donations or gifts to the public project from any source and to accept appropriations and grants to the public project from the federal government or any agency thereof and appropriations from the state or any county, city or other political subdivision and, at the option of the governmental agency, to pledge such donations, gifts or appropriations to the payment of revenue bonds issued to finance the cost of a public project.

Section 24. KRS 58.060 is amended to read as follows:

(1) If there is any default in the payment of principal or interest of any bond, any court having jurisdiction of the action may appoint a receiver to administer the public project on behalf of the governmental agency, with power to charge and collect rents, royalties, fees, rates and charges and to receive any other available revenue sufficient to provide for the payment of any bonds or obligations outstanding against the public project, and for the payment of operating expenses, and to apply the income and revenue in conformity with KRS 58.010 to 58.140 and the order, resolution or ordinance referred to in KRS 58.020.

(2) Notwithstanding any of the other provisions of KRS 58.010 to 58.140, inclusive, it may be provided in the proceedings authorizing bonds issued for the purpose of financing a project under KRS 58.010

(1) (b), as amended, that the governmental agency, in connection with the issuance of its bonds, execute a mortgage deed of trust in favor of a trustee, on the project acquired or constructed through the application of the proceeds of the bonds, providing that in the event of default by the agency in the payment of interest or principal of its bonds or in the event of default of any other covenant contained in such mortgage deed of trust the trustee, upon behalf of the bondholders, may institute and carry through foreclosure proceedings, with the property secured by the mortgage deed of trust put up for sale on foreclosure proceedings, the proceeds of such sale to be used for the benefit of the bondholders. In connection with such plan of financing, such provisions may be inserted in the bonds themselves and in the mortgage deed of trust as may be necessary to protect the bondholders and in order to make such bonds salable with the lowest net interest cost to the agency. If the agency declares its intent by ordinance or resolution to follow the provisions of this section, and in *doing so determines it cannot comply with any provision of KRS 58.010 to 58.140, as such provision is inconsistent with the provisions of this section, the agency is not required to comply with the inconsistent provision of KRS 58.010 to 58.140* [~~order to do so it is necessarily inconsistent that the provisions of any other section of KRS 58.010 to 58.140 be complied with, such other provisions of KRS 58.010 to 58.140 which are necessarily inconsistent with the provisions of this section shall not be complied with to the extent but only to the extent of such necessary inconsistency~~].

Section 25. KRS 61.300 is amended to read as follows:

No person shall serve as a deputy sheriff, deputy constable, patrol or other nonelective peace officer or deputy peace officer, unless:

(1) He is a citizen of the United States and is twenty-one (21) years of age or over;

(2) He has resided in the county wherein he is appointed to serve for a period of at least two (2) years; *this* subsection [~~(b)~~] shall apply only to deputy sheriffs, deputy constables, and to special local peace officers appointed pursuant to KRS 61.360;

(3) He has never been convicted of a crime involving moral turpitude;

(4) He has not within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute.

Section 26. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to *61.705* [~~61.692~~], unless the context otherwise requires:

(1) "System" means the Kentucky employes retirement system created by KRS 61.515 to *61.705* [~~61.692~~];

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to *61.705* [~~61.692~~], the members, officers and employes of the general assembly and any other body, entity or instrumentality designated by executive order by the governor, shall be deemed to be a department notwithstanding whether said body, entity or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiner or examiners as provided in KRS 61.665;

(5) "Employe" means the members, officers and employes of the general assembly and every regular full-time appointed or elective officer or employe of a participating department, including the department of military affairs. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 61.515 to *61.705* [~~61.692~~];

(6) "Employer" means a department or any authority of such department having the power to appoint or select an employe in such department, including the senate and the house of representatives;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1956, (except that for members, officers and employes of the general assembly this date shall be January 1, 1960) for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7) and KRS 61.555, and each member, officer and employe of the general assembly shall be credited with a month of current service for each month he occupies such position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1956, for which creditable compensation was paid; except that, for members, officers and employes of the general assembly this date shall be January 1, 1960. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer and employe

of the general assembly shall be credited with a month of prior service for each month he occupied such position during a legislative biennium prior to January 1, 1960;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, except that for members of the general assembly it shall mean an assumed salary of $18,000 per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers and employes of the general assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) month period immediately preceding the member's effective retirement date except for members of the general assembly the "final rate of pay" shall be the creditable compensation. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate; 1,950 hours, 260 days, 52 weeks, 12 months, one year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in cases of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 61.515 to 61.692;

(19) "Fiscal year" of the system means the twelve (12) months from July 1, through the following June 30;

(20) "Officers and employes of the general assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the general assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions" as used in subsection (5) of this section shall mean all positions as set forth in KRS chapter 18 as provisional full-time, probationary full-time and permanent full-time, all positions of local health departments meeting the definitions as set forth in KRS chapter 18 of provisional full-time, probationary full-time and permanent full-time and all other positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed six (6) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employe for current service obtained under KRS 61.552. Such amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(7) except the employe shall pay a single payment of 50% of the total cost of such service with no cost to the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434; and

(23) "Parted employer" means a department, portion of a department, board or agency (such as Outwood Hospital and School) which previously participated in the system, but due to lease, or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore, no longer participating in the system.

Section 27. KRS 61.640 is amended to read as follows:

(1) If an employe in the active employment of a participating agency or on official leave from such agency, provided such leave has been granted in accordance with the policy of the state department of personnel, with service credit of sixty (60) months, at least twelve (12) of which are current service, dies at any time before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary, then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2) or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(2) If a member not in the active employment of a participating agency, nor on official leave from such agency, with the service and age prescribed in KRS 61.559 *(2)* [~~(1)~~] dies before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary, then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had he chosen benefits payable under KRS 61.635(2) or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(3) If a member, not in the active employment of a participating agency nor on official leave from such agency with twelve (12) or more years of service credit at least one (1) of which is current service, dies at any time before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2) or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(4) An alternative calculation of benefits payable to the beneficiary under subsection (1) or (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty per cent (50%) factor as provided for in KRS 61.635(4) then reduced by fifty per cent (50%), and the actuarial equivalent payable for one hundred twenty (120) months certain shall be determined.

(5) The highest monthly benefit determined under subsection (1) or (2) or (3) or (4) of this section for a life annuity or for payments for one hundred twenty (120) months certain shall be tendered to the beneficiary.

Section 28. KRS 6.520 is amended to read as follows:

(1) A member of the legislators retirement plan who retires on or after his normal retirement date but not before December 30, 1981, shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to three and fifty one-hundredths percent (3.50%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement.

(2) A member shall have rights, with respect to retirement before reaching normal retirement date, but not before December 30, 1981, in the legislators retirement plan, identical in terms with those rights provided in KRS 21.400 *(2) and (3)* [~~(1) and (2)~~] in the judicial retirement plan for members of that plan.

(3) Survivor benefits shall not be subject to the December 30, 1981 deferment date as specified in subsection (1) of this section.

Section 29. KRS 64.540 is amended to read as follows:

The fiscal court of any county is authorized to have an annual audit made of the accounts of any county officer or employe, within the meaning of KRS 64.530, who is compensated in whole or in part by fees, except those officers enumerated in subsection *(5)* [~~(2)~~] of KRS 64.530.

Section 30. KRS 64.590 is amended to read as follows:

In the case of any political subdivision or local governmental unit or district other than a county or city, having a governing body or authority composed of more than one (1) member, such governing body or authority shall fix the compensation of every officer and employe of the political subdivision, local governmental unit or district whose compensation is payable from the funds of the political subdivision, governmental unit or district, except that in the case of officers elected by popular vote the same limitations and restrictions shall apply as are applicable under KRS *83A.070* [~~64.580~~] to the fixing of compensation of city officers elected by popular vote. Nothing in this section is intended to confer any power on any governing board or authority, with respect to the compensation of its own members, that it does not specifically possess under other statutes. This section applies to school districts, but is not intended to supersede any present provision of law relating to the fixing or payment of the compensation of teachers.

Section 31. KRS 65.060 is amended to read as follows:

As used in KRS 65.065 and 65.070, the term "district" shall mean and the provisions of KRS 65.065 and 65.070 shall apply to any board, commission or special district created pursuant to the following statutes: KRS *65.160* [~~65.040~~], *65.162* [~~65.050~~], 65.210 to 65.300, 65.510 to 65.650, 66.610 to 66.650, 74.010 to 74.416, 75.010 to 75.260, 76.005 to 76.210, 76.241 to 76.273, 76.274 to 76.279, 76.295 to 76.420, 76.600 to 76.640, 77.005 to 77.305, 80.262 to 80.610, *91A.350* [~~83.340~~] to *91A.390* [~~83.350~~], 96A.010 to 96A.230, 104.450 to 104.680, 107.310 to 107.500, 108.010 to 108.070, 108.080 to 108.180, 108A.010 to 108A.130, *109.056, 109.059, 109.115* [~~109.071~~] to *109.190* [~~109.250~~], 147.610 to 147.710, 147A.050 to 147A.120, 152.810 to 152.930, 164.605 to 164.675, 173.450 to 173.650, 173.710 to 173.800, 175A.010 to 175A.990, 183.132 to 183.160, 184.010 to 184.300, 210.460 to 210.480, 212.720 to 212.760, 215.080 to 215.390, 216.310 to 216.360, 220.010 to 220.613, 249.510 to 249.631, 262.100 to 262.660, 262.700 to 262.990, 266.010, to 266.990, 267.010 to 267.990, 268.010 to 268.990, or 273.410 to 273.455.

Section 32. KRS 66.627 is amended to read as follows:

Upon adoption of any final resolution described in KRS 66.620 the county may proceed to carry out the work described in the resolution in any manner the fiscal court may provide, but all contracts shall be awarded according to the provisions of KRS 178.140; Provided, however, That the county may at its option carry out minor work using its own work force.[~~, as prescribed in KRS 93.070 to 93.100 with "director of works" and "department of public works" reading as "county road engineer," with "municipal" and "city" reading as "county," and with "city legislative body" reading as "fiscal court."~~]

Section 33. KRS 66.630 is amended to read as follows:

The fiscal court of counties containing a city of the first class may, by resolution following the procedures required by KRS 66.610 to 66.650, on the recommendation of the county road engineer, cause the installation of fire hydrants or street lights, or both, in the public ways and assessment therefor [~~in the manner provided by KRS 93.080, KRS 93.380(2) and (3) and KRS 93.400, with "city" being read as "county," with "city legislative body" being read as "fiscal court," with "ordinance" being read as "resolution," with "mayor" being read as "county judge/executive," with "fire hydrant" being read as "fire hydrant or street lights, or both," and with "director of works" being read as "county road engineer," or assessed in accordance with KRS 66.610 to 66.650, at the option of the fiscal court~~]. Administrative costs may be included in the cost of the improvements.

Section 34. KRS 66.635 is amended to read as follows:

The costs of constructing or reconstructing sidewalks may be included in the improvements authorized by the fiscal court under the provisions of KRS 66.610 to 66.650. When so included, the cost shall be apportioned and assessed against the specially benefitted properties in accordance with [~~KRS 93.410 or~~] KRS 66.610 to 66.650, at the option of the fiscal court. Administrative costs may be included in the costs of the improvement.

Section 35. KRS 66.640 is amended to read as follows:

Classifications or designations of a neighborhood road or roads under KRS 66.610 to 66.650 shall not affect or change classifications or designations made by other sections of the Kentucky Revised Statutes such as "county roads," "main county roads," "rural and secondary roads," "turnpikes," "city streets," "county through roads," or similar terms; except that when there is an irreconcilable conflict arising from the actual application of KRS 66.610 to 66.650 in a given instance and a designation or classification made in other sections of the Kentucky Revised Statutes, this section shall prevail. Nothing in KRS 178.020 to 178.040, 178.117, 178.330 to 178.337, 179.070, 179.330, and KRS 66.610 to 66.650 shall preclude the expenditure on neighborhood roads, including portions within cities, of state funds allocated for public highways under the provisions of KRS 179.410 *and 179.415* [~~to 179.430~~] or 177.320 to *177.369* [~~177.368~~], or any other section of the Kentucky Revised Statutes in accordance with the provisions of KRS 66.610 to 66.650 or KRS *179.415* [~~179.420~~].

Section 36. KRS 66.643 is amended to read as follows:

The fiscal court may decide that the costs of improvements, including administrative costs, made under KRS 66.610 to 66.650 are to be assessed in accordance with KRS *91A.200 to 91A.290* [~~93.370~~] with "director of works" being read as "county road engineer," or assessed in accordance with KRS 66.610 to 66.650, at the option of the fiscal court.

Section 37. KRS 66.647 is amended to read as follows:

A lien shall exist against the respective properties for the cost of the improvements assessed in accordance with KRS 66.610 to 66.650. Such lien shall be enforced in accordance with *law.* [~~KRS 93.450 and 93.460, with "city legislative body" being read as "fiscal court," with "ordinance" being read as "resolution," with "city" being read as "county," with "director of finance" being read as "county public improvement finance board," as created by KRS 66.510 to 66.543, and with "director of works" being read as "county~~

~~road engineer."~~] The fiscal court may, at its option, for any improvement district appoint a special trustee, instead of the county public improvement finance board, to perform the functions required *by law* [~~of this "director of finance" in KRS 93.450 and 93.460, inclusive, and the special trustee is so authorized to act after posting bond and meeting other requirements of KRS Chapter 93~~]. There shall be but one (1) such special trustee appointed for all of the public improvement districts within the county.

Section 38. KRS 66.650 is amended to read as follows:

Apportionment warrants or improvement bonds may be issued for public improvements made in accordance with KRS 66.610 to 66.650. [~~The financial provisions of KRS 93.470 to 93.600, inclusive, are incorporated into and made applicable to KRS 66.610 to 66.650, with "department of public finance" and "director of finance" being read as "county public improvement finance board" as created by KRS 66.510 to 66.543, with "director of works" being read as "county road engineer," with "city legislative body" being read as "fiscal court," with "city" being read as "county," with "ordinance" being read as "resolution," with "mayor" being read as "county judge/executive," and with "municipal tax" being read as "local tax."~~] The fiscal court may, at its option, for any improvement district appoint a special trustee, instead of the county public improvement finance board[~~, to perform the functions required of the "department of public finance" and "director of finance" in KRS 93.470 to 93.600 inclusive, and the special trustee is so authorized to act~~]. Such special trustee shall give bond for the faithful performance of his duties, to be approved by the county judge/executive and the fiscal court and fulfill the other requirements of KRS Chapter 93. There shall be but one (1) such special trustee appointed for all of the public improvement districts within the county.

Section 39. KRS 67.083 is amended to read as follows:

(1) It is the purpose of this section to provide counties as units of general purpose local government with the necessary latitude and flexibility to provide and finance various governmental services within those functional areas specified in subsection (3) of this section, while the general assembly retains full authority to prescribe and limit by statute local governmental activities when it deems such action necessary.

(2) The fiscal court of any county is hereby authorized to levy all taxes not in conflict with the constitution and statutes of this state now or hereafter enacted.

(3) The fiscal court shall have the power to carry out governmental functions necessary for the operation of the county. Except as otherwise provided by statute or the Kentucky constitution, the fiscal court of any county may enact ordinances, issue regulations, levy taxes, issue bonds, appropriate funds and employ personnel in performance of the following public functions:

(a) Control of animals, and abatement of public nuisances;

(b) Regulation of public gatherings;

(c) Public sanitation and vector control;

(d) Provision of hospitals, ambulance service, programs for the health and welfare of the aging and juveniles, and other public health facilities and services;

(e) Provision of corrections facilities and services, and programs for the confinement, care and rehabilitation of juvenile law offenders;

(f) Provision of parks, nature preserves, swimming pools, recreation areas, libraries, museums and other recreational and cultural facilities and programs;

(g) Provision of cemeteries and memorials;

(h) Conservation, preservation and enhancement of natural resources including soils, water, air, vegetation and wildlife;

(i) Control of floods;

(j) *Facilitating the construction of new housing;* causing the repair or demolition of structures which present a hazard to public health, safety or morals or are otherwise inimical to the welfare of residents of the county; causing the redevelopment of housing and related commercial, industrial and service facilities in urban or rural areas; providing education and counseling services and technical assistance to present and future residents of publicly assisted housing;

(k) Planning, zoning and subdivision control according to the provisions of KRS Chapter 100;

(l) Adoption, by reference or in full, of technical codes governing new construction, renovation or maintenance of structures intended for human occupancy;

(m) Regulation of commerce for the protection and convenience of the public;

(n) Regulation of the sale of alcoholic beverages according to the provisions of KRS Chapters 241 through 244;

(o) Exclusive management of solid wastes by ordinance or contract or by both and disposition of abandoned vehicles;

(p) Provision of public buildings, including armories, necessary for the effective delivery of public services;

(q) Cooperation with other units of government and private agencies for the provision of public services, including but not limited to training, educational services and cooperative extension service programs;

(r) Provision of water and sewage and garbage disposal service but not gas or electricity; including management of onsite sewage disposal systems;

(s) Licensing or franchising of cable television;

(t) Provision of streets and roads, bridges, tunnels and related facilities, elimination of grade crossings, provision of parking facilities, enforcement of traffic and parking regulations;

(u) Provision of police and fire protection;

(v) Regulation of taxis, buses and other passenger vehicles for hire;

(w) Provision and operation of air, rail and bus terminals, port facilities, and public transportation systems;

(x) Promotion of economic development of the county, directly or in cooperation with public or private agencies, including the provision of access roads, land and buildings, and promotion of tourism and conventions;

(y) Preservation of historic structures.

(4) The county judge/executive is hereby authorized and empowered to exercise all of the executive powers pursuant to this section.

(5) A county acting under authority of this section may assume, own, possess and control assets, rights and liabilities related to the functions and services of the county.

(6) If a county is authorized to regulate an area which the state also regulates, the county government may regulate the area only by enacting ordinances which are consistent with state law or administrative regulation.

(a) If the state statute or administrative regulation prescribes a single standard of conduct, a county ordinance is consistent if it is identical to the state statute or administrative regulation.

(b) If the state statute or administrative regulation prescribes a minimal standard of conduct, a county ordinance is consistent if it establishes a standard which is the same as or more stringent than the state standard.

(c) A county government may adopt ordinances which incorporate by reference state statutes and administrative regulations in areas in which a county government is authorized to act.

(7) County ordinances which prescribe penalties for their violation shall be enforced throughout the entire area of the county unless:

(a) Otherwise provided by statute, or

(b) The legislative body of any city within the county has adopted an ordinance pertaining to the same subject matter which is the same as or more stringent than the standards that are set forth in the county ordinance. The fiscal court shall forward a copy of each ordinance which is to be enforced throughout the entire area of the county to the mayor or chairman of the board of trustees of each city in the county.

(8) The powers granted to counties by this section shall be in addition to all other powers granted to counties by other provisions of law. A permissive procedure authorized by this section shall not be deemed to be exclusive or to prohibit the exercise of other existing laws and laws which may hereafter be enacted but shall be an alternative or supplement thereto.

(9) Any agency of county government exercising authority pursuant to subsection (3)(y) of this section shall, prior to exercising such authority, obtain the voluntary written consent of the owner of the structure. Consent may be obtained only after advising the owner in writing of any advantages and disadvantages to the owner which are likely to result from the exercise of such authority.

Section 40. KRS 67A.871 is amended to read as follows:

As used in KRS 67A.872 to 67A.894, the following words or terms shall have the respective meanings indicated, unless a different meaning is clearly indicated by the context:

(1) "Assessed value basis" means the plan for the levying of improvement benefit assessments upon benefited property for benefits conferred by construction of projects on the basis of the assessed values (land only) of the benefited property, whether such levies are paid in full by benefited property owners or levied annually to amortize bonds. Such plan shall also include the levying of identical improvement benefit assessments upon classified zones of benefited property where determination is made by ordinance of an urban-county government, as provided in KRS 67A.872 to 67A.894, that benefits conferred by construction of a project are substantially equal and that the assessed value (land only) of all benefited property or designated zones thereof shall therefore be deemed equal in respect of a given wastewater collection project.

(2) "Benefited property, and property to be benefited" mean the property (land only) proposed to be benefited by construction of a wastewater collection project instituted by an urban-county government for the payment of the costs of which improvement benefit assessments are to be levied against and collected from such benefited property.

(3) "Bonds" mean improvement lien bonds authorized and issued by urban-county governments pursuant to authority of KRS 67A.872 to 67A.894 for the purpose of providing costs for the construction of wastewater collection projects.

(4) "Construction" means and includes, the following services and facilities provided by an urban-county government:

(a) Preliminary planning to determine the economic and engineering feasibility of construction of wastewater collection projects, any engineering, architectural, legal, fiscal and economic investigations and studies necessary thereto, and all necessary surveys, designs, plans, working drawings, specifications, procedures and other required actions incident to the construction of wastewater collection projects;

(b) The building, acquisition, installation, erection, alteration, remodeling, improvements, expansion or extension of wastewater collection projects, and any other physical devices or appurtenances in connection with, or reasonably attendant to, such projects;

(c) The provision or making available sewer collection services to benefited property by providing sewer facilities to such benefited property although not directly financed by the issuance of bonds; and

(d) Inspection and supervision incident to the acquisition, construction and installation of wastewater collection projects.

(5) "Costs" as such term shall be applied to any wastewater collection project undertaken under KRS 67A.872 to 67A.894 includes the cost of labor, materials and equipment necessary to acquire, install and complete the project in a satisfactory manner, cost of land acquired, and every expense connected with the project, including construction costs, preliminary and other surveys, financial planning, inspections of the work as construction progresses, engineers' fees and costs, preparation of plans and specifications, publication of ordinances and notices, interest which will accrue on the bonds until the due date of the first annual improvement assessment levied in connection therewith, capitalized interest on the bonds for a period not to exceed three (3) years, a sum equal to any discount in the sale of the bonds (if discount bids are authorized and permitted by the issuing government), all or any portion of the debt service reserve requirement, if determination is made to finance them from bond proceeds, a reasonable allowance for unforeseen contingencies, the printing of bonds and other costs of financing, including payment of attorneys' fees, underwriting and fiscal agency fees, trustees' fees, rating service fees and costs of issuance of bonds.

(6) "Debt service reserve requirement" means, with respect to any particular issue of bonds, the maximum annual requirements for payment of principal of and interest on the bond issue, which debt service reserve requirement shall be either funded in whole or in part by application of bond proceeds, or accrued in due course by the levying of improvement benefit assessments as provided in KRS 67A.872 to 67A.894.

(7) "Government or urban-county government" means an urban-county government which has been duly created and established pursuant to the provisions of this chapter.

(8) "Ordinance" means a formal and binding enactment of the urban-county council of an urban-county government entered in connection with the financing by such government of a wastewater collection project.

(9) "Public ways" shall [~~have the same meaning as is ascribed to such term in KRS 93.010(2) and shall~~] include streets, boulevards, avenues, roads, lanes, alleys, parkways, courts, terraces and other courses of travel open to the general public by whatsoever name designated.

(10) "Wastewater" means any water or liquid substance containing sewage, industrial waste or other pollutants or contaminants derived from the prior use of such water or liquid substance.

(11) "Wastewater collection project or projects" means all or any part of any facilities, devices, objects and systems used and useful in the collection, holding or transmission of wastewater from a benefited property to wastewater treatment plants or other similar facilities for final disposition thereof. Such terms shall include, without limiting the generality of the foregoing, sanitary sewage collection lines, intercepting sewers, outfall sewers, sewer laterals, power stations and pumping stations, and other equipment and their appurtenances necessary to enable the project to fulfill its function, including land acquisition, whether such project facilities are provided by funds derived from issuance of bonds or otherwise provided by a government in any manner.

Section 41. KRS 68.243 is amended to read as follows:

In any county which levied a poll tax in 1973, the county judge/executive may include the revenue received from the poll tax in that year in the county budget and the state local finance officer shall include such revenue when computing the maximum permissible revenue in accordance with the provisions of KRS 68.245 *(3)*[~~(2)~~](a), (b) and (c).

Section 42. KRS 81.015 is amended to read as follows:

The Fairdale area of Jefferson County is an "unincorporated urban place" within the meaning of KRS 177.366 *and 177.369*[~~, 177.367 and 177.368~~]. The metes and bounds of the Fairdale area are as follows: Beginning at a point approximately 1,000 feet west of Smith Road on the Jefferson - Bullitt County line; running thence northwardly along a line behind improvements facing Smith Road, Top Hill Road, and Jefferson Hill Road 12,000 feet more or less to Lonesome Hollow Road; thence northwestwardly with Lonesome Hollow road 6,000 feet more or less to Blevins Gap Road; thence northeastwardly along Blevins Gap Road 2,000 feet more or less to Greyling Drive; thence northeastwardly along Greyling Drive 5,500 feet more or less to Manslick Road; thence northwardly along Manslick Road 2,000 feet more or less to the southeast right-of-way line of the Louisville, Henderson & Saint Louis Railroad; thence northeastwardly along said railroad 16,250 feet more or less to the west right-of-way line of the Louisville & Nashville Railroad; thence southwardly along the west right-of-way line of the Louisville & Nashville Railroad 4,000 feet more or less to the Outer Loop; thence eastwardly along the Outer Loop 10,250 feet more or less to Interstate

65; thence southwardly along Interstate 65 18,500 feet more or less to the Bullitt - Jefferson County line; thence westwardly with said county line 28,000 feet more or less to the beginning.

Section 43. KRS 81.050 is amended to read as follows:

(1) Proceedings to incorporate a city shall be commenced by a petition being filed with the circuit clerk of the county in which the area to be incorporated is located. The petition shall contain:

(a) The signatures and addresses of:

1. A number of registered voters equal to two-thirds (⅔) of the voters of the proposed territory, or

2. A number of real property owners, *the sum total of whose assessed value of real property is* equal to [~~the owners of~~] at least two-thirds (⅔) of the assessed value of the real property in the proposed territory;

(b) A statement of the boundaries proposed and the number of residents;

(c) An accurate map of the proposed territory;

(d) A detailed statement of the reasons for incorporation including the services sought from the proposed city;

(e) A description of the existing facilities and services within the proposed territory; and

(f) A statement of the form of government under which the city will operate if incorporated.

(2) The petition shall be docketed for hearing not less than twenty (20) days from the date of filing the petition. Notice of the filing of the petition and of its object shall be given by publication pursuant to KRS Chapter 424.

Section 44. KRS 83.520 is amended to read as follows:

The legislative body of a city of the first class shall have the power to exercise all of the rights, privileges, powers, franchises, including the power to levy all taxes, not in conflict with the Constitution and so as to provide for the health, education, safety and welfare of the inhabitants of the city, to the same extent and with the same force and effect as if the General Assembly had granted and delegated to the legislative body of the city all of the authority and powers that are within its powers to grant to a municipal corporation as if expressly enumerated herein. Nothing therein contained to the contrary, the provisions of chapters 65, 66, 76, 77, 79, 80, 89, 91, [~~93,~~] 95, 96, 97, 98, 99, 103, 104, 105, 106, 107, 108 and 109 shall be considered permissive rather than mandatory and the powers, rights and duties therein delineated may be modified or delegated by the legislative body to different departments and agencies of city government and any restrictions therein set forth shall not be considered abridging in any manner the complete grant of home rule set forth in this grant of power except no right heretofore vested by operation of statute shall in any way be affected.

Section 45. KRS 83A.020 is amended to read as follows:

(1) Each city [~~presently~~] organized and governed under provisions of KRS Chapters 84 through 87 *on July 15, 1980,* is declared to be organized and governed under the mayor-council plan. Each city [~~presently~~] organized and governed under the provisions of KRS Chapter 88 and KRS 89.010 to 89.380 *on July 15, 1980,* is declared to be organized and governed under the commission plan. Each city [~~presently~~] organized and governed under the provisions of KRS 89.390 to 89.690 *on July 15, 1980,* is declared to be organized and governed under the city manager plan.

(2) The present organizational structure of each city shall remain in force until changed under this chapter. All ordinances and resolutions presently in force in each city not in conflict with the provisions of KRS 83A.010 to 83A.170 shall remain in force until changed.

Section 46. KRS 83A.050 is amended to read as follows:

(1) Except in cities of the second class which operate under the city manager form of government pursuant to KRS 83A.150, election of city officers shall be governed by general election laws as provided in KRS Chapters 116 through *121* [~~125~~] unless the city legislative body prescribes by ordinance, not later than two hundred forty (240) days prior to a regular election in which any city office is to be filled, that election of city officers shall be under nonpartisan city election laws as provided in KRS 83A.170. City officers of each city of the second class operating under the city manager form of government pursuant to KRS 83A.150 shall be elected in nonpartisan elections as provided in KRS 83A.170.

(2) A city may change the manner of election of city officers within the provisions of subsection (1) of this section by ordinance, except that no change shall be made earlier than five (5) years from the last change.

(3) The city shall pay the costs of city elections only if city elections are held at a time other than prescribed by law for elections generally.

Section 47. KRS 83A.060 is amended to read as follows:

(1) Each ordinance shall embrace but one (1) subject and shall have a title which shall clearly state the subject.

(2) Each ordinance shall be introduced in writing and shall have an enacting clause styled "Be it ordained by the City of ______________________________."

(3) No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section indicating any words being added by a single solid line drawn underneath them, and any words being deleted by a single broken line drawn through them.

(4) Except as provided in subsection (7) of this section, no ordinance shall be enacted until it has been read on two (2) separate days. The reading of an ordinance may be satisfied by stating the title and reading a summary rather than the full text.

(5) A city legislative body may adopt the provisions of any local, statewide or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance which identifies the subject matter by title, source and date and incorporates the adopted provisions by reference without setting them out in full, provided a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.

(6) Unless otherwise provided by statute, a majority of a legislative body shall constitute a quorum and a vote of a majority of a quorum shall be sufficient to take action.

(7) In an emergency, upon the affirmative vote of two-thirds (⅔) of the membership, a city legislative body may suspend the requirements of second reading and publication for an ordinance by naming and describing the emergency in the ordinance.

(8) Every action of the city legislative body shall be made a part of the permanent records of the city and on passage of an ordinance the vote of each member of the city legislative body shall be entered on the official record of the meeting. The legislative body shall provide by ordinance for the maintenance and safekeeping of the permanent records of the city. The person assigned this responsibility and the presiding officer shall sign the official record of each meeting. All ordinances adopted in a city shall, at the end of each month, be indexed and maintained in the following manner:

(a) The city budget, appropriations of money and tax levies shall be maintained and indexed so that each fiscal year is kept separate from other years.

(b) All other city ordinances shall be kept in the minute book or an ordinance book in the order adopted and indexed in a composite index or maintained in a code of ordinances.

(9) Except in cities of the first class, no ordinance shall be effective until published pursuant to KRS Chapter 424. Ordinances, except bond ordinances imposing fines, forfeitures, imprisonment, taxes or fees shall be published in full. The publication requirements for all other ordinances shall be satisfied by publication in full or in summary as designated by the legislative body. The requirements for summary publication shall be satisfied by publication of the title and a certified summary of the contents prepared by an attorney licensed to practice law in the Commonwealth of Kentucky. Ordinances that include descriptions of real property may include a sketch, drawing, or map, including common landmarks, such as streets or roads in lieu of metes and bounds descriptions.

(10) A city may by ordinance specify additional requirements for adoption of ordinances in greater detail than contained herein, but a city shall not lessen or reduce the substantial requirements of this section or any other statute relating to adoption of ordinances.

(11) Not less than once every five (5) years each city shall cause all ordinances in the composite index or code of ordinances to be examined for consistency with state law and with one another and to be revised to eliminate redundant, obsolete, inconsistent and invalid provisions.

(12) The legislative body may adopt municipal orders. Any order shall be in writing and may be adopted only at an official meeting. Any order may be amended by a subsequent municipal order or ordinance. All orders adopted shall be maintained in an official order book.

(13) In lieu of an ordinance, a municipal order may be used for matters relating to the internal operation and functions of the municipality and to appoint or remove or approve appointment or removal of members of boards, commissions and other agencies over which the city has control.

(14) All ordinances, and orders of the city may be proved by the signature of the city clerk; and when the ordinances are placed in a printed composite index or code of ordinances by authority of the city, the printed copy shall be received in evidence by any state court without further proof of such ordinances.

(15) For anything said in debate, legislative body members shall be entitled to the same immunities and protections allowed to members of the general assembly.

Section 48. KRS 83A.120 is amended to read as follows:

(1) Any public question authorized by statute may be submitted to the voters of a city by either a resolution of the city legislative body or a petition meeting the requirements of this section. The resolution or petition shall set out in full the matter to be considered. The proposal shall be drafted in such a way that a vote in favor of adoption shall be a vote in favor of the effect or impact of the proposal.

(2) Any five (5) qualified voters of the city may commence petition proceedings by filing with the county clerk an affidavit stating they constitute the petition committee and will be responsible for circulating the petition and filing it in proper form. The affidavit shall state their names and addresses and specify the address to which all notices to the committee are to be sent. It shall set out in full the proposal to be considered by the voters. Promptly after the affidavit of the petition committee is filed, the county clerk shall notify the petition committee of all statutory requirements for petitions under this section and shall deliver a copy of the affidavit to the legislative body of the city.

(3) All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address

of the person signing. Petitions shall be signed by registered voters of the city equal in number to at least twenty percent (20%) of the total number of votes cast in the city in the last presidential election. When it is filed, each sheet of a petition shall have an affidavit executed by the circulator stating that he personally circulated the sheet, the number of signatures thereon, that all signatures were affixed in his presence, that he believes them to be the genuine signatures of registered voters in the city and that each signer had an opportunity before signing to read the full text of the proposal. Petitions shall contain or have attached throughout their circulation the full text of the proposal.

(4) Within thirty (30) days after the petition is filed, the county clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall send a copy to the petition committee and to the city legislative body by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petition committee files a notice of intention to amend it with the county clerk within five (5) days after receiving the copy of his certificate and files a supplemental petition upon additional sheets within thirty (30) days after receiving the certificate. The supplemental petition shall comply with the requirements of subsection (3) and within ten (10) days after it is filed the county clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of the certificate to the petition committee and to the city legislative body by *certified* [~~registered~~] mail.

(5) A final determination as to the sufficiency of a petition shall be subject to review in the circuit court of the county and shall be limited to the validity of the county clerk's determination. A final determination of insufficiency shall not prejudice the filing in accordance with this section of a new petition for the same purpose.

(6) Upon receipt of a resolution requesting that the question be submitted to the voters or upon certification of a petition as sufficient, the county clerk shall place upon the city ballot for the next regular election that is held not earlier than ninety (90) days after receipt of the resolution or the certification of the petition the question to be submitted to the voters, which question shall be "Are you in favor of the proposal entitled__________? Yes________ No______." The county clerk shall cause to be published in accordance with KRS Chapter 424, at the same time as the sample ballot, the full text of the proposal. The county clerk shall cause to be posted in each polling place one (1) copy of the full text of the proposal.

(7) The provisions of general election law shall apply to public questions submitted to voters under this section. The certificate of the body authorized by law to canvass election returns shall be delivered to the mayor and the certificate shall be entered upon the records of the city at the next regular meeting of the city legislative body.

Section 49. KRS 92.340 is amended to read as follows:

If, in any city of the second to sixth class, any city tax revenue is expended for a purpose other than that for which the tax was levied or the license fee imposed, each officer, agent or employe who, by a refusal to act, could have prevented the expenditure, and the members of the city legislative body who voted for the expenditure, shall be jointly and severally liable to the city for the amount so expended. The amount may be recovered of them in an action upon their bonds, or personally. The city attorney shall prosecute to recovery all such actions. If he fails to do so for six (6) months after the money has been expended, any taxpayer may prosecute such action for the use and benefit of the city. A recovery under this subsection shall not bar a criminal prosecution [~~under subsection (5) of KRS 92.990~~]. Any indebtedness contracted by a city of the second to sixth class in violation of this subsection or of KRS 92.330 or *91A.030(13)* [~~92.360~~] shall be void, the contract shall not be enforceable by the person with whom made, the city shall never assume the same, and money paid under any such contract may be recovered back by the city.

Section 50. KRS 92.440 is amended to read as follows:

(1) The board of equalization of each city of the second class shall meet at a suitable place provided by the city on any date during the year in which property is listed by owners for taxation purposes, or on the first day of January in the next succeeding year, but not later than the last mentioned date. If the board shall meet prior to the first Monday in January, the meeting date shall be fixed by ordinance. After taking office and electing a chairman and a clerk the board shall notify the auditor that it is ready to receive the assessment books, and the auditor shall then deliver them and take the receipt of the board therefor.

(2) The board shall compare the real estate assessments with the plat books in the auditor's office and see that every parcel of real estate in the city has been assessed. If it finds that any real estate has been omitted, it shall certify that fact to the city solicitor, giving the number of parcels omitted[~~, and the city solicitor shall enforce against the assessor the penalty provided for in subsection (2) of KRS 92.990~~]. The board shall assess the parcels omitted.

(3) The board shall hear and determine all complaints made against assessments. It shall increase or decrease assessments on like property in order to make all assessments uniform, or to place a true value on the property. It may, by a resolution or order signed by at least two (2) members, increase or decrease all assessments of real estate uniformly by adding or subtracting a percentage of the assessments, and need not give notice of such an increase except by publication pursuant to KRS chapter 424. No increase of an

assessment shall be made except a uniform increase as above provided, without notice to the person whose assessment is to be increased.

(4) Where an assessment has been made against the property of a person who had actual notice to appear and list his property or make statements thereof but failed to do so, the board of equalization shall not decrease, but may increase, the assessment.

(5) The board shall remain in session as long as the business requires, but not for more than four (4) weeks, unless the city legislative body, for cause stated, extends the time. The assessor shall be in constant attendance on the board and shall furnish all information possible.

(6) The board shall not change any assessment by erasure, but shall make all changes and additions in appropriate columns provided for that purpose, and shall use ink of a different color from that used by the assessor.

(7) When the board has completed its work it shall prepare, under the signatures of its members a statement showing the gross assessments of real property and of personal property, and the total of both, and the increase or decrease made by the board in the total assessment. The board shall return the statement to the city auditor, with all assessment books, plats and papers received from him, and shall take his receipt therefor.

(8) The city auditor shall carefully verify the statement of the board of equalization and the assessment books, and if they are correct he shall certify the statement. If he finds a mistake, he shall cause the board of equalization to meet, and together with the board shall ascertain the correct amount. The auditor shall transmit the statement of the board, certified by him as correct, to the city legislative body as a basis for the annual levy ordinance.

(9) Any taxpayer whose assessment has been raised or whose assessment upon his complaint has not, after proper showing, been decreased by the board of equalization otherwise than by the uniform increase of assessments may, within thirty (30) days after the final adjournment of the board, appeal to the circuit court by filing with the clerk of that court a copy of the action of the board, certified by the clerk of the board. The clerk of the board shall furnish the taxpayer, on demand, with such a certified copy of the action of the board as is necessary for the appeal. Appeals to the circuit court shall be tried without the intervention of a jury, and in case of appeals by the taxpayer the burden shall be upon the taxpayer to show that his property has been inequitably assessed. The cost of the appeals shall be adjudged against the unsuccessful party. Either party may appeal to the Court of Appeals as in other civil cases.

Section 51. KRS 94.284 is amended to read as follows:

(1) Except where an election has been held and the proposition has been defeated, any city may borrow money and issue negotiable bonds, but only after an ordinance has been adopted specifying the proposed undertaking, the amount of bonds to be issued, and the maximum rate of interest the bonds are to bear. The ordinance shall further provide that the proposed system, with necessary appurtenances thereto, is to be acquired pursuant to the provisions of KRS *91A.200 to 91A.290* [~~94.281 to 94.287~~]. Any bonds issued under the provisions of KRS *91A.200 to 91A.290* [~~94.281 to 94.287~~] shall be payable solely from the revenue derived from the operation of the garbage disposal system, and shall not constitute an indebtedness of the city within the meaning of the constitution.

(2) Money received from bonds issued as provided in subsection (1) of this section may be used to advance the expense of operation and maintenance for one (1) month after the establishment of the system. If a surplus is accumulated, from revenue, in the operation and maintenance fund equal to the cost of maintaining and operating the garbage disposal system during the remainder of the calendar, operating or fiscal year, as may be provided by ordinance on or before issuance of the bonds, the legislative body of the city may at any time transfer the excess to the depreciation account to be used for any improvements or additions to the system.

(3) Except as provided in subsection (2) of this section, all of the provisions of KRS 96.380 to 96.500 shall be applicable to proceedings under KRS 94.281 to 94.287.

Section 52. KRS 94.810 is amended to read as follows:

(1) Any city by ordinance may create motor vehicle parking authorities, or at any time, the legislative body of a city by ordinance and the fiscal court of the county containing the city may enter into an agreement to form a joint city-county motor vehicle parking authority. Such parking authorities shall have the power of acquisition, creation and operation of public street and off-street parking facilities. [~~Such powers shall include, but not be limited to, the powers given to cities, by KRS 93.352 to 93.356 and 94.750.~~] The fees charged need not be limited to the cost of operation and administration but may be for revenue.

(2) If a city, already having a motor vehicle parking authority in existence, enters into an agreement to form a joint parking authority with the county, the agreement shall provide for the assumption of the debts and liabilities of the existing parking authority by the joint parking authority and the transfer of any assets of the existing parking authority, including real property and improvements, to the joint parking authority.

(3) The termination of an agreement between a city and county to form a joint parking authority will not result in the continued existence of a city motor vehicle parking authority, unless specifically provided for in the agreement.

Section 53. KRS 94.825 is amended to read as follows:

A parking authority shall have the power to contract with any city or county [~~in accordance with the provisions of KRS 93.351 to 93.359, 94.750 and 82.050~~].

Section 54. KRS 94.835 is amended to read as follows:

[~~For the purpose of KRS 94.750,~~] The parking authority may rent or lease to any individual, firm or corporation any portion of the premises established as an off-street parking facility for service concessions, commercial uses or otherwise, after first advertising for bids therefor by publication not less than once a week for two consecutive weeks in a newspaper of general circulation in the city making two publications in all.

Section 55. KRS 94.990 is amended to read as follows:

Any person who shall lodge for record in the county clerk's office, and any county clerk or deputy who shall receive for record or permit to be lodged for record, any plat, map, deed or other instrument contrary to the provisions of KRS *82.400* [~~94.370~~], shall be fined not less than twenty-five (25) nor more than one hundred dollars ($100) for each offense.

Section 56. KRS 95.010 is amended to read as follows:

(1) As used in KRS 95.150 to 95.290 and in KRS 95.786 to 95.850, unless the context requires otherwise:

(a) "Dismissal" means the discharge of an employe by the division or department head, civil service board, or other lawful authority.

(b) "Eligible list" means a list of names of persons who have been found qualified through suitable competitive examinations for positions or classes of positions.

(c) "Fire department" means the officers, fire fighters and clerical or maintenance employes, including the chief of the fire department.

(d) "Member" means any person in the police or fire department, other than the chief or assistant chief of the department.

(e) "Police department" means the officers, policemen and clerical or maintenance employes, including the chief of police.

(f) "Police force" means the officers and policemen of the police department, other than the chief of police.

(g) "Policeman" means a member of the police department below the rank of officer, other than a clerical or maintenance employe.

(h) "Salary" means any compensation received for services.

(i) "Suspension" means the separation of an employe from the service for a temporary or fixed period of time, by his appointing authority, as a disciplinary measure.

(2) As used in KRS *95.440* [~~95.430~~] to 95.690, the following words and terms shall have the following meaning, unless the context requires otherwise:

(a) "Dismissal" means the discharge of an employe by the division or department head, civil service board, or other lawful authority.

(b) "Eligible list" means a list of names of persons who have been found qualified through suitable competitive examinations for positions or classes of positions.

(c) "Fire department" means and includes all officers, fire fighters, and clerical or maintenance employes of the fire department.

(d) "Police department" means and includes all officers, policemen, and clerical or maintenance employes of the police department.

(e) "Member" means any and all officers, fire fighters, policemen, clerical or maintenance employes in the police or fire department, except that as used in subsections (1) and (3) of KRS 95.440, and KRS 95.450, 95.460, 95.470, 95.550, 95.560, 95.565, 95.570 and 95.580 it shall not include the chief of police in a city of the second class operating under the commission form of government or in an urban-county government.

(f) "Police force" means and includes all officers and policemen in the police department.

(g) "Policeman" means a member of the police department below the rank of officer, other than a clerical or maintenance employe.

(h) "Fire fighter" means a member of the fire department below the rank of officer, other than a clerical or maintenance employe.

(i) "Salary" means any compensation received for services.

(j) "Suspension" means the separation of an employe from the service for a temporary or fixed period of time, by his appointing authority, as a disciplinary measure.

(k) "Pension fund" shall mean the moneys derived from the members of the police and fire departments' salary or salaries and appropriations by the legislative body, or any other means derived from whatever source by gift or otherwise to be used for the retirement of members of the police and fire departments after the prescribed number of years of service, and for the benefit of disabled members of police and fire departments, and for the benefit of surviving spouses and dependent children or dependent fathers or mothers in the case of death of any member of the police or fire department within the scope of his employment.

(3) As used in KRS 95.761 to 95.785 the following words and terms shall have the following meaning:

(a) "Regular police department." For the purpose of KRS 95.761 to 95.785, a "regular police department" is defined as one (1) having a fixed headquarters, where police equipment is maintained and where a policeman or policemen are in constant and uninterrupted attendance to receive and answer police calls, and execute regular police patrol duties.

(b) "Regular fire department." For the purpose of KRS 95.761 to 95.785, a "regular fire department" is defined as one (1) having a fixed headquarters where firefighting apparatus and equipment is maintained, and where fire fighters are in constant and uninterrupted attendance to receive and answer fire alarms.

(c) "Legislative body." Wherever in KRS 95.761 to 95.785 the term "body" or "legislative body" is employed, it shall be construed to mean the legislative branch of the city government or urban-county government.

(d) "Commission." The word "commission" shall mean the board of civil service commissioners, as established under the terms of KRS 95.761 to 95.785.

(e) "Trustees." The word "trustees" shall mean the board of pension fund trustees, as established under the terms of KRS 95.761 to 95.785.

(f) "Pension fund." The term "pension fund" shall mean the moneys derived from the policeman or policemen and fire fighter or fire fighters salary or salaries, and appropriations by the legislative body, or any other sums derived from whatever source by gifts or otherwise to be used for the retirement of policeman or policemen and fire fighter or fire fighters after the prescribed number of years of service and for the benefit of disabled policeman or policemen and fire fighter or fire fighters, and for the benefit of surviving spouses and dependent children or dependent fathers or mothers in the case of death of a policeman or fire fighter within the scope of his employment, according to the terms of KRS 95.761 to 95.785.

Section 57. KRS 95.785 is amended to read as follows:

When the provisions of KRS 95.761 to 95.784 have been accepted and adopted by the legislative body of any city of the fourth class, KRS [~~95.700 (2),~~] 95.710 and 95.760 shall not apply to that city.

Section 58. KRS 95.859 is amended to read as follows:

The rate of retirement annuity shall be two and one-half percent (2 ½%) of average salary, as defined in KRS 95.851*(13)*[~~(m)~~], for each year of total service up to and including thirty (30) years, subject to a maximum of seventy-five percent (75%) of average salary. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate. Provided, however, that no retiree, or his surviving widow, whether he retired before or after June 16, 1972, under this Section shall receive a pension of less than one hundred dollars ($100.00) a month and when social security benefits are increased the minimum shall be increased by a like amount, provided that the increase shall not exceed five percent (5%). Within six (6) months after the performance of the actuarial study required by KRS 95.872(6), the rate of retirement annuity of each annuitant who becomes an annuitant after the effective date hereof shall be increased by an amount determined by the said study to reflect so much of the increase in the cost of living of such annuitant from the beginning of his annuity as may be supported on an actuarially sound basis by the fund, so long as the same is published, such studies shall rely on the "All Items Index" of the United States Department of Labor's Consumer Price Indexes, but no increase in the cost of living shall exceed two percent (2%) over the base index year in any year of the fund, provided, however, such increases shall be payable only after the member has attained the age of sixty (60) years or has been retired for a period of three (3) full years, whichever is later, and all such increases shall not be compounded.

Section 59. KRS 95.861 is amended to read as follows:

(1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least three (3) years of total service, his widow shall receive an annuity equal to one and one-half percent (1-½%) of average salary for each year of total service, credited to the member, subject to a maximum payment to the widow of fifty percent (50%) and subject to the following conditions:

(a) The widow had been married to the member at least one (1) year prior to his death;

(b) The widow is at least forty-five (45) years of age, otherwise payment will be deferred until she attains such age, except that if she is or becomes totally disabled before age forty-five (45), or has a minor child or children by the member in her care under age eighteen (18), (including adopted children provided the proceedings for adoption were initiated at least one (1) year prior to death of member) payment of the widow's annuity will begin immediately together with an additional allowance on account of the child or children;

(c) The widow's annuity will terminate in any event when the widow remarries. The annuity of each child or children shall continue until each child attains age eighteen (18).

(2) If the widow has minor children under age of eighteen (18), the annuity to the widow shall be increased one-half (½) on account of the first child and one-fourth (¼) on account of each additional child, subject to a maximum combined payment to the widow and children of seventy-five percent (75%) of the average salary as defined in KRS 95.851*(13)*[~~(m)~~].

(3) If the pensioner is not survived by a widow and there are minor children the following benefits shall be paid: (a) one (1) minor child, fifty percent (50%), (b) two (2) minor children, fifteen percent (15%) additional, (c) three (3) or more minor children, ten percent (10%) additional, subject to a maximum combined payment of seventy-five percent (75%) of the average salary as defined in KRS 95.851*(13)*[~~(m)~~]. The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly employed in full-time educational activities the age of twenty-three (23). The annuity payments shall be reduced in reverse order.

(4) These benefits shall also be payable upon death of the member while on retirement, provided marriage was in effect for at least one (1) year before retirement.

Section 60. KRS 95.863 is amended to read as follows:

(1) Upon total and permanent disability of a member as the result of any cause other than occupational disability, if a member shall have rendered at least ten (10) years of total service, he shall be entitled to a disability retirement annuity. The amount of such annuity shall be equal to two and one-half percent (2 ½%) of average salary, as defined in KRS 95.851*(13)*[~~(m)~~], for each full year of total service, subject to a minimum payment of twenty-five percent (25%) of such average salary, and a maximum payment of fifty percent (50%) of average salary. Payment of this annuity shall be made during disability of the member. Upon death of the member, if an eligible widow or minor children survive, such survivors shall be entitled to the regular annuities provided under KRS 95.861.

(2) Any annuity for nonoccupational disability shall begin to accrue upon the expiration of ninety (90) days following the commencement of disability provided that if the member is receiving salary for sick leave for a period of more than ninety (90) days, payment shall accrue from the date such salary ceases. If written application for such annuity shall not have been filed with the board prior to the expiration of ninety (90) days from the date of disability, the annuity shall begin to accrue from the date the application shall be filed but not prior to the expiration of ninety (90) days from the date of disability, nor in any event prior to the time when salary payments to the employe shall have ceased.

Section 61. KRS 97.435 is amended to read as follows:

The legislative body of any city of the second class may by ordinance create an administrative department such as, in the judgment of that body, is reasonably required for the efficient, orderly and economical administration of the public parks and recreational activities of such city, except that any city of the second class operating under the city manager form of government may create an administrative department for the operation of parks, playgrounds and recreational facilities [~~as is provided by KRS 89.580~~].

Section 62. KRS 98.150 is amended to read as follows:

When the commission decides that any building or improvement, or any distinct portion thereof, has been completed and is ready for actual use, the commission shall notify the department of the city that has charge of buildings or improvements of the character of the one (1) completed, and such department shall thereafter have exclusive control of the building or improvement. Prior to that time the commission shall have sole supervision and control, notwithstanding the provisions of KRS [~~93.060 and~~] 98.010.

Section 63. KRS 99.350 is amended to read as follows:

(1) If the council of any community by resolution finds and declares (a) that there exist in the community slum areas or blighted areas, (b) that there is need in the community for the exercise of powers, functions and duties conferred by KRS 99.330 to 99.510, and (c) that the exercise of such powers, functions and duties by an agency created and established pursuant to this section would be more efficient and in the public interest than the exercise of such powers, functions and duties by the community or the housing commission of the community pursuant to KRS *99.490* [~~99.470~~], an agency, to be known as the urban renewal and community development agency of the city or county, as the case may be, shall thereupon exist for such community with the powers, duties and functions provided for in KRS 99.330 to 99.510.

(2) Upon adoption of the resolution, the mayor shall be promptly notified and he shall appoint, with the approval of a majority of the council, five (5) resident electors of the community as members of the agency.

(3) Three (3) of the members who are first appointed shall be designated to serve for terms of one (1), two (2) and three (3) years respectively, and the remaining two (2) of such members shall be designated to serve for terms of four (4) years each, from the date of their appointment. Any appointments heretofore made for a term of five (5) years are hereby confirmed and declared to be appointments for a term of four (4) years from the date of such appointment. Thereafter members shall be appointed as aforesaid for a term of office of four (4) years, except that all vacancies occurring during a term shall be filled for the unexpired term. A member shall hold office until his successor has been appointed and qualified.

(4) The agency shall elect a chairman from among its members. The term of office as chairman of the agency, unless otherwise prescribed by the council shall be for the calendar year, or for that portion thereof remaining after each such chairman is designated or elected.

(5) The powers of each agency shall be vested in the members thereof then in office. Members of an agency or their staff shall receive their actual and necessary expenses, including traveling expenses, provided, however, that such other compensation, if prescribed, shall be paid exclusively from community funds.

(6) For inefficiency or neglect of duty or misconduct in office, a member of an agency may be removed by the council but the member may be removed only after he shall have been given a copy of the charges at least ten (10) days prior to a public hearing thereon and has had an opportunity to be heard in person or by counsel.

(7) No officer or employe of the community, or of the agency, who in the course of his duties is required to participate in the formulation of plans or policies for the redevelopment of a development area, or to approve such plans or policies, shall acquire any interest in any property included within a development area within the community. If any such officer or employe owns or has financial interest, direct or indirect, in any property included within such a development area he shall immediately disclose, in writing, such interest to the agency and to the council and such disclosure shall be entered in the minutes of the agency and of the council. Failure to so disclose such interest shall constitute misconduct in office. No payment shall be made to any member or officer of an agency for any property or interest therein acquired by the agency from such member or officer unless the amount of such payment is fixed by court order in eminent domain proceedings, or unless such payment is unanimously approved by the council.

(8) When an agency is created for any community, the council may at that time, and from time to time thereafter, appropriate such amounts of money to the agency as it deems necessary for the administrative purposes of the agency. The administrative purposes of the agency may include staff and consultants for research, studies and surveys, designation of development areas, preparation of development plans, estimates of the cost of acquisition, clearance and conditioning of land for redevelopment, estimates of the fair use value of the land and any other administrative expenses considered necessary by the council.

(9) Each such agency shall file with the council a detailed report of all its transactions, including a statement of all revenues and expenditures, at such intervals as the council may prescribe.

(10) At any time after two (2) years after the appointment of the first five (5) members of the agency, if such agency shall not theretofore have redeveloped or acquired land for, or commenced the redevelopment of, a project, or entered into any contracts for redevelopment, the council may by resolution declare that the offices of the members of the agency shall be vacated and thereupon the capacity of the agency to transact business or exercise any power shall be suspended and shall remain suspended until the appointment of new members to the office of the agency as hereinbefore set forth in this section.

SECTION 64. KRS 100.321 IS REPEALED AND REENACTED AS KRS 100.215:

Any legislative body in the planning unit must refer any change to the zoning regulation or official map regulation to the commission for its review before adoption. The commission shall review the proposal, and shall, within sixty (60) days from the date of its receipt, advise the legislative body whether it approves or disapproves of the change, and if it disapproves, state the reasons for disapproval. A majority of the entire membership of the referring legislative body shall be required to override the disapproval by the planning commission.

Section 65. KRS 100.327 is amended to read as follows:

Only after objectives and land use plan elements, at least, have been adopted for the unit, KRS *100.215* [~~100.321~~] and 100.324 shall govern.

SECTION 66. KRS 100.334 IS REPEALED AND REENACTED AS KRS 100.328:

(1) The commission shall have the authority to adopt all rules and regulations necessary to carry out its functions under the provisions of this chapter. Every rule and regulation promulgated by the commission shall be submitted to each fiscal court and legislative body concerned for approval or rejection.

(2) If the planning commission is conducting or, in good faith is preparing to conduct, studies which are required for a comprehensive plan, the commission and the legislative bodies may prepare and adopt interim regulations before the otherwise required plan elements are completed. The contents of, and procedure for adoption and amendment of, the interim regulations shall be the same as for the regular regulations.

SECTION 67. KRS 100.341 IS REPEALED AND REENACTED AS KRS 100.292:

When it has been discovered that land has been sold or transferred, or that a contract has been entered into for the sale or transfer of land in violation of the provisions of this chapter pertaining to the regulation of subdivisions, the owner or owners of record shall file plats of the land in accordance with this chapter. When land is sold or transferred, or a contract has been entered into for the sale or transfer of land in violation of this chapter, the land shall be governed by the subdivision regulations both prior to and after the platting of the land by the owner of record as if a plat had been filed in accordance with the provisions of this chapter pertaining to subdivision regulations.

SECTION 68. KRS 100.344 IS REPEALED AND REENACTED AS KRS 100.329:

All final plats approved by the planning commission and all variances and conditional use permits approved by the board of adjustments shall be recorded at the expense of the applicant in the office of the county clerk. A copy of all regulations and the official maps of each planning unit shall be filed in the office of the county clerk.

SECTION 69. KRS 100.349 IS REPEALED AND REENACTED AS KRS 100.3291:

Whenever any other restrictions or covenants impose a higher standard than that indicated by any regulation of this chapter, then such other restriction or covenant shall govern.

SECTION 70. KRS 100.365 IS REPEALED AND REENACTED AS KRS 100.216:

The maintenance and operation of a noncommercial kennel upon any lot or other premises occupied by the owner or tenant as a dwelling house does not constitute a nonconforming use of land for residential purposes in violation of the zoning regulations of any city or county. As used herein a noncommercial kennel means a kennel at, in or adjoining a private residence where hunting or other dogs are kept for the hobby of the householder in using them for hunting or practice tracking or for exhibiting them in dog shows or field or obedience trials or for the guarding or protecting the householder's property. The occasional raising of a litter of puppies at the kennel and occasional sale of pups by the keeper of a noncommercial kennel does not change the character of residential property.

Section 71. KRS 103.246 is amended to read as follows:

(1) (a) The term "pollution control facilities" means any land, building, structure, machinery, equipment, device, system or facility functionally related thereto designed for the control, containment, reduction, prevention or abatement of atmospheric pollutants or contaminants, solid waste, noise, radiation, or water pollution produced by industrial concerns and utility companies, including, but not by way of limitation, any such facilities used in whole or in part to control, contain, reduce, prevent or abate atmospheric, solid waste, noise, radiation, or water pollution by removing, altering, containing, disposing or storing pollutants, contaminants, wastes, whether gaseous, solid or liquid, thermal or radioactive. Said term includes all pollution control facilities whenever constructed, reconstructed, purchased, leased or otherwise acquired and placed in use, which may legally be financed by issuance of bonds determined to be tax-exempt pursuant to the provisions of Section 103*(b)*[~~(c)~~] of the Internal Revenue Code of 1954, as amended, and regulations promulgated thereunder. Pollution control facilities may be constructed as part of, and may include, facilities also designed for the recovery of chemicals or other by-products or to serve other purposes which also contribute to the control of or abatement of atmospheric, solid waste and water pollution.

(b) The term "industrial concern" means any domestic or foreign corporation, company, partnership, association, rural electric cooperative corporation, or any other legal entity.

(2) It is hereby determined and declared that the acquisition and financing of pollution control facilities for utilization by industrial concerns and utility companies by the issuance of bonds of cities and counties amortized by payments made by such industrial concerns and utility companies inures to the public interest, and constitutes the performance of a proper governmental purpose. It is the intent of this section to afford to cities and counties alternative methods of financing pollution control facilities to the end that atmospheric, solid waste and water pollution in the Commonwealth may be abated and controlled to the maximum possible extent.

(3) As an alternative to the procedure set forth in KRS 103.200 to 103.285, inclusive, any city or county, for the purpose of financing the acquisition of pollution control facilities for any industrial concern or utility company, may issue negotiable bonds pursuant to KRS 103.200 to 103.285, inclusive, and either (a) loan the proceeds from the sale of such bonds to an industrial concern or utility company to finance the acquisition of such pollution control facilities, (b) sell such pollution control facilities to an industrial concern or utility company pursuant to agreement, or (c) lease such pollution control facilities from an industrial concern or utility company and sublease same to such industrial concern or utility company. In the event of use of such alternative financing procedure, such bonds shall not constitute an indebtedness of such city or county within the meaning of the Constitution of Kentucky, but shall be payable as to principal and interest solely from the revenues derived from payments, repayments, or sublease payments made by such industrial concern or utility company to such city or county in respect of such loan, sale or sublease.

(4) In the event that an alternate procedure authorized by this section is to be utilized in the financing of pollution control facilities, (i) the provisions of KRS 103.200 to 103.285, inclusive, shall apply, except that the proceedings and procedures therein described shall contemplate and authorize a transaction in the form of (a) a loan of the proceeds from the sale of such bonds by such city or county to an industrial concern or utility company for the acquisition of such pollution control facilities, (b) a sale of such pollution control facilities to an industrial concern or utility company pursuant to agreement, or (c) a lease of such pollution control facilities from an industrial concern or utility company and sublease of same to such industrial concern or utility company; and (ii) the loan, sale lease and sublease and any agreement or contract with respect thereto may include such provisions as such city or county shall deem appropriate to effect the securing of the financing undertaken in respect of such pollution control facilities, including, but not by way of limitation, (a) the pledge of the general credit of any such industrial concern or utility company, (b) the making of guarantees to an indenture trustee or to such city or county in respect of amortization of such bonds by any such industrial concern or utility company, (c) the creation of liens of security interests on any property or portion thereof of any such industrial concern or utility company, either senior or junior to, or ranking equally with, any other lien, security interest or rights of others, including any party or parties to any agreement in connection with such financing and/or its or their respective security holders and indenture trustees or

mortgage trustees, and (d) the pledge of other direct securities of such industrial concern or utility company in respect of such bonds.

(5) In the event any city or county shall finance pollution control facilities pursuant to the express authority contained in this section, title to such pollution control facilities shall not be acquired by such city or county in the case of a loan or lease transaction, and, in the case of a sale transaction, title may pass at any time, and the statutory mortgage lien for which provision is made in KRS 103.250 shall not apply to any such pollution control facilities.

(6) Bonds issued by cities and counties pursuant to the authority contained in this section may be caused to mature as to principal in term or serial maturities not to exceed thirty (30) years from date of issue.

Section 72. KRS 107.020 is amended to read as follows:

(1) The term "governing body," as used in this chapter, means and includes the legislative body of any city, whether the same be designated by applicable statutes as a general council, a common council, a city council, a board of trustees, a board of commissioners, or otherwise.

(2) The term "ordinance" means and includes any ordinance enacted in accordance with the general laws applicable to ordinances of the class of city in question, and the form of government thereof, and in accordance with the provisions of this chapter.

(3) The term "public way" means and includes streets, boulevards, avenues, roads, lanes, alleys, parkways, courts, terraces, and other courses of travel open to the general public by whatsoever name designated. [~~As applied to metropolitan sewer districts "public ways" also has the same meaning as used in KRS 93.010(2).~~]

(4) The terms "improvement" and "project" mean and include

(a) The construction of public ways or the substantial reconstruction or widening thereof,

(b) The construction, installation or substantial reconstruction of sanitary, storm, or combined sewers and appurtenances,

(c) The construction, enlargement or substantial reconstruction of sewage treatment plants for rendering sewage less hazardous to public health, safety and general welfare,

(d) The construction, installation or substantial replacement of fire hydrants in cities of the third through sixth classes, necessary water mains and appurtenances in a city in a county containing a city of the first or second class, or

(e) Any combination of the same. Bonds for improvements defined in paragraphs (b), (c) and (d) of this subsection may be caused to mature as to principal in term or serial maturities not to exceed thirty (30) years from date of issue[~~, instead of being limited to twenty (20) years from date of issue as otherwise provided in KRS 107.090~~].

(5) The term "costs" as applied to any project undertaken under this chapter includes the cost of labor, materials, and equipment necessary to complete the project in a satisfactory manner, cost of land acquired, and every expense connected with the project, including preliminary and other surveys, inspections of the work, engineers' fees and costs, attorneys' fees, preparation of plans and specifications, publication of ordinances and notices, interest which will accrue on the bonds until the due date of the first annual improvement assessment levied in connection therewith, a sum equal to any discount in the sale of the bonds (if discount bids are authorized and permitted by the governing body), a reasonable allowance for unforeseen contingencies, the printing of bonds, and other costs of financing which may include the payment of a fee to a fiscal agent for advice and assistance in the preparation and marketing of the bonds. As applied to wastewater collection projects undertaken by metropolitan sewer districts "costs" also include: (a) the cost of inspections of work as construction progresses, (b) interest which will accrue on the bonds until the due date of the first annual improvement assessment if a lump sum is not paid, (c) capitalized interest on the bonds for a period not to exceed three years, (d) all or any portion of the debt service reserve requirement, if determination is made to finance same from bond proceeds (e) payment of attorneys' fees, underwriting and fiscal agency fees, trustees' fees, rating service fees if approved by the fiscal court and (f) other costs of issuance of bonds.

(6) The term "assessed value basis" means the plan for the levying of annual improvement benefit assessments on the basis of the assessed values of the benefited properties, as authorized by this chapter. As applied to wastewater collection projects undertaken by metropolitan sewer districts, "assessed value basis" means the plan for the levying of annual improvement benefit assessments upon benefited property for the benefits conferred by the construction of projects on the basis of the ad valorem assessed values (land only) of the benefited property, whether the owners pay such levies in full or on an annual basis to amortize bonds. Identical annual improvement benefit assessments upon classified zones of benefited property may also be included in this plan where determination is made by order of a metropolitan sewer district, as provided in KRS 107.030, that benefits conferred by construction of a project are substantially equal and that the assessed value (land only) of all benefited property or designated zones thereof shall therefor be deemed equal in respect of a given wastewater collection project.

(7) The term "front-foot basis" refers to the plan for financing improvements by apportioning the cost among benefited properties upon the basis of the number of linear feet thereof abutting upon the improvement project, as otherwise provided by law.

(8) The terms "property to be benefited," "properties to be benefited," "benefited property" and "benefited properties" all mean and refer to the property or properties defined in KRS 107.140. As applied to wastewater collection projects undertaken by metropolitan sewer districts, "benefited property" and "property to be benefited" mean the property (land only) proposed to be benefited by construction of a wastewater collection project instituted by a metropolitan sewer district and against which lump sum or annual improvement benefit assessments are to be levied.

(9) "Construction" means the following services and facilities provided by a metropolitan sewer district:

(a) Preliminary planning to determine the economic and engineering feasibility of construction of wastewater collection projects, and any engineering, architectural, legal, fiscal, and economic investigations and studies necessary. Also included are all necessary surveys, designs, plans, working drawings, specifications, procedures, and other required actions incident to the construction of wastewater collection projects;

(b) The building, acquisition, installation, erection, alteration, remodeling, improvement, expansion, or extension of wastewater collection projects and any other physical devices reasonably associated with such projects;

(c) The provision of sewer collection services and facilities to benefited property although not directly financed by the issuance of bonds; and

(d) Inspection and supervision incident to the acquisition, construction, and installation of wastewater collection projects.

(10) "Debt service reserve requirement" means with respect to any particular issue of bonds for a wastewater collection project of a metropolitan sewer district, the maximum annual requirements for payment of principal of and interest on such bond issue funded either in whole or in part by application of bond proceeds or accrued by the levying of improvement benefit assessments as provided in KRS Chapters 76 and 107.

(11) "Metropolitan sewer district" means a joint metropolitan sewer district which has been duly created under KRS 76.005 to 76.210.

(12) "Order" means a formal and binding enactment of the board of a metropolitan sewer district entered in connection with the financing by such district of a wastewater collection project.

(13) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants.

(14) "Wastewater collection project" means treatment plants and all or part of any facilities and systems of a metropolitan sewer district used in the collection, holding, or transmission of wastewater from a benefited property to wastewater treatment plants or other similar facilities for final disposition. These terms shall include, without being limited to, sanitary sewage collection lines, intercepting sewers, outfall sewers, sewer laterals, power stations and pumping stations, and other equipment and their appurtenances necessary to enable the project to fulfill its function, including land acquisition, if required, whether such project facilities are provided by funds derived from issuance of bonds or otherwise provided by a district in any manner.

(15) "Classified zone" means any portion of any construction phase of a wastewater collection project designated by a metropolitan sewer district after a determination that all property located in such zone is benefited substantially equally by such construction.

(16) "Agricultural land" means a tract of land containing a residence within a wastewater collection project of a metropolitan sewer district of contiguous acreage for the production of agricultural or horticultural crops, including but not limited to livestock products, poultry, poultry products, grain, soybeans, tobacco, timber, orchards, fruits, vegetables, flowers or ornamental plants, where such activities produced an average gross income of at least $1,000 per year during the preceding two years.

(17) "Undeveloped land" means a tract of land within a wastewater collection project of a metropolitan sewer district which contains no temporary or permanent residence.

(18) "Single-family tract" means a tract of land within a wastewater collection project of a metropolitan sewer district which contains no more than one temporary or permanent residence.

Section 73. KRS 107.140 is amended to read as follows:

(1) (a) In the case of improvements of public ways, the benefited property shall consist of all real property abutting upon both sides of the improvement project, and the cost of improving intersections shall be included in the total costs to be assessed and apportioned, unless and to the extent the city shall appropriate, within constitutional limitations, from available funds, *a* definite and specified sum as a contribution thereto, or a portion of the aggregate cost, or the cost of specified portions of the improvement; provided, however, that if provisions shall be made for sidewalk improvements, as an integral part of the improvement of a "public way," as defined in subsection (3) of KRS 107.020, upon only one side of the project, the costs

of the sidewalk improvement shall be ascertained and assessed separately against the property abutting upon that side only, but the governing body may provide that such assessment shall include a fair share of the over-all costs as herein defined, other than the amounts of the actual construction contracts.

(b) In the case of improvements for draining sewage, storm water, or a combination thereof, the benefited properties shall consist of all properties which are thereby afforded a means of drainage, including not only the properties which may be contiguous to the improvements, but also adjacent properties within a reasonable distance therefrom as the governing body may in the proceedings set forth.

(c) In the case of an improvement project consisting in whole or in part of a sewage treatment plant, or enlargement or substantial reconstruction of an existing sewage treatment plant, the benefited properties shall be all those properties the sewage from which is treated in such plant, including properties already provided with sewer drainage facilities as well as those properties which the improvement project will provide with such drainage facilities, but the governing body may classify properties according to the extent of benefits to be afforded to them, and may establish one (1) rate of assessment applicable to all properties participating in the benefits of the sewage treatment installations, and an additional rate of assessment applicable to properties for which the improvement project will also provide sewer drainage facilities. In relation to wastewater collection projects constructed by metropolitan sewer districts, benefited property shall consist of all property whether improved or unimproved to which the project affords a means of discharging wastewater.

(d) The governing body may, either in the proceedings initiating an improvement project, or in subsequent proceedings, recognize the necessity or desirability in the interest of the public health, safety and general welfare, that properties other than the properties originally benefited by an improvement under paragraphs (b) or (c) of this subsection, be permitted to connect to such sewer drainage and/or treatment facilities, and may make equitable provisions which may be adjustable from year to year as bonds are retired, whereby the owners of such later-connecting properties, may, by paying charges for the privilege of connecting, and/or by assuming a share of improvement assessments, or otherwise, be placed as nearly as practicable on a basis of financial equity with the owners of properties initially provided to be assessed.

(e) The governing body may, either in the proceedings initiating an improvement project, or in subsequent proceedings, recognize the necessity or desirability in the interest of the public health, safety and general welfare that residential properties within one thousand feet (1000'), measured along paved roads, of a fire hydrant in cities of the third through sixth classes may be assessed on the same basis as property abutting upon a street where a fire hydrant is to be installed.

(2) (a) Benefited property owned by the city or county, or owned by the United States government or any of its agencies, if such property is subject to assessment by act of congress, shall be assessed annually the same as private property, and the amount of the annual assessment shall be paid by the city, county, or United States government, as the case may be. The same right of action shall lie against the county as against a private owner.

(b) Benefited property owned by the state, except property the title to which is vested in the Commonwealth for the benefit of a district board of education pursuant to KRS 162.010, shall be assessed as follows: Before assessing the state, the governing body shall serve written notice on the secretary of the department of finance setting forth specific details including the estimated total amount of any improvement assessment proposed to be levied against any state property relative to any proposed improvement project. Said written notice shall be served prior to the next regular session of the general assembly so that the amount of any specific improvement assessment may be included in the biennial budget report to be submitted to the general assembly. Payment of any assessment shall be made only from funds specifically appropriated for that assessment. If an amount sufficient to pay the total amount of any assessment has been appropriated, then the total amount shall be paid; if an amount sufficient only to pay annual assessments has been appropriated, then only the amount of the annual assessment shall be paid. The amount of the assessment shall be certified by the city treasurer to the department of finance, which shall thereupon draw a warrant upon the state treasurer, payable to the city treasurer, and the state treasurer shall pay the same.

(c) In the case of property the title to which is vested in the Commonwealth for the benefit of a district board of education, the amount of the annual assessment shall be paid by the city or other local governmental agency or authority which undertook the improvement project.

(3) No benefited property shall be exempt from assessment.

SECTION 74. KRS 109.020 IS REPEALED AND REENACTED AS KRS 109.082:

When the governing bodies of two (2) or more counties, and the most populous city of each such county join with each other in the management or solely in the collection or solely in the disposal of solid waste in accordance with the state solid waste management plan they may cause a contract to be prepared and executed which shall set forth:

(1) Whether and to what extent cities and counties shall render services to the area and receive services from the area or from each other.

(2) Whether cities and counties will contract with a private party or parties for the management of solid waste.

(3) The financial responsibilities and contributions of the respective cities and counties in the joint undertaking.

(4) The extent to which the cities and counties will furnish personnel and administrative services to the area.

(5) The terms of the contract or agreement: Provided That such contract may be modified from time to time as conditions may warrant and provided one or more additional counties desiring to participate in the joint undertaking may be permitted to become parties to the contract.

(6) Such other provisions as may be necessary to execute a workable system for solid waste management or solely of collection or solely of disposal of solid waste.

SECTION 75. KRS 109.061 IS REPEALED AND REENACTED AS KRS 109.072:

Where it is consistent with the policy set forth in this chapter and approved by the department one (1) county may be designated as a solid waste management area.

SECTION 76. KRS 109.071 IS REPEALED AND REENACTED AS KRS 109.115:

Whenever two (2) or more counties elect to join together for the purposes of solid waste management they may establish and maintain a district. Districts shall have all powers and authority set forth in KRS 109.041.

The district shall be controlled and managed by a board of directors consisting of the county judges/executive of every county, or portion of a county, within that district and the mayor of the most populous city in each county. In the instance that a city is incorporated into a district, and the remainder of the county lies within another district, the mayor of said city shall be represented on the board of that district.

SECTION 77. KRS 109.180 IS REPEALED AND REENACTED AS KRS 109.056:

(1) Any county or district may levy an annual tax of not to exceed ten cents (10¢) on each one hundred dollars ($100) of assessed valuation of real property within the area subject to taxation for county purposes. The proceeds of such tax shall be used for expenses of the area and for redemption of any bonds issued.

(2) The county or district may in lieu of the tax provided in subsection (1) or in addition thereto finance the maintenance, operation and capital acquisition costs of the area by fees to be collected from all persons receiving services from the area. Such charges shall be fixed in such amounts as can be reasonably expected to yield revenues not in excess of the cost of operation and maintenance of the system and for an adequate depreciation fund and amortization of capital acquisition costs.

(3) The service charges authorized by subsections (1) and (2) of this section may be collected by the area directly or the area may enter into an agreement with other utilities either public or private to collect such charges.

SECTION 78. KRS 109.250 IS REPEALED AND REENACTED AS KRS 109.059:

Any county or solid waste district may require the use of any solid waste management facility or other facility meeting the standards of the department under KRS Chapter 109 by all persons, firms and governmental entities situated within the geographical boundaries thereof; provided, however, that such mandatory use of any solid waste management facility shall not be applicable to any city situated within the geographical boundaries of any such county which owns and operates a municipal solid waste management facility, and which complies with the intent and purposes herein provided, other than a sanitary landfill upon June 17, 1978.

Section 79. KRS 132.027 is amended to read as follows:

(1) (a) Notwithstanding any statutory provisions to the contrary, no city or urban-county government shall levy a tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the maximum tax rate that could have been levied in 1978-79 to the 1978-79 assessment.

(b) In succeeding years, no city or urban-county government shall levy a tax rate which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the tax rate that was levied in the preceding year to the preceding year's assessment.

(2) No city or urban-county government shall levy a tax rate within the limits imposed in subsection (1) of this section which exceeds the compensating tax rate defined in KRS 132.010 until the city or urban-county government has complied with the provisions of subsection (3) of this section.

(3) (a) Cities or urban-county governments proposing to levy a tax rate [~~within the limits of subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The city or urban-county government shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;
2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;
3. The compensating tax rate and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained therein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the taxing district, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The taxing district may set reasonable time limits for such testimony.

(4) (a) That portion of a tax rate levied by an action of a city or urban-county government which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The city or urban-county government shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the city or urban-county government has adopted such a rate;
2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall, and
3. The name, address and telephone number of the county clerk of the county or urban-county in which the taxing district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 80. KRS 132.203 is amended to read as follows:

KRS 132.200*(11)*[~~(9)~~] prohibiting the taxation of unmined coal by local taxing districts does not apply to any special voted levies for the purpose of retiring bonds existing prior to January 1, 1977.

Section 81. KRS 132.660 is amended to read as follows:

(1) The department of revenue shall have authority to order an emergency assessment of all or any part of the taxable property in any taxing district to be made by one or more persons appointed for that purpose by the department, whenever: there has been no regular assessment; the records of an assessment have been destroyed, mutilated or lost; complaint is made by the owners of not less than ten percent (10%) in value of the taxable property in the taxing district; or investigation of the department discloses that the assessment of property in such taxing district is so grossly inequitable or fiscally infeasible that an emergency exists. The order directing such emergency assessments shall state the reasons therefor and a copy shall be filed in the office of the county clerk where the property lies. Such order, when filed, shall void any assessment for the assessment year for which the emergency assessment is made. Any person appointed to make such an emergency assessment shall have the same powers and duties as the property valuation administrator. Whenever the tax roll has been completed under an emergency assessment and the tentative valuations have been determined, the department shall cause to be published pursuant to KRS chapter 424, a notice as to the date when the tax roll will be ready for inspection and the time available for such purpose; also a copy of the notice shall be posted at the courthouse door. If any property is assessed at a greater value than that listed by the taxpayer or unlisted property is assessed, the taxpayer shall be charged with notice of such action by reason of the inspection period, and no further notice need be given of such action taken before the beginning of the inspection period. At the close of the inspection period, the tax roll shall be delivered to the county clerk and the county judge/executive shall immediately convene the board of assessment appeals to hear and determine any appeals from such emergency assessment. The board shall remain in session for the time and shall receive the compensation as provided in KRS 133.030*(3)*[~~(2)~~]. Appeals shall be taken and heard from such emergency assessments in the same manner as appeals from regular assessments.

(2) The department may appoint the property valuation administrator to make an emergency assessment provided he was not at fault, and if the property valuation administrator is so appointed he shall receive

reasonable compensation for his services in making this assessment, which shall not affect in any manner the payment to him of any compensation that he has received for himself or on behalf of a deputy or that may be due him, for services in making the regular assessment. Whenever through the property valuation administrator's fault an emergency assessment is ordered, the property valuation administrator shall become liable for the cost thereof as provided in KRS 132.620, such cost to be limited to the amount due or paid him in accordance with the provisions of KRS 132.590.

Section 82. KRS 133.120 is amended to read as follows:

(1) Any taxpayer aggrieved by an assessment made by the property valuation administrator may appeal to the board of assessment appeals. The taxpayer shall appeal his assessment by filing in person or sending a letter or other written petition stating the reasons for appeal, identifying the property for which the appeal is filed and stating *to the county clerk* the taxpayer's opinion of the fair cash value of the property [~~with or to the county clerk~~] within the twelve-day period in which the inspection *is held* [~~period~~]. The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the department of revenue, county judge/executive, mayor of any city using the county assessment or the superintendent of any school district in which the property is located, provided, such recommendation is made to the board in writing specifying the individual properties recommended for review. If the board of assessment appeals determines that any such assessment should be increased, then it shall give the taxpayer notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he so desires, in protest of such increase. Any property owner who has listed his property with the property valuation administrator at its fair cash value, likewise may ask the county board of assessment appeals to review the assessments of properties he believes to be assessed at less than fair cash value, providing, he specifies, in writing the individual properties for which the review is sought and factual information upon which his request is based; such as, comparable sales or cost data. Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.

(2) The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (1) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value. The board shall report to the property valuation administrator any property omitted from the tax roll. The property valuation administrator shall assess such property and immediately give notice to the taxpayer in the manner required by KRS 132.450(4), specifying a date when the board of assessment appeals will hear the taxpayer, if he so desires, in protest of the action of the property valuation administrator.

(3) The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.

(4) The powers of the board of assessment appeals shall be limited to those specifically granted by this section.

(5) No appeal under this section shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county and district taxes due on the valuation which he claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the court or the Kentucky board of tax appeals shall certify the valuation to the county clerk and the taxpayer shall be billed for any additional tax and six percent (6%) interest from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to such tax bill.

(6) Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky board of tax appeals.

(7) It shall be the duty of the county attorney to represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. In the event the county attorney is unable to represent the state and county, he or the fiscal court shall arrange for substitute representation.

Section 83. KRS 133.170 is amended to read as follows:

(1) When the department of revenue has completed its equalization of the assessment of the property in any county, it shall certify its action to the county judge/executive, with a copy of the certification for the county clerk, to be laid before the fiscal court of the county.

(2) If the fiscal court deems it proper to ask for a review of the aggregate equalization of any class or subclass of property, it shall direct the county attorney to prosecute an appeal of the aggregate increase to the Kentucky board of tax appeals within ten (10) days from the date of the certification.

(3) Within ten (10) days from the date that the department's aggregate equalization of any or all classes or subclasses of property becomes final by failure of the fiscal court to prosecute an appeal or by order of the Kentucky board of tax appeals or the courts, the fiscal court shall cause to be published, at least one (1) time, in the newspaper having the largest circulation within the county, a public notice of the department's action.

(4) Within ten (10) days from the date of the publication of the notice required in subsection (3) of this section, any individual taxpayer whose property assessment is increased above its fair cash value by the equalization action may file with the county clerk an application for exoneration of his property assessment from the increase. The application shall be filed in duplicate and shall include the name and address of the person in whose name the property is assessed; the assessment of the property before the increase; the description and location of the property including the description shown on the tax roll; the property owner's reason for appeal and all other pertinent facts having a bearing upon its value. The county clerk shall forward one (1) copy, of each application for exoneration to the department of revenue and shall exclude the amount of the equalization increase from the assessment in the preparation of the property tax bill for each property for which an application for exoneration has been filed.

(5) The county judge/executive shall reconvene the board of supervisors immediately following the close of the period for filing applications for exoneration from the increase. The board shall schedule and conduct hearings on all applications in the manner prescribed for hearing appeals by KRS 133.120; however, the board shall not have authority to reduce any assessment to an amount less than that listed for the property at the time of adjournment of the regular board session.

(6) The county clerk shall act as clerk of the reconvened board and shall keep an accurate record of the proceedings in the same manner as provided by KRS 133.125. Within five (5) days of the adjournment of the reconvened board, he shall notify each property owner in writing of the final action of the board with relation to the equalization increase and shall forward a copy of the proceedings certified by the chairman of the board and attested by him to the department of revenue and to the other taxing districts participating in the tax.

(7) Any taxpayer whose application has been denied, in whole or in part, may appeal to the Kentucky board of tax appeals as provided in KRS 131.340, and appeals thereafter may be taken to the courts as provided in KRS 131.370.

(8) The provisions of KRS 133.120*(5)*[~~(4)~~] shall apply to the payment of taxes upon any property assessment for which an application for exoneration has been filed.

(9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall only apply to appeals growing out of equalization action by the department of revenue under the provisions of KRS 133.150.

Section 84. KRS 137.010 is amended to read as follows:

As used in KRS 137.340 to 137.410 and in subsection *(4)* [~~(5)~~] of 137.990, unless the context requires otherwise:

(1) "Coin machine" or "coin-operated amusement and vending machine" shall mean and include any lawful coin or token-operated machine or device which contains no element of chance and which as a result of depositing a coin, token or other object automatically by or through some mechanical operation affords music or amusement of some character with or without vending any merchandise, but in addition to any such merchandise. Such coin-operated amusement and vending machine shall not include any bona fide merchandise vending machine in which there is incorporated no amusement features.

(2) "Token" shall include chips, checks or other articles which may be used to operate a coin machine.

(3) "Department" shall mean the department of revenue.

(4) "License stamp" shall mean any permanently fixed stamp evidencing payment of the tax, and prescribed by regulation of the department.

(5) "Person" shall include an individual or an unincorporated association, including a partnership, a limited partnership, or any other form of unincorporated enterprise owned by two (2) or more individuals, or a corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person," as applied to a partnership, limited partnership, or any form of unincorporated enterprise, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

Section 85. KRS 138.450 is amended to read as follows:

As used in KRS 138.460 and 138.470, unless the context requires otherwise:

(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(3) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(4) [~~Except as provided in subsection (5) of this section,~~] "Retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be 90% of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual;

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

[~~(5) Notwithstanding the provisions of subsection (4) of this section, provided the tax on gasoline, diesel, other special motor fuels and liquefied petroleum gas is increased as provided for in KRS 138.220(2), 138.565(3), 138.660(2) and 234.320(2), "retail price" shall be determined as follows:~~

~~(a) For new motor vehicles "retail price" shall be the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;~~

~~(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;~~

~~(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:~~

~~Number of Years Removed From Manual~~	~~Retail Price~~
~~1~~	~~75% of value of same make vehicle last appearing in manual~~
~~2~~	~~50% of value of same make vehicle last appearing in manual~~
~~3~~	~~25% of value of same make vehicle last appearing in manual~~
~~All Others~~	~~10% of value of same make vehicle last appearing in manual~~

~~(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, and new motor vehicles sold by Kentucky licensed dealers, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.~~]

Section 86. KRS 138.460 is amended to read as follows:

(1) On and after July 1, 1972 a tax levied upon its retail price at the rate of five percent shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of trucks of gross weight in excess of ten thousand pounds (10,000 lbs.) the tax shall be levied upon ninety percent of the retail price of the vehicle.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state,

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the department of revenue on forms provided by the department and on such forms as the department may prescribe. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to two and one-half percent of the tax collected and accounted for.

(4) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer

the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration and license fees.

(5) When a resident of this state offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and ownership mailed to the department.

(7) Notwithstanding the provisions of KRS 138.450*(4)*[~~(3)~~], in no case shall the tax be less than five dollars ($5.00) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where such vehicle is exempt from tax under KRS 138.470.

(8) Where a new motor vehicle is sold by a dealer in this state and the original purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a new vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the department of revenue as a result of the registration of the returned vehicle. The registration of the returned vehicle shall be cancelled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the department of revenue as a result of the first registration. No person shall be entitled to a refund unless he shall have filed with the department of revenue an affidavit from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

Section 87. KRS 140.300 is amended to read as follows:

As used in KRS 140.310 to 140.360 these words shall have the following meaning:

(1) "Agricultural land" means that real estate which is defined in KRS 132.010*(9)*[~~(7)~~].

(2) "Horticultural land" means that real estate which is defined in KRS 132.010*(10)*[~~(8)~~].

(3) "Agricultural or horticultural value" means the value as defined in KRS 132.010*(11)*[~~(9)~~].

(4) "Qualified real estate" means real property which:

(a) Is either horticultural or agricultural land;

(b) Has been used for agricultural or horticultural purposes for five (5) years prior to the death of the owner of the real estate or a joint owner thereof; and

(c) Fair cash value exceeds fifty percent (50%) of the gross taxable estate of decedent for Kentucky inheritance tax purposes.

(5) "Qualified person" means the spouse of and/or the children (including adopted children) of and their spouses, if any, of a deceased owner of agricultural or horticultural land and is a person who proposes to devote the real property to agricultural or horticultural purposes for at least five (5) years after the death of the decedent in whose estate the agricultural or horticultural land is subject to assessment.

Section 88. KRS 141.455 is amended to read as follows:

Each taxpayer required to file a return pursuant to KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the nongame species *protection* and habitat acquisition programs of the Commonwealth may designate as provided in this section an amount, not to exceed the amount of the refund, to be *paid* [~~made~~] to such programs. In the case of a joint return, each spouse may also designate that a portion of the refund shall be paid to said programs. Such designation shall not increase or decrease the income tax liability of any taxpayer, but it shall reduce the income tax refund of such taxpayer or spouse by the amount or amounts designated.

Section 89. KRS 143A.060 is amended to read as follows:

Notwithstanding any other provisions of this chapter to the contrary:

(1) In the case of natural resources other than natural gas, where the department finds that it would facilitate and expedite the collection of the tax imposed under KRS 143A.020, the department may authorize the taxpayer processing the natural resource to report and pay the tax which would be due from the taxpayer severing the natural resource. Authorization from the department shall be in the form of an agreement executed by the taxpayer processing the natural resource, the taxpayer severing the natural resource and the department. The agreement shall be in such form as the department may prescribe. The agreement must be signed by the owners if the taxpayers are natural persons; in the case of a partnership or association by a partner or member; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application. The director of *legal services* [~~the sales and severance tax~~

~~division~~] shall sign for the department. The agreement may be terminated by any party to the agreement upon giving thirty (30) days' written notice to the other parties to the agreement; however, the department may terminate the agreement immediately upon written notice to the other parties when either the taxpayer processing the natural resource or the taxpayer severing the natural resource fails to comply with the terms of the agreement; and

(2) (a) In the case of natural gas, except for those cases:

1. Where the person severing or severing and processing the natural gas will sell the gas to the ultimate consumer, or

2. Where the department determines that the collection of the taxes due under KRS 143A.020 would be accomplished in a more efficient and effective manner through the severor, or severor and processor, remitting the taxes,

the first person to purchase the natural gas after it has been severed, or in the event that the natural gas has been severed and processed before the first sale, the first person to purchase the natural gas after it has been severed and processed, shall be liable for the collection of the tax imposed under KRS 143A.020. He shall collect the taxes imposed from the person severing, or severing and processing, the natural gas, and he shall remit the taxes to the department. In those cases where the person severing or severing and processing the natural gas sells the gas to the ultimate consumer, the person so severing or severing and processing the natural gas shall be liable for the tax imposed under KRS 143A.020. In those cases where the department determines that the collection of the taxes due under KRS 143A.020 from the severance or severance and processing of natural gas would be accomplished in a more efficient and effective manner through the severor, or severor and processor, remitting the taxes, the department shall set out its determination in writing, stating its reasons for so finding, and so advise the severor or severor and processor at least fifteen (15) days in advance of the first reporting period for which such action would be effective.

(b) On or before the last day of the month following each calendar month, each person first purchasing natural gas as described in (a) above, shall report purchases of natural gas during the month, showing the quantities of gas purchased, the price paid, the date of purchase, and any other information deemed necessary by the department for the administration of the tax levied by KRS 143A.020, and shall pay the amount of tax due, on forms prescribed by the department.

(c) On or before the last day of the month following each calendar month, each person severing, or severing and processing natural gas, shall report the sales of natural gas, showing the name and address of the person to whom sold, the quantity of gas sold, the date of sale, and the sales price on forms prescribed by the department.

Section 90. KRS 227.225 is amended to read as follows:

(1) Except for the powers conferred by KRS 227.220*(3)*[~~(2)~~](a), the rights, powers and privileges granted under this chapter to the state fire marshal shall not apply to any single family dwelling in this Commonwealth.

(2) Any city, county or urban county government of the Commonwealth may extend, by ordinance, the application of this chapter to those single family dwellings exempted under subsection (1) of this section.

Section 91. KRS 151.170 is amended to read as follows:

(1) All permits issued under KRS 151.140 shall be specific in terms of quantity, time, place and rate of diversion, transfer or withdrawal of public water. Such permits represent a limited right of use and do not vest ownership nor an absolute right to withdraw or use the water.

(2) The department shall issue a permit to the applicant if an investigation by the department reveals that the quantity, time, place or rate of withdrawal of public water will not be detrimental to the public interests or rights of other public water users. No permit shall be denied to a responsible applicant who has established an amount of water for which he has a need for a useful purpose, provided the requested amount of water is available.

(3) A permit may be issued for an amount of water withdrawal less than that applied for, if found by the department to be in the best interests of the public or other water users.

(4) Permits for the withdrawal, transfer, or diversion of public water may be amended at any time upon application to the department by the withdrawer, or by the department when the reports indicate that the withdrawer is using *a* substantially [~~a~~] different amount than permitted.

SECTION 92. KRS 152.310 IS REPEALED AND REENACTED AND AMENDED AS A NEW SECTION OF KRS CHAPTER 152A:

As used in *Sections 93 to 99 of this Act* [~~KRS 152.310 to 152.390~~], and KRS 152A.100 unless the context requires otherwise, the term "research" includes scientific, technical, and economic research and the practical application of that research; the term "secretary" shall mean the secretary of the Kentucky department of energy; the term "board" shall mean the board for energy research.

SECTION 93. KRS 152.320 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 152A:

The secretary shall formulate and execute an extensive overall research program designed to develop new and more effective uses for fossil fuels, hydrocarbons and other natural resources and to improve and expand existing uses for fossil fuels, hydrocarbons and other natural resources.

SECTION 94. KRS 152.330 IS REPEALED AND REENACTED AND AMENDED AS A NEW SECTION OF KRS CHAPTER 152A:

The secretary shall:

(1) Contract for, sponsor, cosponsor, and promote the coordination of research projects conducted by the federal government and its agencies, industrial associations, educational institutions, qualified nonprofit organizations, qualified private consulting firms, private industry, and other agencies. In this phase of the program the secretary shall attempt to make use of every existing suitable research facility in Kentucky;

(2) Collect and promote the coordination of all available research information on the production, preparation, distribution, and uses of fossil fuels, hydrocarbons and other natural resources;

(3) Make available to the public generally all information, uses, products, processes, patents, and other developments resulting from research authorized by *Sections 93 to 99 of this Act* [~~KRS 152.310 to 152.390~~];

(4) Cooperate to the fullest extent possible with all state government agencies, federal government agencies, departments, independent establishments, and all other interested agencies, governmental and nongovernmental, public and private, domestic and foreign. Before the secretary initiates any research under the authority of *Sections 93 to 99 of this Act* [~~KRS 152.310 to 152.390~~] he shall first consult with such departments, agencies, or independent establishments of the federal government and of state governments in order to avoid duplication of effort and expense;

(5) Conduct research projects only when he is unable to contract or otherwise provide for the desired research to be conducted by any other qualified organization or medium on reasonable terms and conditions.

SECTION 95. KRS 152.340 IS REPEALED AND REENACTED AND AMENDED AS A NEW SECTION OF KRS CHAPTER 152A:

(1) Whenever in the estimation of the secretary the purposes of *Sections 93 to 99 of this Act* [~~KRS 152.310 to 152.390~~] would be furthered through the use of patented processes or equipment, the secretary is authorized to enter into such agreements as he deems necessary for the acquisition or use of such patents on reasonable terms and conditions.

(2) The secretary is authorized to acquire by condemnation, purchase, options to purchase, lease, or otherwise such real property as may be necessary to enable him to carry out his duties under *Sections 93 to 99 of this Act* [~~KRS 152.310 to 152.390~~].

(3) The secretary may accept funds that are donated or otherwise made available to him, and spend them in the program established by *Sections 93 to 99 of this Act* [~~KRS 152.310 to 152.390~~].

SECTION 96. KRS 152.350 IS REPEALED AND REENACTED AND AMENDED AS A NEW SECTION OF KRS CHAPTER 152A:

(1) The secretary may conduct the program established by *Sections 93 to 99 of this Act* [~~KRS 152.310 to 152.390~~] from one (1) physical office. The office may be located in or near a government or academic research center, and it may be moved.

(2) The secretary may employ a research specialist to conduct the program established by *Sections 93 to 99 of this Act* [~~KRS 152.310 to 152.390~~], and such other employes as may be necessary. The research specialist shall be a person with experience in industrial or chemical research.

SECTION 97. KRS 152.360 IS REPEALED AND REENACTED AND AMENDED AS A NEW SECTION OF KRS CHAPTER 152A:

The secretary may finance studies by academic institutions or academic persons under the program established by *Sections 93 to 99 of this Act* [~~KRS 152.310 to 152.390~~]. The secretary shall recommend to the governor the institutions and persons to which and the specific purposes for which study grants should be made, and grants shall be made by the governor. In making his recommendations the secretary may call special attention to institutions or persons that have developed or promise to develop a new chemical, a new by-product, or another derivative from fossil fuels, hydrocarbons or other natural resources.

SECTION 98. KRS 152.380 IS REPEALED AND REENACTED AND AMENDED AS A NEW SECTION OF KRS CHAPTER 152A:

The governor is authorized to further the program established by *Sections 93 to 99 of this Act* [~~KRS 152.310 to 152.390~~] by entering into appropriate agreements with the federal government and with other states.

SECTION 99. KRS 152.390 IS REPEALED AND REENACTED AND AMENDED AS A NEW SECTION OF KRS CHAPTER 152A:

In cooperation with the superintendent of public instruction, the council on higher education and the governing bodies of the state institutions of higher learning, the administrator shall, wherever feasible, make plans and provisions for extending the program established by *Sections 93 to 99 of this Act* [~~KRS 152.310 to 152.390~~] into the regular courses of instruction in chemistry in the public high schools and junior colleges, and state universities and colleges.

Section 100. KRS 152A.503 is amended to read as follows:

(1) The *chemical/*energy park authority shall be composed of sixteen (16) members. The secretary of the department of finance, the secretary of development, the secretary of the department of energy and the secretary of the department of natural resources and environmental protection shall be the state members. Three (3) members shall be members of the house of representatives appointed by the speaker of the house of representatives and two (2) members shall be members of the senate appointed by the president pro tempore of the senate. Each member of the general assembly appointed to the authority shall serve for a term of two (2) years, and a vacancy in such a position on the authority shall be filled for the remainder of the unexpired term in the same manner as the original appointment was made. The governor shall appoint seven (7) additional members. These members shall be chosen from among but not limited to persons in the utilities industry, banking and financial institutions, coal industry, scientific community, and petro-chemical industry. The governor shall initially appoint seven (7) persons having such qualifications, two (2) each to three (3) staggered terms ranging from one (1) to four (4) years as he may designate and one (1) person for a term of four (4) years. As such terms expire, the governor shall appoint persons to fill such vacancies for a term of four (4) years. These sixteen (16) persons shall constitute a body corporate, being a public corporation and governmental agency and instrumentality of the Commonwealth by the name of the "Kentucky *Chemical/*Energy Park Authority" with perpetual succession and with power in that name to contract and be contracted with, to convey property, to sue and be sued, to have and use a corporate seal, and to exercise in addition to the powers and functions specifically stated in KRS 152A.503 to 152A.543, all of the usual powers of private corporations not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their services, but are entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as members.

(3) Nine (9) members of the authority shall constitute a quorum for the transaction of business. The secretary of energy shall be the chairman of the authority. The authority shall appoint an executive director and a treasurer who shall serve at the pleasure of the authority and receive such compensation as may be determined by the authority. The treasurer shall give bond to the authority for a faithful accounting of all funds coming into his custody.

Section 101. KRS 152A.515 is amended to read as follows:

In the discretion of the authority, any bonds issued under the provisions of KRS 152A.511 may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in or out of Kentucky. Such trust indenture or the proceedings providing for the issuance of such bonds may pledge or assign the rents and other revenues to be received. The trust indenture or proceedings may contain provisions for protecting and enforcing the rights and remedies of the bondholders which are reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the project or projects in connection with which such bonds are authorized, the rates of toll or rental charges, and the custody, safeguarding and application of all moneys. It is lawful for any bank or trust company which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the authority. Any such trust indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition, *the trust indenture may include* any such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust indenture or proceedings may be treated as a part of the cost of the operation of the project or projects.

Section 102. KRS 155.090 is amended to read as follows:

(1) [~~Subject to subparagraph 1 of paragraph (c) of subsection (2) of KRS 155.080,~~] Each call made by the corporation shall be prorated among the members of the corporation in substantially the same proportion that the adjusted loan limit of each member bears to the aggregate of the adjusted loan limits of all members. The adjusted loan limit of a member shall be the amount of such member's loan limit, reduced by the balance of outstanding loans made by such member to the corporation, other than short term loans, and the investment in capital stock of the corporation held by such member at the time of such call.

(2) All loans to the corporation by members, other than short term loans, shall be evidenced by bonds, debentures, notes, or other evidence of indebtedness of the corporation, which shall be freely transferable at all times, and which shall bear interest at a rate of not less than one-quarter of one per cent (.25%) in excess of the rate of interest as determined by the prime rate prevailing on unsecured commercial loans among the majority of the New York City clearing house member banks on the first day of the month in which the loan is made to the corporation.

Section 103. KRS 155.110 is amended to read as follows:

(1) The stockholders and members of the corporation shall have the following powers of the corporation:

(a) to determine the number of and elect directors as provided in KRS 155.130;

(b) to make, amend and repeal bylaws;

(c) To amend its articles of incorporation as provided in KRS 155.120;

(d) to exercise such other of the powers of the corporation as may be conferred on the stockholders and the members by the bylaws.

(2) As to all matters requiring action by the stockholders and the members of the corporation, said stockholders and said members shall vote separately thereon by classes, and, except as otherwise herein provided, such matters shall require the affirmative vote of a majority of the votes to which the stockholders present or represented at the meeting are entitled, and the affirmative vote of a majority of the votes to which the members present or represented at the meeting are entitled.

(3) Each stockholder shall have one (1) vote, in person or by proxy, for each share of capital stock held by him, and each member shall have one (1) vote, in person or by proxy, except that any member having a loan limit of more than one thousand dollars ($1,000) shall have one (1) additional vote, in person or by proxy, for each additional one thousand dollars ($1,000) which such member is authorized to have outstanding on loans to the corporation at any one (1) time as determined under [~~subparagraph 2 of~~] paragraph (c) of subsection (2) of KRS 155.080.

Section 104. KRS 157.230 is amended to read as follows:

School boards of any school district subject to the provisions of KRS 157.200 to 157.280, shall establish and maintain special educational programs for exceptional children who are residents of their school district, and such children, residents of other school districts, as may be authorized by KRS *157.250* [~~157.240~~] to *157.290* [~~157.295~~].

Section 105. KRS 158.615 is amended to read as follows:

Any school district approved for an experimental gifted and talented students program shall be reimbursed by the state department of education out of funds appropriated in the amount up to that approved by the state board for elementary and secondary education in the event that units for gifted and talented *children* [~~units~~] are not included in the executive budget.

Section 106. KRS 164.0283 is amended to read as follows:

Every [~~public~~] institution of higher education in the Commonwealth of Kentucky offering professional education programs in the areas of medicine and dentistry shall establish and publish the criteria by which applicants for admission are evaluated and the approximate weight of each criteria including a criterion based upon permanent residence in underserved or underrepresented areas of the Commonwealth.

Section 107. KRS 164.520 is amended to read as follows:

The bond issued by the commissioners of the sinking fund to themselves as trustees for the Agricultural and Mechanical College of Kentucky and [~~the State Normal School for Colored Persons of~~] Kentucky *State University*, bearing date July 1, 1897, for the sum of $165,000 and bearing interest at the rate of six per cent (6%), payable semiannually, remains in force and constitutes a perpetual obligation of the Commonwealth, and the interest thereon is a perpetual charge upon the treasury. The executive department for finance and administration shall, on the first day of January and on the first day of July each year, draw its warrant on the state treasurer for the sum of $627.75 in favor of the treasurer of Kentucky State University, and its warrant on the state treasurer for the sum of $4,322.25 in favor of the treasurer of the University of Kentucky.

Section 108. KRS 164.850 is amended to read as follows:

Consistent with subsection *(1)* [~~(11)~~] of KRS 67.080, the fiscal court of a county containing a city of the first class wherein there is situated a state educational institution affording instruction and conferring degrees above the high school grade, may appropriate county funds for the benefit of such state educational institution.

Section 109. KRS 173.395 is amended to read as follows:

(1) If a public library district is established under KRS 173.450 to 173.800, the legislative body of any city in such county that has established a library under KRS 173.310(1) or (2) may dissolve the city library for the purpose of consolidating library services in the public library district. Such dissolution shall have the effect of removing any tax levied under KRS *173.310* [~~171.310~~] for the specific purpose of establishing and maintaining the city library.

(2) If a city library is dissolved pursuant to subsection (1) of this section, the city legislative body shall immediately file an order of dissolution with the official who is responsible for collecting any tax levied under KRS 173.310. The official shall thereupon remove any tax levied under KRS 173.310, for the specific purpose of establishing and maintaining the city library, from the tax bills of the property owners of the city.

(3) After the satisfaction of any existing contractual obligations assumed in connection with the dissolved library, the assets of the library shall be transferred to the public library district, unless the terms of a gift held in trust prohibit such transfer.

Section 110. KRS 175A.060 is amended to read as follows:

The authority is hereby authorized and empowered:

(1) To construct, reconstruct, maintain, repair, operate and regulate turnpike projects at such locations within city or cities and the county or counties participating in the authority;

(2) To issue turnpike revenue bonds of the authority payable solely from the tolls, revenues, rentals and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any one or more turnpike projects, and to refund any of its bonds;

(3) To fix and revise from time to time and charge and collect tolls for transit over each turnpike project constructed by it;

(4) To combine for financing purposes any two (2) or more turnpike projects within the county or counties participating in the authority;

(5) To lease as lessor any turnpike project or projects to the bureau as lessee, pursuant to the terms and provisions of a lease;

(6) To establish and enforce rules and regulations for the use of any turnpike project, except during any period when such powers are provided to be exercised by the bureau pursuant to a lease;

(7) Without reference to KRS Chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under this chapter, and to dispose of the same;

(8) To designate the locations and establish, limit and control such points of ingress to and egress from each turnpike project as the authority and the bureau may determine to be necessary or desirable to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(9) To make and enter into such contracts and agreements with the bureau and other parties as may be necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

(10) To employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employes and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(11) To receive and accept from the commonwealth or any political subdivision thereof, the bureau and any federal agency, grants for or in aid of the construction of any turnpike project, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made; provided further, notwithstanding any provision of KRS 177.365 to *177.369* [~~177.368~~] the legislative body of any incorporated city and the fiscal court of any unincorporated urban places located in a turnpike authority may irrevocably pledge or contribute all or any portion of funds allocated to it under KRS 177.365 to *177.369* [~~177.368~~] to such turnpike authority to carry out the provisions of this chapter;

(12) To expend any funds provided under the authority of this chapter in advertising the facilities and services of a turnpike project or projects to the traveling public; and

(13) To do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter.

Section 111. KRS 177.320 is amended to read as follows:

(1) Twenty-two and two-tenths percent (22.2%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.565, 138.660 and 234.320 shall be set aside for the construction, reconstruction and maintenance of secondary and rural roads and for no other purpose, and shall be expended for said purposes by the department of transportation of the Commonwealth of Kentucky according to the terms and conditions prescribed in KRS 177.330 to 177.360.

(2) On or after July 1, 1980, fifteen and six-tenths percent (15.6%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.565, 138.660 and 234.320 shall be set aside for the construction, reconstruction and maintenance of county roads and bridges provided by KRS 179.410 *and 179.415* [~~through 179.430~~].

Section 112. KRS 178.330 is amended to read as follows:

(1) It is hereby declared that in counties containing a city of the first class a system of county through roads over which traffic can be routed or which can serve as major connecting links to state highways is a necessary and integral part of a unified system of highways, roads and streets needed for the movement of traffic in such a metropolitan area and that the construction, reconstruction, widening, relocation, repair, maintenance and improvement of such a system of county through roads is a proper and legitimate public function as an alternative to other authorizations or requirements.

(2) The fiscal court of a county containing a city of the first class, acting upon the basis of an engineering and traffic investigation by the county road engineer, may designate for purposes of construction, reconstruction, widening, relocation, repair, maintenance and improvement from among the public roads within the county certain roads proposed to constitute the "county through road system." County through roads may include (a) main traveled roads, (b) roads in unincorporated areas necessary for the circulation of traffic within the county, (c) streets and roads through, within, or adjacent to cities of any class necessary for the circulation of traffic within the county, or (d) major roads connecting two (2) primary roads maintained by the state. County through roads shall not include roads on the state highway system.

(3) As soon as the proposed county through roads are designated as provided in subsection (2) of this section, the fiscal court shall cause such county through roads to be marked on a map to be deposited with the county road engineer and to be open to public inspection. Upon the filing of the map, the clerk of the fiscal court shall, in conformance with KRS 424.130 (1) (b), have published in a newspaper of bona fide general circulation within the county (a) a notice of the proposed adoption of a county through road system, (b) a description of roads or portions thereof proposed to be included, (c) notice of the date upon which the fiscal court will consider the adoption of the county through road system, and (d) notice that the map of the proposed county through road system is open to inspection in the office of the county road engineer.

(4) At any time before the adoption of the county through road system, any freeholder of the county may file a petition with the county road engineer asking for any change in the designated county through roads, setting forth the reason for the proposed change. Such petition shall be accompanied by a plat showing such proposed change. Any such petition shall be considered by the fiscal court at its meeting held on the date advertised in accordance with subsection (3) of this section. The fiscal court may accept or reject any such suggested changes in the proposed county through road system. The fiscal court may continue the consideration to a later meeting which must be advertised as provided in subsection (3) of this section. The roads which the fiscal court so designated by official resolution shall be conclusively established as the county through road system.

(5) Classifications or designations of a county through road system established by this section shall not affect or change classifications or designations made by other sections of the Kentucky Revised Statutes such as "county roads," "main county roads," "rural and secondary roads," "turnpikes," "city streets" or similar terms; except that when there is an irreconcilable conflict arising from the actual application of this section in a given instance and a designation or classification made in other sections of the Kentucky Revised Statutes, this section shall prevail. Nothing in KRS 178.020 to 178.040, 178.117, 178.330 to 178.337, 179.070 and 179.330 shall preclude the expenditure on the county through road system, including portions within cities, of state funds allocated for public highways under the provisions of KRS 179.410 *and 179.415* [~~to 179.430~~], or 177.320 to *177.369* [~~177.368~~], or any other section of the Kentucky Revised Statutes in accordance with the provisions of KRS 177.330, 177.340, or *179.440* [~~179.420~~].

(6) The provisions of KRS 178.050 to 178.100 shall not apply to a county through road system established under KRS 178.330 to 178.337.

Section 113. KRS 179.210 is amended to read as follows:

When a county road is suddenly obstructed or a county bridge becomes unsafe, if it is under contract for continuous maintenance as provided in KRS 178.140, the county engineer shall immediately notify the contractor on whose section of road the obstruction occurs, and within twenty-four (24) hours or as soon as practicable thereafter, such contractor shall remove the obstruction. If the contractor makes no effort to remove the obstruction within twenty-four (24) hours, the county engineer shall immediately employ necessary persons, machinery and teams, and without avoidable delay, cause the obstruction to be removed from the public road, or the bridge to be made safe. The cost of removal shall be recoverable from the contractor, as provided in KRS *179.150* [~~178.150~~]. But if the section of obstructed road is not under contract, the county road engineer shall immediately remove the obstructions in like manner, and the cost thereof shall be paid by the fiscal court out of the county road fund.

Section 114. KRS 179.440 is amended to read as follows:

Nothing in KRS 179.410 *and 179.415* [~~to 179.430~~] shall prohibit any county from spending county road funds for the further and additional maintenance, reconstruction and improvement of county roads.

Section 115. KRS 179.470 is amended to read as follows:

(1) In counties containing a city of the third class, and not a city of the first class, any street or road located outside of the corporate limits of an incorporated city which is a street or road of a subdivision established by a recorded plat that dedicates the street or road to public use, shall be maintained by the fiscal court of the county in the same manner that roads established under KRS 178.115 are maintained, if the street or road is at least one thousand (1,000) feet in length and at least fifty percent (50%) of the lots abutting the street or road contain houses which are occupied, and the street or road has been or shall be so constructed as to meet the approval of the county road engineer or, if there is no county road engineer, the approval of the fiscal court, such approval being based upon the established standards for county road construction within the county.

(2) Notwithstanding the provisions of KRS 178.010 (2), in counties containing a city of the first class, any street or road located in the unincorporated area of the county or in a city of the fifth or sixth class, which is a street or road of a subdivision that dedicated the street or road to public use, may be maintained by the fiscal court of the county in the same manner as provided in subsection (1) and subject to the same conditions. In addition, street lights and other improvements already established may be maintained by the fiscal court. The county shall be reimbursed for the cost of such maintenance by the abutting property owner whose proportionate share of the cost of maintenance shall be added to the owner's county tax bill and collected in the same manner as county taxes.

(3) Notwithstanding the provisions of KRS 178.010(2), in counties containing a population between eighty thousand (80,000) and one hundred fifteen thousand (115,000) and a city of the second class or in counties containing a city of the fourth, fifth or sixth class and not a city of the first, second or third class, any street or road in an unincorporated area or a city of the sixth class of the county, which is at least two hundred (200) feet in length and dedicated to public use, may be maintained by the fiscal court of the county in the same manner as provided in subsection (1) of this section. In addition, street lights, garbage collection, water and sewer services may be provided by the fiscal court. The county shall be reimbursed for the cost of such maintenance and services by the abutting property owner whose proportionate share of the cost of maintenance and services shall be added to the owner's county tax bill and collected in the same manner as county taxes. Further, upon the petition of fifty percent (50%) or more of the abutting property owners of the street or road the fiscal court may by proper resolution provide for the improvements [~~in same manner as the improvements set forth in KRS 94.291 to 94.325~~].

(4) No street or road shall be accepted by fiscal court under the provisions of subsections (2) or (3) of this section for county maintenance unless twenty-five percent (25%) of the abutting property owners petition the fiscal court for county maintenance. The fiscal court within thirty (30) days thereafter shall hold a public hearing on the petition. If fifty percent (50%) of the abutting property owners agree in writing to accept county maintenance the fiscal court of the county may maintain the road or street in the same manner as provided in subsection (2) or (3) of this section as applicable and subject to the same conditions.

Section 116. KRS 179.990 is amended to read as follows:

(1) Any county engineer who fails to comply with the provisions of subsection (3) of KRS 179.040 shall be fined five hundred dollars ($500).

(2) Any person who fails to perform the duties imposed by KRS 179.220 and 179.230 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50.00).

(3) Any county engineer who fails to publish the notices required by KRS 179.230 shall be fined not less than twenty-five dollars ($25.00), nor more than one hundred dollars ($100).

(4) Any person who violates subsection (2) of KRS 179.240 shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00).

(5) Any railroad company that fails to comply with the provisions of KRS 179.290 within the specified time, shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1000) for each failure.

(6) Any county engineer who wilfully fails to comply with the provisions of KRS 179.320 for sixty (60) days after the fiscal court has ordered the guideboards to be erected, shall be fined not more than twenty-five dollars ($25.00).

(7) Any person who violates subsection (4) of KRS 179.330, shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) for each offense.

(8) Any owner of a toll bridge who fails to repair the bridge when ordered to do so under the provisions of KRS 179.360 shall be fined fifty dollars ($50.00).

(9) Any person who violates subsection (4) of KRS 179.370 shall be fined not less than five dollars ($5.00) nor more than twenty-five dollars ($25.00).

(10) Any person who violates subsection (2) of KRS 179.380 shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00).

(11) Any county engineer who violates KRS 179.460 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(12) Any county engineer who fails to perform the duties of his office shall, unless a different penalty is prescribed, be fined not over one hundred dollars ($100).

(13) Any county engineer who fails to cause contractors for county road and bridge work to perform their duties shall be fined not over one hundred dollars ($100).

(14) Any county engineer who fails to prosecute for any penalty provided in KRS Chapters 178 and 179, knowing that the penalty has been incurred, shall be fined twenty-five dollars ($25.00) for each failure to prosecute.

(15) If a fiscal court or county judge/executive wilfully fails to perform any duty required of it by the provisions of this chapter, except KRS 179.230 *and* [~~,~~] 179.320 [~~and 179.430~~], every member of the court concurring in the failure shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) by the circuit court of the county.

(16) All fines imposed by this chapter shall be paid into the county road fund.

(17) No fine imposed by this chapter shall bar an action for damages for breach of contract.

(18) Any person, subdivider, builder, contractor or developer of any construction project who violates subsection (13) of KRS 179.070 shall be fined not less than five hundred dollars nor more than one thousand dollars for each offense.

Section 117. KRS 186.410 is amended to read as follows:

(1) Every person except those exempted by KRS 186.420 and KRS 186.430 shall before operating a motor vehicle or moped upon a highway secure an operator's license as provided in this chapter.

(2) All original biennial, renewal and duplicate licenses for the operation of motor vehicles or mopeds shall be issued by the department of transportation. Applications for renewal licenses shall be made every two (2) *or four (4)* years during the birth month of the applicant. No such license shall be issued until the application therefor has been certified by the department.

Section 118. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20.00) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11.00) nor more than thirty dollars ($30.00). Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2¢) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3¢) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5¢) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7¢) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9¢) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60.00) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the bureau of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than fifteen dollars ($15.00) nor more than fifty dollars ($50.00) for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15.00).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35.00) nor more than two hundred dollars ($200).

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15.00) in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20.00) nor more than fifty dollars ($50.00).

(9) (a) Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, not less than one hundred dollars ($100) nor more than five hundred dollars ($500); for the second offense, a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) and imprisoned for not less than three (3) days nor more than six (6) months; for each subsequent offense he shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) and imprisoned for not less than thirty (30) days nor more than twelve (12) months.

(b) Any peace officer who violates subsection (3) of KRS 189.520 shall be fined not less than thirty-five dollars ($35.00) nor more than one hundred dollars ($100).

(10) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35.00) nor more than one hundred dollars ($100) or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30.00) nor more than one hundred dollars ($100) for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not less than twenty dollars ($20.00) nor more than twenty-five dollars ($25.00).

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20.00) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35.00) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35.00) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60.00) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157[~~(2)~~].

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

Section 119. KRS 198B.010 is amended to read as follows:

As used in this chapter, unless otherwise provided:

(1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social or recreational purposes, including among others:

(a) Armories;
(b) Assembly halls;
(c) Auditoriums;
(d) Bowling alleys;
(e) Broadcasting studios;
(f) Chapels;
(g) Churches;
(h) Clubrooms;
(i) Community buildings;
(j) Courthouses;
(k) Dance halls;
(l) Exhibition rooms;
(m) Gymnasiums;
(n) Hotels;
(o) Lecture rooms;

(p) Lodge rooms;
(q) Motels;
(r) Motion picture theaters;
(s) Museums;
(t) Night clubs;
(u) Opera houses;
(v) Passenger stations;
(w) Pool rooms;
(x) Recreation areas;
(y) Restaurants;
(z) Skating rinks;
(aa) Television studios;
(bb) Theaters.

(2) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.

(3) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling and ventilating facilities, but which is not ordinarily used for purposes of general household habitation.

(4) "Building" means any combination of materials, whether portable or fixed, which comprises a structure affording facilities or shelter for any human occupancy, whether infrequent or regular. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a mobile home, or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if such farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people or structures used in the storage or processing of timber products. This chapter shall not apply to any single family dwelling except those sold or constructed under a trade or brand name.

(5) Any city, county or urban-county government of the Commonwealth may extend, by ordinance, the application of this chapter to those single family dwellings exempted under subsection (4) of this section, but may not enforce any building code other than the uniform state building code on such dwellings.

(6) Nothing in this chapter shall be construed to exempt single family dwellings from those provisions of the uniform state building code that relate to the national electric code and the state plumbing code.

(7) "Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business, the rendering or receiving of professional services, or the displaying, selling or buying of goods, wares, or merchandise, or the housing of vehicles of transportation, except where occupancy is of high hazard, including among others:

(a) Banks;
(b) Barber shops;
(c) Beauty parlors;
(d) Department stores;
(e) Garages;
(f) Markets;
(g) Service stations;
(h) Offices;
(i) Stores;
(j) Radio stations;
(k) Telephone exchanges;
(l) Television stations.

(8) "Commissioner" means the commissioner of housing, buildings and construction.

(9) "Construction" means the erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein.

(10) "Department" means the department of housing, buildings and construction.

(11) "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving educational instruction, including among others:

(a) Academies;
(b) Care centers;
(c) Colleges;
(d) Kindergartens;
(e) Libraries;

(f) Pre-schools;
(g) Relocatable classroom unit;
(h) Schools;
(i) Seminaries;
(j) Universities.

(12) "Equipment" means facilities or installations, including but not limited to, heating, electrical, ventilating, air conditioning, and refrigerating facilities or installations.

(13) "High hazard occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, high flammable or explosive materials or which has inherent characteristics that constitute a special fire hazard, including among others:
(a) Aluminum powder factories;
(b) Charging or filling stations;
(c) Distilleries;
(d) Dry cleaning plants;
(e) Dry dyeing plants;
(f) Explosive-manufacture, sale or storage;
(g) Flour and feed mills;
(h) Gasoline bulk plants;
(i) Grain elevators;
(j) Lacquer factories;
(k) Liquefied petroleum gas;
(l) Mattress factories;
(m) Paint factories;
(n) Pyroxylin-factories, or warehouses;
(o) Rubber factories.

(14) "Industrial occupancy" means the occupancy or use of a building structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging or processing operations, except for occupancies of high hazard, including among others:
(a) Assembly plants;
(b) Creameries;
(c) Electrical substations;
(d) Factories;
(e) Ice plants;
(f) Laboratories;
(g) Laundries;
(h) Manufacturing plants;
(i) Mills;
(j) Power plants;
(k) Processing plants;
(l) Pumping stations;
(m) Repair garages;
(n) Smokehouses;
(o) Workshops.

(15) "Industrialized building system" means any structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at the building site.

(16) "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable or other care or treatment, or by persons involuntarily detained, including among others:
(a) Asylums;
(b) Homes for the aged;
(c) Hospitals;
(d) Houses of correction;
(e) Infirmaries;
(f) Jails;
(g) Nursing homes;
(h) Orphanages;
(i) Penal institutions;
(j) Reformatories;
(k) Sanitariums;
(l) Nurseries.

(17) "Mobile home" means mobile home as defined in KRS 227.550*(9)*[~~(1)~~].

(18) "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.

(19) "Physically handicapped person" means a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he is insecure or exposed to danger; a person whose hearing is so impaired that he is unable to hear warning signals; and a person whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging.

(20) "Facility for physically handicapped persons" means any convenience or device which facilitates the health, safety or comfort of a handicapped person, including, but not limited to, ramps, handrails, elevators, and doors.

Section 120. KRS 198B.300 is amended to read as follows:

As used in KRS 198B.310 to 198B.330:

(1) "Safety glazing material" means any glazing material, such as tempered glass, laminated glass, wire glass or rigid plastic, which meets the test requirements of ANSI Standard Z-97.1-1966 and such further requirements as may be adopted by the department of *housing, buildings and construction* [~~insurance~~] and which is so constructed, treated, or combined with other materials as to minimize the likelihood of cutting and piercing injuries resulting from human contact with the glazing material;

(2) "Hazardous locations" means those installations, glazed or to be glazed, in residential, commercial and public buildings known as sliding glass doors, framed or unframed glass doors and adjacent fixed glazed panels which may be mistaken for means of ingress or egress, storm doors, shower doors, and tub inclosures, whether or not the glazing in such doors, panels or inclosures is transparent, and in any other area wherein the use of other than safety glazing materials would constitute a hazard.

Section 121. KRS 198B.310 is amended to read as follows:

(1) Each light of safety glazing material manufactured, distributed, imported, or sold for use in hazardous locations or installed in such a location within the Commonwealth of Kentucky shall be permanently labeled by such means as etching, sandblasting or firing ceramic material on the safety glazing material. The label shall identify the labeler, whether manufacturer, fabricator or installer, and the nominal thickness and the type of safety glazing material and the fact that said material meets the test requirements of ANSI Standard Z-97.1-1966 and such further requirements as may be adopted by the department of *housing, buildings and construction* [~~insurance~~]. The label must be legible and visible after installation.

(2) Such safety glazing labeling shall not be used on other than safety glazing materials.

Section 122. KRS 198B.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 198B.140, or of the uniform state building code, or any directive or order issued pursuant thereto shall be fined not less than ten dollars ($10) nor more than one thousand dollars ($1,000). Each day the violation continues shall constitute a separate offense.

(2) Any person who violates the provisions of KRS 198B.310 to 198B.330 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or be imprisoned for not more than one (1) year, or both.

(3) Any person who violates any provision of Sections 182 to 195 of this Act, or regulation issued thereunder, shall be fined a sum of $500 for each offense.

Section 123. KRS 200.010 is amended to read as follows:

[~~(1)~~] As used in KRS chapter 200, unless the context requires otherwise, "department" means department for human resources.

[~~(2) As used in KRS 200.080 to 200.240, unless the context requires otherwise, "mother" includes any female person standing in loco parentis to any child under fourteen (14) years of age.~~]

Section 124. KRS 205.810 is amended to read as follows:

(1) There is created within the department a crisis oriented program for emergencies which shall provide money payments to individuals who meet standards promulgated by the secretary.

(2) Payments under the authority of this section shall be for a period not to exceed thirty (30) days during a twelve (12) month period.

(3) At its discretion, the department may elect to make payments to vendors in lieu of payment to eligible clients, and such payments to vendors may be supplemental to the cash assistance provided for in subsection (4)(d) of this section.

(4) For the purposes of implementing the provisions of this section:

(a) A precipitating crisis shall not be the only standard for which individuals may be eligible to receive assistance, and the principal standard of eligibility shall be financial need, or impending destitution;

(b) No person eligible for programs operated under the authority of title IV-A of the social security act (aid to families with dependent children) shall be eligible for participation in the crisis oriented program for emergencies;

(c) Program benefits shall be limited to both single and married adults, whose children, if any, are not under the age of twenty-one (21) years, and provided the recipient or recipients are not residing with parents or any other family *member*;

(d) Cash assistance shall be provided in an amount not to exceed the amount for which an individual is eligible and available income shall be considered in making such determination.

(5) In cases of extreme crisis as determined by the secretary or his designee the department may waive the thirty (30) day limitation enumerated in subsection (2) of this section.

(6) Any recipient of crisis oriented program for emergencies benefits who subsequently receives retroactive monetary benefits for the same period shall repay to the department so much of any recovery as may be necessary to reimburse the department for the crisis oriented program for emergencies benefits. The department may require any applicant as a condition precedent to receiving assistance to execute an assignment to the department of any such anticipated benefit.

(7) Recipients shall register for employment with the state employment service and shall accept suitable training or suitable employment. Standards of suitability for training and employment shall be the same as for recipients of public assistance benefits.

(8) All money payments made by the department under the provisions of this section shall be paid as soon as is administratively practicable after an application has been filed with the department.

Section 125. KRS 209.110 is amended to read as follows:

(1) A petition by the department for emergency protective services shall be verified by an authorized representative of the department and shall set forth the name, age, and address of the adult in need of protective services; the nature of the disability of the adult, if determinable; the proposed protective services the petitioner's reasonable belief, together with the facts supportive thereof, as to the existence of the facts, and the facts showing the petitioner's attempts to obtain the adult's consent to the services and the outcomes of such attempts. The petition and all subsequent court documents shall be entitled: "In the interest of________________an adult in need of protective services." The petition shall be filed in the court of the adult's residence, or if filed pursuant to KRS *209.130* [~~209.120~~], the court of the county in which the adult is physically located.

(2) When a petition for emergency protective services is filed, the court or the clerk shall immediately appoint a guardian ad litem to represent the interest of the adult. The duties of a guardian ad litem representing an adult for whom a petition for emergency protective services has been filed shall include personally interviewing the adult, counseling with the adult with respect to this chapter, *informing him of* his rights and providing competent representation at all proceedings, and such other duties as the court may order.

(3) Following the filing of a petition, a summons shall be issued and served with a copy of the petition, and notice of the time, date and location of the hearing to be held on the petition. Service shall be made upon the adult and his committee or, if none, his caretaker. Should the adult have no committee or caretaker, service shall be made upon the adult's guardian ad litem. Notice of the hearing shall be given to the adult's spouse, or, if none, to his adult children or next of kin, unless the court is satisfied that notification would be impractical. Service of the petition shall be made at least three (3) calendar days prior to the hearing for emergency protective services.

(4) The hearing on the petition for an emergency order for protective services shall be heard under the following conditions:

(a) The hearing on the petition, in the interests of expedition, may be held in any county within the judicial district or circuit served by the court. The court shall give priority to the holdings of the hearings pursuant to petitions filed under this chapter;

(b) The adult or his representative may present evidence and cross-examine witnesses; and

(c) The adult or his representative may petition the court to have any order which is entered pursuant to this chapter, set aside or modified for good cause.

(5) Where protective services are rendered on the basis of an order pursuant to this section, the department shall submit a report to the court describing the circumstances including the name, place, date, and nature of the services. Such report shall be made at least once or on a monthly basis if protective services are provided the adult for a period of longer than one (1) month.

(6) The fee of the guardian ad litem shall be paid by the department not to exceed three hundred dollars ($300). This fee is not to be paid to attorneys employed by government funded legal services programs.

Section 126. KRS 210.040 is amended to read as follows:

The department for human resources shall:

(1) Exercise all functions of the state in relation to the administration and operation of the state institutions for the care and treatment of the mentally ill;

(2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550, other or additional facilities for psychiatric care and treatment of persons who are or may become state charges;

(3) Cooperate [~~with the department for human resources and~~] with other state agencies for the development of a statewide mental health program looking toward the prevention of mental disease and the post-institutional care of persons released from public or private mental hospitals;

(4) Provide for the custody, maintenance, care and medical and psychiatric treatment of the patients of the institutions operated by the department;

(5) Provide psychiatric consultation for the state penal and correctional institutions, and for the state institutions operated for children or for the mentally defective;

(6) Administer and supervise programs for the noninstitutional care of mentally ill persons;

(7) Supervise private mental hospitals receiving patients committed by order of a court.

Section 127. KRS 210.360 is amended to read as follows:

(1) When a person who has been twice previously convicted of a felony, is indicted by a grand jury as *a persistent felony offender* [~~an habitual criminal~~], the circuit clerk of the court in which he is indicted shall give notice of the indictment to the secretary for human resources within seven (7) days after the indictment is returned by the grand jury. The secretary shall cause such person to be examined by a psychiatrist already in the employ of the department, to determine his mental condition and the existence of any mental disease or defect which would affect his criminal responsibility. This examination shall be made without expense other than the amount to cover necessary travel, as provided by law for any other employe of the state traveling on official business.

(2) The psychiatrist making the examination shall submit a written report of his findings to the judge of the court having jurisdiction, who shall make the report available to the prosecuting attorney and the attorney for the defendant.

(3) The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the department is insufficient to spare one from his regular official duties, in which event the secretary shall notify the clerk of the circuit court to that effect within three (3) days.

Section 128. KRS 213.320 is amended to read as follows:

The department for human resources shall perform the collection, indexing, tabulations, and registration of data relating to marriages, *dissolutions of marriage* [~~divorces~~], annulments and adoptions. The secretary for human resources shall adopt such rules and regulations as may be necessary to carry out the provisions of KRS 213.320 to 213.340.

Section 129. KRS 216.110 is amended to read as follows:

All bonds issued under the provisions of KRS *216.100* [~~216.080~~] to *216.220* [~~216.240~~] may bear interest at a rate not exceeding six per cent (6%) per annum, payable semiannually, and shall be executed in such manner and be payable at such times, not exceeding thirty (30) years from the date thereof, and at such place as the legislative body shall determine.

Section 130. KRS 216.120 is amended to read as follows:

All bonds issued under KRS *216.100* [~~216.080~~] to *216.220* [~~216.240~~] shall be negotiable and shall not be subject to taxation. If any officer whose signature appears on the bonds or coupons ceases to be such officer before delivery of the bonds, the signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery. The bonds shall be sold in such manner and upon such terms as the legislative body of the city deems for the best interest of the city, or any contract for the purchase or acquisition of any municipal hospital may provide that payment thereof shall be made in such bonds. In no event shall any bonds be negotiated on a basis to yield more than six per cent (6%). The bonds shall be payable solely from the revenue derived from the operation of the hospital as provided in KRS 216.160, and shall not constitute an indebtedness of the city within the meaning of the constitution. It shall be plainly stated on the face of each bond that it was issued under the provisions of KRS *216.100* [~~216.080~~] to *216.220* [~~216.240~~] and does not constitute an indebtedness of the city within the meaning of the constitution.

Section 131. KRS 216.130 amended to read as follows:

All money received from any bonds issued under KRS *216.100* [~~216.080~~] to *216.220* [~~216.240~~] shall be applied solely to the purchase, establishment, erection or acquisition of the municipal hospital and necessary appurtenances thereto, except that the money may be used also to advance the payment of interest on the bonds during the first three (3) years following the date of the bonds, and to advance the expense of operation and maintenance for one (1) month after the opening of the hospital.

Section 132. KRS 216.140 is amended to read as follows:

There shall be a statutory mortgage lien upon the municipal hospital and appurtenances in favor of the holders of the bonds and coupons. The hospital and appurtenances shall remain subject to the lien until payment in full of the principal and interest of the bonds. Any holder of the bonds or coupons may, by action either at law or in equity, protect and enforce the lien, and may by proper proceedings enforce and compel performance of all duties required by KRS *216.100* [~~216.080~~] to *216.220* [~~216.240~~], including the making and collecting of sufficient rates, the segregation of the income and revenue, and the application thereof.

Section 133. KRS 216.150 is amended to read as follows:

If there is a default in the payment of the principal or interest of any of the bonds issued under KRS *216.100* [~~216.080~~] to *216.220* [~~216.240~~], any court having jurisdiction of the action may appoint a receiver to administer the municipal hospital on behalf of the city, with power to charge and collect rates for the services the hospital renders sufficient to provide for the payment of any bonds or obligations outstanding against the hospital and for payment of the operating expenses, and to apply the income and revenue in conformity with KRS *216.100* [~~216.080~~] to *216.220* [~~216.240~~] and the ordinance referred to in KRS 216.160.

Section 134. KRS 216.160 is amended to read as follows:

(1) On or before the issuance of the bonds the city legislative body shall, by ordinance, set aside and pledge the income of the municipal hospital into a separate and special fund to be used and applied in payment of the cost, maintenance, operation and depreciation of the hospital. The ordinance shall fix the amount of revenue necessary to be set aside and applied to the payment of the principal and interest of the bonds and the proportion of the balance of the income to be set aside as a proper and adequate depreciation account. The remaining portion of the balance shall be set aside for the reasonable and proper operation and maintenance of the hospital. The rates to be charged for the use of the hospital and the services it renders shall be fixed and revised from time to time so as to be sufficient to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof when it becomes due, to provide for the operation and maintenance of the hospital, and to provide an adequate depreciation account.

(2) The municipality issuing bonds under KRS *216.100* [~~216.090~~] may lease the facility built from the proceeds of said bonds to a hospital district created under KRS 216.310 et seq. In that event the lease income from a lease agreement between the municipality and the hospital district shall be sufficient to provide for the payment of interest upon the bonds, to create a sinking fund to pay the principal thereof at or prior to maturity, to accumulate proper reserves, and to pay the costs of operation and insurance; or the lease may provide that the lessee shall pay the cost of insurance.

Section 135. KRS 216.210 is amended to read as follows:

Any city acquiring a municipal hospital pursuant to the provisions of KRS *216.100* [~~216.080~~] to *216.220* [~~216.240~~] may, at the time of issuing bonds for such acquisition, provide for additional bonds for additions and permanent improvements to be placed in escrow and to be negotiated from time to time as proceeds for that purpose are necessary. Such bonds when so negotiated shall have equal standing with the bonds of the same issue.

Section 136. KRS 216.220 is amended to read as follows:

Any city acquiring a municipal hospital under the provisions of KRS *216.100* [~~216.080~~] to *216.220* [~~216.240~~] may provide for additions to and improvements of the hospital by an additional issue of bonds in the same manner as the original bonds.

Section 137. KRS 217.095 is amended to read as follows:

A cosmetic shall be deemed to be misbranded:

(1) If its labeling is false or misleading in any particular or if its labeling or packaging fails to conform with the requirements of KRS 217.037;

(2) If in package form unless it bears a label containing:

(a) The name and place of business of the manufacturer, packer, or distributor; and

(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label; Provided That reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the secretary;

(3) If any word, statement, or other information required by or under authority of KRS 217.005 to 217.215 to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(4) If its container is so made, formed or filled as to be misleading;

(5) If it is a color additive, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act. This subsection shall not apply to packages of color additives which, with respect to their use for cosmetics, are marketed and intended for use only in or on hair dyes as defined in KRS 217.085;

(6) A cosmetic which is, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of KRS *217.037* [~~217.035 and 217.065~~] while it is in transit in commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all applicable provisions of KRS 217.005 to 217.215.

SECTION 138. KRS 224.212 IS REPEALED AND REENACTED AS KRS 224.896:

(1) It shall be the policy of the Commonwealth of Kentucky to encourage and promote the development and demonstration of efficient, environmentally acceptable and commercially feasible technologies,

techniques, processes and markets for resource recovery and energy generation from solid and hazardous waste in Kentucky.

(2) This policy may be implemented by contracts and agreements with the federal government and its agencies and with other organizations, including private industry, and through organizations that may be formed jointly by the state, the federal government or its agencies, and private industry to conduct developmental and demonstration projects in such organizational form or legal entity deemed appropriate by the participants.

(3) This policy may be implemented by the expenditure of state funds for the preliminary engineering and planning, design, construction and operation of developmental and demonstrative projects in Kentucky, including pilot and demonstration plants, and for the acquisition and improvement of land, construction of roads, and provision of other public facilities incidental and necessary to the accomplishment of developmental and demonstrative projects in Kentucky.

(4) This policy may be implemented by the sale or lease of state property or property rights to organizations engaged in developmental and demonstrative projects in Kentucky, either for a fair and reasonable consideration or solely or partly as all or a portion of the state's participation in developmental and demonstrative projects.

(5) This policy may be implemented by acquisition, by purchase, or by option to purchase and if the Commonwealth is unable to contract or agree with the owner after a good faith effort to do so, by the exercise of eminent domain the fee simple title to, or any acceptable lesser interest in such lands, rights of way, franchises, or easements, including submerged lands and riparian rights that are necessary for the construction, use or operation of any authorized demonstration project or projects and for the construction and operation of a line of railroad, truck road, overhead conveyor, or other transportation facilities together with the necessary rights of ingress and egress to construct, examine, alter, repair, maintain, operate, or remove such transportation facilities. The proceedings for condemnation shall be as provided in KRS 416.540 to 416.670.

(6) This policy may be implemented by contracts and agreements for the Commonwealth to purchase all or a portion of the usable output of developmental and demonstration projects, either for a fair and reasonable consideration or solely or partly as all or a portion of the state's participation in developmental and demonstrative projects, and to dispose of this output by use in state facilities or by resale at fair market value.

SECTION 139. KRS 224.213 IS REPEALED AND REENACTED AS KRS 224.897:

The secretary of the department of energy with the approval of the governor may execute contracts to design, construct, or operate development or demonstration projects.

SECTION 140. KRS 224.214 IS REPEALED AND REENACTED AS KRS 224.898:

The general assembly recognizes that the chance of failure as well as the promise of success affects the developmental and demonstration projects for which state support and joint participation is herein authorized. The liability of the Commonwealth in such projects shall be limited to the express provisions of the contracts and agreements herein authorized, and the Commonwealth's claims against other participants in projects herein authorized shall also be limited to the expressed provisions of such contracts and agreements.

SECTION 141. KRS 224.215 IS REPEALED AND REENACTED AND AMENDED AS KRS 224.899:

The general assembly recognizes that although the purpose of KRS *224.896* [~~224.212~~] to *224.902* [~~224.217~~] to promote and encourage the development and demonstration of commercially feasible and environmentally acceptable technologies, techniques, and processes, state funds shall not be used directly to assist private industry in production for profit. Therefore, the Commonwealth shall not provide further support of or participation in any project if and when the environmentally acceptable output of the project can be sold or otherwise used to yield a profit to the project. In such event, or in the event of abandonment or termination of a project, the administrator, Kentucky center for energy research, shall negotiate terms and conditions in an agreement or contract of participation which:

(1) Shall provide for the repayment to the Commonwealth of all funds held and moneys realized from the sale or liquidation of the assets of the joint demonstration project in the same proportion as the Commonwealth's share in the total of funds, property, or other assets expended, contributed, or invested in the project; and

(2) May provide for the preemptive right of any or all of the other participants in the project to purchase the Commonwealth's share of any assets, lands, or property rights acquired or constructed by the joint participants.

SECTION 142. KRS 224.216 IS REPEALED AND REENACTED AND AMENDED AS KRS 224.901:

To be eligible for assistance under KRS *224.896* [~~224.212~~] to *224.902* [~~224.217~~], projects shall:

(1) Conform with the state plans for waste management;

(2) Be consistent with a regionalized approach to waste management and designate the area to be affected initially and potentially by the project;

(3) Designate specific project responsibilities at the state, district and local level;

(4) Demonstrate that private industry would not otherwise develop and demonstrate such a project in a timely fashion;

(5) Show that adequate research has preceded the application by including at least the following information:

(a) Methods for waste collection, storage, processing and residue disposal;

(b) Consideration of alternative small-scale, low-level technology;

(c) Letters of intent from potential purchasers of recovered materials and energy generated;

(d) Potential for eventual self-sufficiency in project operation.

(6) Show that there is substantial support for the proposal by including at least the following information:

(a) Steps which have been taken to guarantee the waste stream;

(b) Steps which have been taken to enact long-term contracts for sale of recovered products and energy generated, and for the supply of waste products;

(c) Sources of other committed funds;

(7) Demonstrate that full consideration has been given to the coordination of the proposed facility with an industrial park development;

(8) Demonstrate that the proposed project is consistent with the state policy of encouraging the reuse and treatment of waste and of minimizing land disposal. Toward this end the development of fully integrated facilities shall be the preferred approach in all cases. An integrated facility includes a variety of treatment and disposal systems at one site so that wastes can be recycled, exchanged, neutralized, detoxified, reduced in volume, incinerated and only as a last resort landfilled;

(9) Demonstrate that all other statutory requirements and regulations relating to the permitting of the proposed facility can be met;

(10) Conform to other requirements set down by regulations issued by the center for energy research.

SECTION 143. KRS 224.217 IS REPEALED AND REENACTED AS KRS 224.902:

(1) The secretary of the department for natural resources and environmental protection shall assume the primary responsibility in state government for implementing a program to recycle used paper products, produced by all agencies of state government.

(2) The secretary of the department for natural resources and environmental protection shall take or cause to be taken such actions as may be necessary to:

(a) Identify the geographical location of existing or potential markets for recovered materials and energy generated;

(b) Identify the economic and technical barriers to the use of recovered materials and energy generated;

(c) Identify sound technologies, techniques, and processes for resource recovery and energy generated applicable to both urban and rural areas of Kentucky;

(d) Encourage the development of new uses for recovered materials; and

(e) Encourage and promote the development of new markets for recovered materials.

(3) Funds received by the department for natural resources and environmental protection from recycling efforts as described in this section shall be utilized by the department to defray the cost of conducting the activities outlined in this section. Any monies generated in excess of the amounts needed to conduct these activities shall be placed in the resource conservation recovery and beautification fund and be used for other litter abatement activities.

SECTION 144. KRS 224.218 IS REPEALED AND REENACTED AS KRS 224.903:

The commissioner of the department of commerce shall cooperate with the secretary of the department of energy in examining the feasibility of a hazardous waste treatment-industrial park complex approach to the siting of hazardous waste management facilities and the promotion of industrial development. Consistent with the state policy of encouraging reuse and treatment of hazardous waste and of minimizing land disposal such study shall be based on development of integrated facilities consisting of a variety of treatment and disposal systems at a given site associated with industrial plants. Such study shall at a minimum:

(1) Survey the attitudes of various industries towards this approach;

(2) Survey public attitudes and perceptions towards this approach;

(3) Identify the advantages and disadvantages to industry, the Commonwealth, and local communities;

(4) Survey the degree to which the availability of hazardous waste management facilities has a bearing on the location of new industry;

(5) Develop a list of industry types with compatible waste streams for exchange, neutralization, or incineration;

(6) Identify economic or technical barriers to this approach; and

(7) Report its findings and recommendations to the 1982 general assembly.

SECTION 145. KRS 224.250 IS REPEALED AND REENACTED AS KRS 224.830:

It is hereby declared to be the policy of this Commonwealth and the purpose of this chapter to provide for the disposal of waste in a manner that will protect the public health and welfare, prevent the spread of disease and creation of nuisances, conserve our natural resources, and enhance the beauty and quality of our environment.

SECTION 146. KRS 224.255 IS REPEALED AND REENACTED AS KRS 224.835:

(1) No person shall transport to or dispose of waste at any site or facility other than a site or facility for which a permit for waste disposal has been issued by the department. Upon request, any transporter of waste shall receive from the department a current list of permitted waste disposal sites or facilities and shall be subsequently notified of any new permits or changes in the status of permits for waste disposal sites and facilities in the Commonwealth.

(2) The use of open dumps is prohibited except in the case of an open dump which is under a departmentally approved timetable or schedule for compliance. Such timetable or schedule for compliance shall contain an enforceable sequence of actions or operations leading to compliance not to exceed five (5) years from July 15, 1980.

SECTION 147. KRS 224.260 IS REPEALED AND REENACTED AND AMENDED AS KRS 224.838:

No provision of KRS *224.830* [~~224.250~~] to *224.840* [~~224.265~~] shall be construed so as to prevent a person from disposing of solid waste from his own household upon his own land as long as such disposal does not create a nuisance or a hazard to health.

SECTION 148. KRS 224.265 IS REPEALED AND REENACTED AS KRS 224.840:

The department for natural resources and environmental protection shall not revoke, refuse to issue or refuse to renew permits to operators of solid waste disposal sites or facilities solely because the operator uses an incinerator for disposing of solid waste material. Provided, however, That the department shall be empowered to revoke, refuse to issue or refuse to renew solid waste disposal permits if the operator has not complied with its regulations relating to permits to use incinerators, refuse burners and open burning. This section shall not prevent the department from revoking, refusing to issue or refusing to renew solid waste disposal permits due to the use of incinerators, refuse burning and open burning which it has not authorized.

SECTION 149. KRS 224.880 IS REPEALED AND REENACTED AS KRS 224.842:

No person shall establish, construct, operate, maintain, or permit the use of a waste disposal site or facility without first having obtained a permit from the department to establish, construct, maintain, operate or permit the use of the waste disposal site or facility pursuant to rules and regulations promulgated by the department.

SECTION 150. KRS 224.882 IS REPEALED AND REENACTED AS KRS 224.844:

(1) *The department shall promulgate regulations which establish standards for the operator of any waste disposal site or facility or portion thereof, whether publicly or privately owned, requiring such operators to do the following:*

(a) Attend a training session concerning the operation of the appropriate type waste disposal facility conducted by the department for natural resources and environmental protection;

(b) Indicate sufficient skill and competency for proper operation of the waste disposal site by adequate performance on an examination prescribed by the department for natural resources and environmental protection;

(c) Pay a reasonable fee related to the cost of conducting training and certification sessions to be utilized to defray the cost of conducting the sessions; and

(d) Renew the certificates of competence at reasonable intervals.

(2) No person shall authorize or allow any person who does not hold a certificate issued pursuant to subsection (1) of this section to have primary responsibility for the operation of any waste disposal site or facility or portion thereof.

SECTION 151. KRS 224.884 IS REPEALED AND REENACTED AS KRS 224.846:

(1) Before the department may issue a permit to operate a solid waste disposal site or facility, the operator shall file with the department a bond payable to the Commonwealth of Kentucky with surety satisfactory to the department in a sum to be determined by the department on the recommendation of the secretary of each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000) per site, conditioned upon the faithful performance of the requirements in this chapter and of the rules and regulations of the department to insure satisfactory closure of the facility. The department may accept liquid or semi-liquid assets deposited in an escrow account for the operating life of the landfill plus not less than two (2) additional years as an alternative guarantee of adequate financial responsibility for closure of the facility.

(2) An operator may at any time during the term of the permit apply to the department for an amendment of the permit so as to increase or reduce the acreage affected by it. The operator shall file an application and map in the same form and with the same content as required for an original application under this chapter and shall pay a basic fee set by regulation bearing a reasonable relationship to the cost of processing the permit application and shall file with the department a supplemental bond for each acre or fraction of an acre of the increase approved. If the department approved a reduction in the acreage covered by the original or supplemental permit, it shall release the bond for each acre reduced but in no case shall the bond for the site be reduced below ten thousand dollars ($10,000).

(3) When the facility has been filled, covered, graded, seeded and revegetated according to regulations promulgated by the department and approved by the department, the secretary shall release the bond or other guarantee of financial responsibility that has been provided to the department. If such closure requirements are not accomplished by the operator of the facility, the department shall forfeit the bond or demand release of the monies held to guarantee financial responsibility.

(4) All funds from the forfeiture of bonds or other sureties required pursuant to this section shall be placed in the state treasury and credited to a special trust and agency account which shall not lapse. Such account shall be known as the "solid waste disposal site restoration fund" and all monies placed in the fund shall be used solely for the proper closure of solid waste disposal sites and insofar as practicable be used to correct the problems at the same site for which the bond or other sureties were originally provided.

(5) No operator or person shall be eligible to receive another permit to operate a solid waste disposal site or facility who has forfeited any bond or other surety provided pursuant to this section, unless the land for which the bond or other surety was forfeited has been reclaimed without cost to the state, or the operator or person has paid such sum as the department finds is adequate to reclaim such lands.

(6) Where one (1) operator succeeds another at any solid waste disposal site or facility prior to final closure, either by sale, assignment, lease or otherwise, the department may release the first operator from all liability under this section, provided that the successor operator meets the requirements of this section and assumes, as part of his obligation under this chapter, all liability for the reclamation and final closure of the area of land affected by the former operation.

(7) In the reclamation of land affected by incomplete or improper closure of a solid waste disposal site or facility for which it has the funds available, the department may avail itself of any services which may be provided by other state agencies or by agencies of the federal government, and may compensate them for such services. The department may cause the reclamation work to be done by its own employes, or by employes of other governmental agencies or through contracts with qualified persons.

(8) The department may also receive any federal funds, state funds or any other funds for the closure of solid waste disposal sites or facilities.

(9) The department, any other agency and any person under a contract with the department pursuant to this section shall have the right of access to the land affected to carry out such reclamation.

(10) No city, county, urban-county government or agency of a city, county, or urban-county government, or taxing district, or other political subdivision of the Commonwealth shall be required to file any surety bond with the department pursuant to this section for the operation of a solid waste disposal site or facility by such city, county, urban-county government or agency thereof, or taxing district, or any other political subdivision of the Commonwealth.

Section 152. KRS 227.275 is amended to read as follows:

(1) The commissioner, bureau of state police, may designate officers and employes of the bureau of state police to investigate and enforce the provisions against arson and arson related offenses occurring within the state and such officers when duly authorized by the commissioner, bureau of state police, shall have the general powers of a peace officer for the *prevention* [~~enforcement~~] of other offenses against the Commonwealth.

(2) Each arson investigator so appointed shall, before entering upon the discharge of his various duties, take an oath before a person authorized to administer oaths to faithfully discharge his duties, and the oath shall be subscribed by the person taking it and filed in the records of the department.

(3) Each of said persons shall give such bond as the commissioner, bureau of state police, may designate and with such surety as required by the commissioner, bureau of state police, conditioned upon faithful performance of his duties.

Section 153. KRS 229.061 is amended to read as follows:

(1) The commission may issue a permit, without the payment of any taxes or license, to any accredited college, university, school, Young Men's Christian Association, Young Men's Hebrew Association or organization which in the judgment of the commission is of like character, to hold boxing or wrestling matches or exhibitions upon a sufficient showing that the matches or exhibitions are to be held by and between bona fide students or members of such accredited colleges, universities, schools, Young Men's Christian Associations, Young Men's Hebrew Associations, or organizations which in the judgment of the commission are of

like character. The commission may also issue a permit, without payment of taxes or license, to any organization to hold a boxing or wrestling match or exhibition under the sanction of the Kentucky Association of the Amateur Athletic Union of the United States or the American Olympic Association. No boxer or wrestler who has received any fee, purse or other compensation shall be eligible to appear in any match or exhibition sponsored by any such institution, association or organization.

(2) Any regularly organized post of the American Legion, and any organization operating solely for charitable purposes from which no individual, partnership or corporation derives any monetary gain, may hold boxing or wrestling matches or exhibitions without the payment of the license fee prescribed by KRS 229.071. Any post of the American Legion or other organization holding matches or exhibitions under this section shall be subject to the provisions of KRS 229.031 and 229.051.

(3) No match permitted by *subsections* (1) and (2) *of this section* may be conducted without a permit to hold the specific match and accompanying program of events at a specified location on a specified date.

Section 154. KRS 230.218 is amended to read as follows:

(1) There is hereby established, under the general jurisdiction of the Kentucky state racing commission, a backside improvement commission. This commission shall consist of four (4) members, three (3) of which shall be voting members and one (1) shall be a nonvoting member. The voting members shall be as follows: one (1) member appointed by the president pro tempore of the Kentucky senate, one (1) member appointed by the speaker of the Kentucky house of representatives, and one (1) member appointed by the chairman of the Kentucky state racing commission. The nonvoting member shall be appointed by the Kentucky division of the horsemen's benevolent and protective association. The appointee of the chairman of the Kentucky state racing commission shall serve as chairman of the backside improvement commission. The members of the commission shall serve without compensation, but shall be entitled to reimbursement for all expenses incurred in the discharge of official business.

(2) There is hereby created a trust and revolving fund for the backside improvement commission, consisting of money allocated to the fund under the provisions of KRS 138.515, together with such other money as may be contributed to or allocated to the fund from all other sources. Money to the credit of the backside improvement fund at the end of each fiscal year shall not lapse but shall be carried forward in such fund to the succeeding fiscal year.

(3) The backside improvement commission shall employ such qualified personnel as may be required to assist the commission in carrying out the provisions of this section. Such persons shall serve at the pleasure of the commission and compensation for such personnel shall be fixed by the commission. The compensation of such personnel and the necessary expenses incurred by the commission or by the committee in carrying out the provisions of this section shall be paid out of the backside improvement fund.

(4) The purpose of the fund shall be to improve the backside of racing associations averaging nine hundred thousand dollars ($900,000) or less pari-mutuel handle per racing day. The backside *improvement* [~~development~~] commission shall use the backside *improvement* [~~development~~] fund to promote, enhance, and improve the conditions of the backside of eligible racing associations. Said conditions shall include but not be limited to the living and working quarters of backside employes.

(5) The Kentucky state racing commission shall adopt such rules and regulations as may be necessary to carry out the provisions and purposes of this section.

Section 155. KRS 230.260 is amended to read as follows:

The commission, in the interest of breeding or the improvement of the breed of thoroughbred horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of KRS 230.210 to 230.360 including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all thoroughbred race meetings in this commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of thoroughbred racing or appaloosa racing or interfere with the orderly conduct of thoroughbred racing or appaloosa racing at thoroughbred race meetings; Provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employes, may visit, investigate and have free access to the office, track, facilities or other places of business of any licensee for the purpose of satisfying itself that KRS 230.210 to 230.360 and its rules and regulations are strictly complied with;

(3) The commission shall have full authority to prescribe rules, regulations and conditions under which thoroughbred horse racing and appaloosa racing at a thoroughbred race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes or awards to be offered for the conduct of any thoroughbred race meeting;

(4) Applications for licenses shall be made in the form, in the manner and contain information as the commission may, by rule, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the commission;

(5) Any of the foregoing rules, regulations and conditions may be altered, amended, repealed and published from time to time. All rules, regulations and conditions shall become effective thirty (30) days after the filing thereof with the Legislative Research Commission unless the governor finds an emergency to exist in which event the same shall become effective immediately upon filing with the Legislative Research Commission. The commission may, but shall not be required to, advertise any of its regulations either before or after filing;

(6) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties. [~~Any person failing to appear before the commission at the time and place specified in said summons, or refusing to testify, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both. False swearing on the part of any witness shall be deemed perjury and punished as such.~~]

(7) The commission shall have authority to compel any racing association licensed under KRS 230.210 to 230.360 to file with the commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association.

Section 156. KRS 230.350 is amended to read as follows:

Any person licensed by this commission under KRS 230.300 may be issued *a license* by the alcoholic beverage control board and may hold a distilled spirits and wine special temporary license as provided in KRS 243.260 and 243.290. The licenses and each of them when issued shall be valid and effective only upon premises licensed by this commission and upon the dates and hours for which racing has been authorized by this commission.

Section 157. KRS 230.660 is amended to read as follows:

(1) In addition to the employes referred to in KRS 230.650, the commission may employ, at reasonable compensation, veterinarians, inspectors, accountants, guards and other employes deemed by the commission to be essential at or in connection with any standardbred horse race meeting and to the best interest of standardbred racing. The commission for the purpose of maintaining integrity and honesty in standardbred racing shall prescribe by rule the powers and duties of the persons employed under this section or performing duties rendering services to an association. The commission shall promulgate rules and regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate, and in connection therewith the commission is authorized to acquire, operate and maintain, or to provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urinal or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under KRS 230.610 to 230.760 in such manner and in such proportions as the commission may by rule provide.

(2) The compensation of the employes referred to in this section shall be paid by the licensee directly or to the commission, as *the* commission shall direct *the* conducting *of* the standardbred race meeting in connection with which said employes are utilized or employed. The salary of the secretary to the commission and costs of operation of the commission including but not limited to office rental, expenses, utilities, *commissioners'* [~~commissioners~~] actual expenses, etc. shall be prorated among and paid by the various associations licensed under KRS 230.610 to 230.760 in the manner as the commission may, by rule, provide. The employes referred to in this section shall be deemed employes of the commission, and are paid by the licensee or association for convenience only.

(3) Each person, as a condition precedent to the privilege of receiving a license under KRS 230.610 to 230.760 to conduct standardbred horse race *meetings* [~~meeting~~] shall be deemed to have agreed that it will pay such expenses and compensation as provided in this section.

Section 158. KRS 230.990 is amended to read as follows:

(1) Any person who violates KRS 230.070 or subsection (3) of KRS 230.080 shall be fined not more than one thousand dollars ($1,000). In addition to the fine, he shall be imprisoned in the county jail for not more than one (1) year or imprisoned in the penitentiary for not more than two (2) years.

(2) Any person who violates KRS 230.090 shall, for each offense, be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both fined and imprisoned.

(3) Any person who violates KRS 230.680 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each day of the meeting or racing.

(4) Any person who refuses to make any report or to turn over sums as required by KRS 230.361 to 230.373 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

(5) Any person failing to appear before the commission at the time and place specified in the summons issued pursuant to KRS 230.260(6), or refusing to testify, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both. False swearing on the part of any witness shall be deemed perjury and punished as such.

Section 159. KRS 232.031 is amended to read as follows:

A license to operate a nudist society may be revoked by order of the county judge/executive at any time, following a hearing upon reasonable notice to the licensee and a finding by the county judge/executive that:

(1) The activities of the nudist society are not being effectively concealed from the ordinary view of the public, or

(2) The activities of the nudist society are not sufficiently isolated from the public, or sufficient precautions are not being taken to exclude the presence of nonmembers, or

(3) The nudist society is not being operated in accordance with the purpose for which it was licensed, or

(4) [~~Conviction of~~] The owner or operator *has been convicted* of a felony, or a misdemeanor involving disorder or breach of the peace arising out of the operation of the nudist society.

Section 160. KRS 100.237 is amended to read as follows:

The board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met:

(1) The board may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

(2) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building, housing and other regulations.

(3) In any case where a conditional use permit has not been exercised within the time limit set by the board, or within one (1) year, if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment under contract, in development, are completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

(4) The administrative official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the administrative official shall report the fact in writing to the chairman of the board of adjustments. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the chairman of the board of adjustments. The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the board of adjustments finds that the facts alleged in the report of the administrative official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustments may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

(5) Once the board of adjustments has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the

margin of the copy of the conditional use permit which is on file with the county clerk, as required in KRS *100.329* [~~100.344~~]. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

Section 161. KRS 246.030 is amended to read as follows:

The department shall consist of:

(1) The commissioner;
(2) The board of agriculture;
(3) The state fair board;
(4) The division of markets;
(5) The division of weights and measures;
(6) The board of veterinary *examiners* [~~examination~~];
(7) The division of pest and noxious weed control;
(8) The division of statistics and export;
(9) The division of pesticides; and
(10) The exposition management division.

Section 162. KRS 247.153 is amended to read as follows:

(1) The state fair board is authorized to establish by resolution speed limits governing the operation of motor vehicles on state fair grounds property.

(2) Notice to the public of any speed limits thus established shall be given by signs or markings.

[~~(3) Any person who violates any speed limit established by the state fair board shall be fined not less than ten (10) nor more than one hundred dollars ($100).~~]

Section 163. KRS 247.453 is amended to read as follows:

As used in KRS 247.450 to 247.505, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of agriculture[~~, labor and statistics~~];

(2) "Board" means the state board of agriculture;

(3) "Producer" means every person who produces milk or cream from cows and thereafter causes the same to be marketed as milk, cream or other dairy products;

(4) "New producer" means a producer who was not engaged in the business of producing milk at the time a referendum was conducted in accordance with the provisions of KRS 247.450 to 247.505;

(5) "Person" means any individual, corporation, partnership, association, cooperative or other business entity;

(6) "Milk" means milk from cows and all of its natural components, sweet cream, sour cream, skim milk, flavored milk, buttermilk, condensed or concentrated whole or skim milk for use in milk products of every kind and description;

(7) "Handler" or "dealer" means any person, including any distributor, processor, bulk milk handler, or operator of a store, who purchases or receives on consignment or otherwise, milk and milk products of every kind and description, within the state, for sale, shipment, storage, processing, or manufacture;

(8) "Processor" means any person engaged in the business of processing milk and other material into milk products of every kind and description.

Section 164. KRS 247.920 is amended to read as follows:

(1) Application for an alcohol production exemption certificate shall be filed with the department of revenue in such manner and in such form as may be prescribed by regulations issued by the department of revenue and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the department of revenue for the proper administration of KRS 247.900 to 247.920. The department shall provide technical assistance and factual information as requested in writing by the department of revenue. If the department of revenue finds that the facility qualifies as an alcohol production facility as defined by KRS 247.900, it shall enter a finding and issue a certificate to that effect. The effective date of said certificate shall be the date of issuance of said certificate.

(2) Before issuing an alcohol production tax exemption certificate, the department of revenue shall give notice in writing by mail to the secretary of the department, and shall afford to the applicant and to the secretary of the department an opportunity for a hearing. On like notice and opportunity for a hearing, the department of revenue shall on its own initiative revoke such certificate whenever any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the alcohol production facilities;

(c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of alcohol production for fuel use and is being used for different purpose.

(3) Where the circumstances so require, the department of revenue, in lieu of revoking such certificate, may modify the same.

(4) On mailing of notice of the action of the department of revenue revoking or modifying a certificate as provided in subsection (5) of this section, such certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) An alcohol production tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of such issuance in the form of certified copies thereof shall be sent to the secretary of the department. Notice of an order of the department of revenue denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder and shall be sent to the secretary of the department. The applicant or holder and the secretary of the department are deemed parties for the purpose of the review afforded by subsection (6) of this section.

(6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an alcohol production tax exemption certificate may appeal from the final ruling of the department of revenue to the Kentucky board of tax appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of an alcohol production facility, not involving a different location or use, the holder of an alcohol production tax exemption certificate for such facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on such facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the certificate[~~, whichever is earlier~~]. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the department and the department of revenue.

(8) In the event an alcohol production facility for which an exemption certificate is held ceases to be used for the primary purpose of alcohol production for fuel use or is used for a different purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the department and to the department of revenue.

(9) The alcohol production facility exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provisions of KRS 247.900 to 247.920 and included in KRS chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any alcohol production facility previously exempted under the terms of KRS 247.900 to 247.920 shall not be eligible for recertification upon completion of the eight (8) year certificate period.

SECTION 165. KRS 278.047 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 96 TO READ AS FOLLOWS:

(1) The rates charged for services by municipally owned electric utilities shall not be increased except after a public hearing following reasonable notice thereof.

(2) The rates charged for services and the standards of services maintained by municipally owned electric utilities shall be the same for customers inside and outside the corporate limits.

Section 166. KRS 304.10-200 is amended to read as follows:

(1) An unauthorized insurer shall be sued, upon any cause of action arising in the state under any contract issued by it as a surplus lines contract pursuant to this subtitle, in the circuit court of the county in which the cause of action arose.

(2) Service of legal process against the insurer may be made in any such action by service upon the commissioner as provided in KRS *304.3-230* [~~304.3-320~~]. The commissioner shall forthwith mail a copy of the process served to the person designated by the insurer in the policy for the purpose, by prepaid certified mail with return receipt requested. Process served upon the commissioner and copy thereof forwarded as provided in this section shall for all purposes constitute personal service upon the insurer.

(3) An unauthorized insurer issuing such policy shall be deemed thereby to have authorized service of process against it in the manner and to the effect as provided in this section. Any such policy shall contain a provision stating the substance of this section, and designating the person to whom the commissioner shall mail process as provided in subsection (2) of this section.

Section 167. KRS 304.13-050 is amended to read as follows:

(1) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the applicable requirements of this subtitle.

(2) Subject to the exception specified in subsection (3) of KRS 304.13-040 with reference to specific inland marine rates made by a rating organization, and subsections (3) and (4) of this section, each filing shall be on file for a waiting period of thirty (30) days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed thirty (30) days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this subtitle unless disapproved by the commissioner within the waiting period or any extension thereof.

(3) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, shall become

effective when filed and shall be deemed to meet the requirements of this subtitle until such time as the commissioner rejects the filing.

(4) The commissioner may, when he deems it to be in the public interest, and shall upon request of the attorney general made to the commissioner within fifteen (15) days from the date such filing is initially received by the attorney general, hold a public hearing on any filing before said filing becomes effective to determine whether or not the filing meets the requirements of this subtitle. Upon receipt of any filings respecting workers' compensation insurance the commissioner shall cause the filing and supporting information and reports to be examined by an independent actuary who shall submit a written report for public inspection containing his evaluation and findings to the commissioner. The commissioner shall hold a public hearing on all such filings not less than thirty (30) days after receipt of the report of the actuary. The commissioner, any party or intervenor may request in writing at least ten (10) days prior to the public hearing that any rating rule or classification or any modification thereof in effect on the date of the filing be reviewed at the public hearing and the *commissioner* [~~board~~] shall so order. When the commissioner has determined that a hearing shall be held relative to any filing, the filing and any supporting information filed therewith shall be open to public inspection immediately upon the giving of notice as required by this subsection. Before such hearing the rating organization or insurer making such filing shall be given ten (10) days' written notice of the time and place of such hearing, and the public shall be given notice by publication pursuant to KRS chapter 424. The commissioner shall promulgate reasonable regulations to prevent the avoidance of normal expirations and renewal dates of policies, or contracts of insurance, that may be affected by such filings. In the event that a hearing is held under the provisions of this subsection the waiting periods specified in subsection (2) of this section shall not begin to run until thirty (30) days after the close of such hearing.

(5) In the review of any filing made pursuant to KRS 304.13-040 either prior to its becoming effective, or upon a subsequent review as provided for in KRS 304.13-080, the burden of establishing that the filing under consideration meets the requirements of this subtitle shall be on the insurer or rating organization which makes such filing.

(6) The public hearings shall be conducted in accordance with the Kentucky Rules of Civil Procedure and the formal rules of evidence shall apply.

Section 168. KRS 304.33-530 is amended to read as follows:

(1) Property rights and title: reciprocal state. The domiciliary liquidator of an insurer domiciled in a reciprocal state shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books, accounts and other records of the insurer located in this state. The date of vesting shall be the date of the filing of the petition, if that date is specified by the domiciliary law for the vesting of property in the domiciliary state; otherwise, the date of vesting shall be the date of entry of the order directing possession to be taken. The domiciliary liquidator shall have the immediate right to recover balances due from agents and to obtain possession of the books, accounts and other records of the insurer located in this state. He also shall have the right to recover the other assets of the insurer located in this state, subject to subsection *(3)*[~~(2)~~] of KRS 304.33-540.

(2) Property rights and title: state not a reciprocal state. If a domiciliary liquidator is appointed for an insurer not domiciled in a reciprocal state, the commissioner of this state shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books, accounts and other records of the insurer located in this state, at the same time that the domiciliary liquidator is vested with title in the domiciling state. The commissioner of this state may petition for a conservation or liquidation order under section KRS 304.33-510 or 304.33-520, or for an ancillary receivership under KRS 304.33-540, or after approval by the Franklin County Circuit Court, may transfer title to the domiciliary liquidator, as the interests of justice and the equitable distribution of the assets require.

(3) Filing claims. Claimants residing in this state may file claims with the liquidator or ancillary receiver, if any, in this state or with the domiciliary liquidator, if the domiciliary law permits. The claims must be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceedings.

Section 169. KRS 304.33-600 is amended to read as follows:

If an ancillary receiver in another state or foreign country, whether called by that name or not, fails to transfer to the domiciliary liquidator in this state any assets within his control other than special deposits, diminished only by the expenses of the ancillary receivership, if any, the claims filed in the ancillary receivership, other than special deposit claims or secured claims, shall be placed in the class of claims under subsection *(7)*[~~(8)~~] of KRS 304.33-430.

Section 170. KRS 304.37-020 is amended to read as follows:

(1) Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the commissioner, except a foreign or alien insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this section. For an alien insurer, the domiciliary state shall be deemed to be its state of entry. Any insurer which is subject to registration under this section shall register within sixty days after June 16, 1972, or fifteen days after it becomes subject to registration, whichever is later, unless the commissioner for good cause shown extends the time for registration, and then within

such extended time. The commissioner may require any authorized insurer which is a member of a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by such insurer with the insurance regulatory authority of its domiciliary jurisdiction.

(2) Every insurer subject to registration shall file a registration statement on a form provided by the commissioner, which shall contain current information about:

(a) The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer;

(b) The identity of every member of the insurance holding company system;

(c) The following agreements in force, relationships subsisting, and transactions currently outstanding between such insurer and its affiliates:

1. Loans to, other investments in, or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

2. Purchases, sales or exchanges of assets;

3. Transactions not in the ordinary course of business;

4. Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered in the ordinary course of the insurer's business;

5. All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles; and

6. Reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company;

(d) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner.

(3) No information need be disclosed on the registration statement filed pursuant to *subsection* [~~KRS 304.37-020~~] (2) of this *section* [~~subtitle~~] if such information is not material for the purposes of this section. Unless the commissioner by rule, regulation or order provides otherwise, sales, purchases, exchanges, loans, or extensions of credit, or investments, involving one-half of one percent or less of an insurer's admitted assets as of the 31st day of December next preceding shall not be deemed material for purposes of this section.

(4) Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the commissioner within thirty days after the end of the month in which it learns of each such change or addition.

(5) The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

(6) The commissioner may require or allow two or more affiliated insurers subject to registration hereunder to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

(7) The commissioner may allow an insurer which is authorized to do business in this state and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subsection (1) and to file all information and material required to be filed under this section.

(8) The provisions of this section shall not apply to any insurer, information, or transaction if and to the extent that the commissioner by rule, regulation, or order shall exempt the same from the provisions of this section.

(9) Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such persons and such insurer as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with such person unless and until the commissioner disallows such a disclaimer. The commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support such disallowance.

(10) The failure to file a registration statement or any amendment thereto required by this section within the time specified for such filing shall be a violation of this subtitle.

Section 171. KRS 311.187 is amended to read as follows:

(1) In any case in which a patient is in need of a cornea or corneal tissue for a transplant, the coroner, medical examiner, or his appropriately qualified designee with training in ophthalmologic techniques may, upon the request of any person authorized under KRS 311.185, provide or authorize the removal of the cornea or corneal tissue by a qualified physician under the following conditions:

(a) *The* [~~A~~] decedent *has been* [~~who may provide a suitable cornea or corneal tissue for the transplant who is~~] defined as a "coroner's case" as set forth by KRS 72.405(2), [~~and upon whom~~] an autopsy has been [~~otherwise~~] ordered pursuant to KRS 72.410, *and the cornea or corneal tissue are suitable for transplant*;

(b) No objection by the next of kin is known by the coroner or medical examiner; and

(c) The removal of the cornea or corneal tissue will not interfere with the subsequent course of an investigation or autopsy or alter the post mortem facial appearance.

(2) The medical examiner, coroner, or his appropriately qualified designee or any persons authorized under KRS 311.185 shall not be held liable in any civil or criminal action for failure to obtain consent of the next of kin.

Section 172. KRS 311.820 is amended to read as follows:

(1) As used in this section, an abortion referral or counselling agency is any person, group, or organization, whether funded publicly or privately, that provides advice or help to persons in obtaining abortions.

(2) No abortion referral or counselling agency shall charge or accept any fee, kickback, or compensation of any nature from a physician, hospital, clinic or other medical facility for referring a person thereto for an abortion.

[~~(3) Any person who violates the provisions of this section is guilty of a class A misdemeanor.~~]

Section 173. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be fined fifty dollars ($50) for the first offense and one hundred dollars ($100) for each subsequent offense.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be fined not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months, or both so fined and imprisoned. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 shall be punishable by a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or by imprisonment for not less than one (1) month nor more than twelve (12) months, or both. Each subsequent violation of KRS 311.560 shall constitute a felony and be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years, or both.

(5) Each violation of KRS 311.590 shall constitute a felony and shall be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years. Conviction, under this subsection, of a holder of a license or permit, shall result automatically in permanent revocation of such license or permit.

(6) Conviction of wilfully resisting, preventing, impeding, obstructing, threatening or interfering with the board or any of its members, or of any officer, agent, inspector or investigator of the board or the department for human resources, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be punishable by a fine of not less than fifty dollars ($50) nor more than three hundred dollars ($300) or by imprisonment for not more than thirty (30) days or both, and, for each subsequent offense, by a fine of not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be punishable by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both, and, for each subsequent offense, by a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) or by imprisonment for not more than ninety (90) days or both.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) Any physician who fails to comply with the provisions of KRS 311.730, upon conviction thereof shall be fined not more than five hundred dollars ($500).

(11) Failure to procure the informed consent of those required to give their consent pursuant to KRS 311.740, prior to performing an abortion shall be punishable by imprisonment in the county jail not to exceed one (1) year or a fine not to exceed one thousand dollars ($1,000), or both.

(12) Any person convicted of violating KRS 311.750 shall be imprisoned in the penitentiary for a term of not less than ten (10) nor more than twenty (20) years.

(13) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(14) Any person who violates KRS 311.770 or 311.780 shall be imprisoned for a term not to exceed two (2) years or fined not more than five thousand dollars ($5,000), or both.

(15) A person convicted of violating KRS 311.780 shall be imprisoned in the penitentiary for not less than two (2) nor more than twenty-one (21) years.

(16) Any person who violates KRS 311.810 shall be imprisoned in the county jail for a term not to exceed twelve (12) months or fined a sum not to exceed one thousand dollars ($1,000), or both.

(17) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606, shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500) for each failure to so report as described in KRS 311.606.

(18) Any person who violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(19) Any administrator, officer or employe of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(20) Any person who violates KRS 311.914 shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(21) Any person who violates the provisions of KRS 311.820 is guilty of a class A misdemeanor.

Section 174. KRS 313.250 is amended to read as follows:

(1) Licensed *pharmacists* [~~druggists~~] may fill prescriptions of licensed dentists of this state for any drug necessary to the practice of dentistry.

(2) Dentists may sign death certificates the same as physicians, when necessary in the line of their profession.

(3) Nothing in this chapter shall apply to a legally licensed doctor of medicine unless he practices dentistry as a specialty nor to a practitioner of dentistry duly licensed by another state or the District of Columbia while making a clinical demonstration before a dental society, convention, association of dentists or a dental school.

SECTION 175. KRS 313.360 IS REPEALED AND REENACTED AND AMENDED AS KRS 313.022:

(1) The Kentucky [~~state~~] board of dentistry may maintain an action [~~in equity~~] to enjoin the practice of or attempt to practice dentistry without a license in violation of KRS 313.020.

(2) In case of a violation of any injunction granted under this section, the court may summarily try and punish the offender. The proceedings shall be commenced by filing with the clerk of the court an affidavit, setting out the alleged facts constituting the violation, upon which the court shall cause an order of arrest to issue. The trial may be had upon affidavit, but either party may at any stage of the proceedings demand the production and oral examination of the witnesses.

Section 176. KRS 317.420 is amended to read as follows:

(1) No person shall engage in the practice of "barbering" for other than cosmetic purposes nor shall any person engage in barbering for the treatment of physical or mental ailments, except that the provisions of this chapter shall not apply to:

(a) Persons authorized by the law of this state to practice medicine, chiropody, optometry, dentistry, chiropractic, nursing or embalming when incidental practices of barbering are performed by them in the normal course of the practice of their profession;

(b) Commissioned medical or surgical personnel of the United States army, navy, air force or marine hospital service performing incidental practices of barbering in the course of their duties.

(2) Except as provided in subsection (1) of this section no person shall engage in the practice of barbering for the public generally or for consideration without the appropriate license required by this chapter;

(3) No person unless duly and properly licensed pursuant to this chapter shall:

(a) Teach barbering;

(b) Operate a barber shop;

(c) Engage in a barber apprenticeship;

(d) Conduct or operate a school for barbers.

(4) No person shall aid or abet any person in violating the provisions of this section, nor shall any person engage or employ for consideration any person for the performance of any practice licensed by this chapter unless the person to perform such practice holds and displays the appropriate license therefor[~~;~~

~~(5) No licensed cosmetology instructors or licensed beauticians shall hold clinics for teaching or demonstrating for personal profit, either monetary or otherwise, if the clinics are not sponsored by a recognized professional hairdresser's or cosmetologist's group~~].

SECTION 177. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

Nothing in KRS Chapter 324 shall be construed to apply to a person engaged solely in the business of compiling and categorizing information concerning the location and availability of real property which may be leased or rented and who furnishes such information to prospective tenants for a fee.

Section 178. KRS 330.070 is amended to read as follows:

(1) In addition to the other qualifications provided for by this chapter, every applicant for an auctioneer's license shall be at least eighteen (18) years of age and be a citizen of the United States. In addition an applicant shall have served a bona fide apprenticeship for a period of one (1) year as an apprentice auctioneer in Kentucky. Every application for a license, whether as an auctioneer or apprentice auctioneer, shall be submitted on forms prepared by the board.

(2) Every applicant for an apprentice auctioneer's license shall be a citizen of the United States and at least eighteen (18) years of age. In addition to other requirements imposed by this chapter, the applicant shall furnish pertinent background data as outlined on the application forms furnished by the board.

(3) The issuance fee for each auctioneer's and apprentice auctioneer's license shall be not more than fifty dollars ($50) and the annual renewal fee for each license shall be not more than fifty dollars ($50). All licenses shall expire on June thirtieth of each year. In the absence of any reason or condition which might warrant the refusal of the renewing of the license, and upon receipt of the written request of the applicant and the annual fee therefor, the board shall issue a new license for each ensuing year.

(4) The board shall prepare and deliver to each licensee a license certificate and pocket card. The certificate shall be displayed conspicuously at all times in the office of the licensee. The certificate and pocket card of the apprentice auctioneer shall contain the name and address of the auctioneer under whose supervision he is employed.

(5) When any apprentice auctioneer is discharged or terminates his employment with the auctioneer for any reason, it shall be the immediate duty of the auctioneer to deliver or mail by certified mail, return receipt requested [~~or by registered mail~~] to the board the license of the apprentice auctioneer. It shall be unlawful for any apprentice auctioneer to perform any of the acts contemplated by this chapter either directly or indirectly, under authority of his license, until the apprentice auctioneer receives a new license bearing the name and address of his new employer. No more than one (1) license shall be issued to any apprentice auctioneer for the same period of time.

(6) Notice in writing shall be given to the board by each licensee of any change of principal business location, whereupon the board shall issue a new license for the unexpired period. A change of business location without notification to the board shall automatically cancel the license previously issued. Changing a business location and issuance of a new license shall entitle the board to collect three dollars ($3.00).

Section 179. KRS 334.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the board for licensing hearing aid dealers [~~and fitters~~].

(2) "License" means a license issued by the state under this chapter to hearing aid dealers and fitters.

(3) "Temporary permit" means a permit issued while the applicant is in training to become a licensed hearing aid dealer or fitter.

(4) "Hearing aid" means any wearable instrument or device designed for or represented as aiding, improving or correcting defective human hearing and any parts, attachments or accessories of such an instrument or device.

(5) "Practice of fitting and dealing" in hearing aids shall mean the measurement of human hearing by means of an audiometer or by other means devised for the purpose of making selections, adaptions and sales of hearing aids to compensate for hearing loss. The term also includes the making of ear molds.

(6) "Sell or sale" shall mean any transfer of title or of the right to use by lease, bailment, or any other contract.

(7) A used or not new hearing aid is one which has been the subject of a sale and the title to which was held by the licensee for a period longer than thirty days.

Section 180. KRS 334.130 is amended to read as follows:

No person shall:

(1) Sell, barter, or offer to sell or barter a license, or a temporary trainee permit.

(2) Purchase or procure by barter a license or permit with intent to use it as evidence of the holder's qualification to practice the fitting and sale of hearing aids.

(3) Alter a license or temporary trainee permit with fraudulent intent.

(4) Use or attempt to use as a valid license or temporary trainee permit, a license or permit which has been purchased, fraudulently obtained, counterfeited or materially altered.

(5) Willfully make a false statement in an application for license or permit or application for renewal of a license.

(6) Sell, barter or offer for sale any brand or model of hearing aid device not having the approval of the board *for licensing* [~~of~~] hearing aid dealers for reasonable merchantability and workmanship.

SECTION 181. KRS 336.510 IS REPEALED AND REENACTED AND AMENDED AS A NEW SECTION OF KRS CHAPTER 198B:

As used in *Sections 182 to 195 of this Act* [~~KRS 336.520 to 336.680~~], unless the context otherwise requires:

(1) "Elevator" means all the machinery, construction, apparatus, and equipment used in raising and lowering a car, cage, or platform vertically between permanent rails or guides, and includes all elevators, power dumbwaiters, escalators, gravity elevators, and other lifting or lowering apparatus permanently installed between rails or guides, but does not include hand operated dumbwaiters, manlifts of the platform type with a platform area not exceeding nine hundred square inches, construction hoists, or other similar temporary lifting or lowering apparatus.

(2) "Passenger elevator" means an elevator that is designed to carry persons to its contract capacity.

(3) "Freight elevator" means an elevator used for carrying freight and on which only the operator, by the permission of the employer, is allowed to ride.

(4) "General inspector" means a state inspector examined and hired to inspect elevators for the department of housing, buildings and construction.

(5) "Special inspector" means an inspector examined and certified by the department to inspect elevators in the state.

(6) "Inspector" means either a general or special inspector.

(7) "Department" means the department of housing, buildings and construction.

(8) "Certificate of operation" is a certificate issued by the department authorizing the operation of an elevator which must be conspicuously posted on the elevator at all times.

SECTION 182. KRS 336.520 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 198B:

(1) No person may act either as a general inspector or as a special inspector of elevators unless he holds a certificate of competency from the department.

(2) Application for examination as an inspector of elevators shall be in writing, accompanied by a fee of ten dollars ($10), upon a blank to be furnished by the department, stating the school education of the applicant, a list of his employers, his period of employment, and the position held with each. An applicant shall also submit a letter from one or more of his previous employers certifying as to his character and experience.

(3) Applications shall be rejected which contain any willful falsification or untruthful statements. Such applicant, if the department deems his history and experience sufficient, shall be tested by means of a written examination dealing with the construction, installation, operation, maintenance, and repair of elevators and their appurtenances, and the applicant shall be accepted or rejected on the merits of his application and examination.

(4) The department shall issue a certificate of competency in the inspection of elevators to any applicant found competent upon examination. A rejected applicant shall be entitled, after the expiration of ninety days, and upon payment of an examination fee of ten dollars ($10), to another examination. Should an applicant fail to pass the prescribed examination on second trial, he will not be permitted to be an applicant for another examination for a period of one (1) year after the second failure.

SECTION 183. KRS 336.530 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 198B:

(1) The department shall administer all aspects of the state elevator inspection program.

(2) The program shall be directed by a person with at least five (5) years' experience in the construction, installation, maintenance, and repair of elevators and their appurtenances.

(3) The commissioner of housing, buildings and construction may appoint and hire from the holders of certificates of competency no more than five (5) general inspectors of elevators.

SECTION 184. KRS 336.540 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 198B:

From the holders of certificates of competency in the inspection of elevators, any company which is authorized to insure elevators in the state may designate persons to inspect elevators covered by such company's policies, and the municipal government of any city may designate such persons to inspect elevators in such city.

SECTION 185. KRS 336.550 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 198B:

A certificate to serve as an inspector may be suspended or revoked by the department for the incompetence or untrustworthiness of the holder thereof, or for the falsification of any matter or statement contained in his application or in a report of any inspection.

SECTION 186. KRS 336.560 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 198B:

If a certificate is lost or destroyed a new one shall be issued in its place by the department without another examination, upon the payment of a fee of one dollar ($1).

SECTION 187. KRS 336.590 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 198B:

The owner or user of any elevator shall register with the department every elevator operated by him, giving the type, capacity, and description, name of manufacturer, and purpose for which each is used. Such registration shall be made on a form to be furnished by the department.

SECTION 188. KRS 336.600 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 198B:

Every passenger elevator and escalator shall be inspected once every twelve (12) months.

SECTION 189. KRS 336.610 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 198B:

(1) Every inspector shall forward to the department a full report of each inspection made of any passenger elevator, showing the exact condition of the said elevator, and said inspector shall leave a copy of said report at the elevator on the day the inspection is completed.

(2) If any passenger elevator requires certain changes or repairs to make it reasonably safe to operate, such recommendations shall be made by the inspector upon his report and a copy of such report as approved by the department shall be given to the owner or operator of such elevator, and unless appealed, upon compliance therewith, and upon the payment of the fees required by law, the department shall issue a certificate of operation for a capacity not to exceed that named in the said report of inspection, which certificate shall be valid for one year after the date of inspection.

(3) If construction plans or an application of specifications is not approved, the department shall state in writing the necessary changes to obtain approval and the owner or operator shall be given a copy thereof, and unless appealed, upon compliance therewith, the department shall approve such plans or specifications and issue a permit for construction.

(4) Such owner or operator, within twenty days from receipt of the copy of such report or statement of changes in plans or specifications, may make written application to the department, upon forms to be furnished by the department for a hearing on the report or the statement regarding changes in plans or specifications as to whether the elevator in question is reasonably safe, or whether the elevator if constructed in accordance with such plans and specifications would be reasonably safe. The department shall promptly consider such application and proceedings consistent with the provisions of this section.

(5) If it appears from the evidence that said elevator will be reasonably safe to operate without such changes or repairs as shown in such report or by making only a part or all thereof, or if none or only a part of all the changes in the plans or specifications are found necessary to make the elevator reasonably safe, the department shall make its finding and order accordingly. If such finding and order requires changes or repairs to be made in the elevator or changes in the plans or specifications, the department shall upon the payment of the required fees, issue a certificate of operation when such order has been executed, or issue its approval of the plans or specifications. If the finding and order of the department has been affirmed or modified by appeal, on the grounds of reasonable safety considered by the department, then the department shall, upon compliance with such order, and the payment of required fees, issue such certificate of operation or issue its approval of the plans and specifications but, if such finding and order of the department has been vacated such certificate of operation, upon the payment of fees or such approval of plans and specifications shall be issued forthwith. No elevator shall be operated after being inspected without having such certificate of operation conspicuously posted thereon, except pending a hearing on the issuance thereof.

SECTION 190. KRS 336.620 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 198B:

The commissioner of housing, buildings and construction shall make, alter, amend, and repeal rules and regulations exclusively for the safety and inspection of passenger elevators. The commissioner shall have the authority to prescribe, by regulation, the fee to be charged for each inspection. All fees established and regulated by this section shall be payable to the department except as may be provided in a specific written agreement between the commissioner and any agency authorized to inspect elevators by the provisions of this chapter.

SECTION 191. KRS 336.630 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 198B:

Every passenger elevator shall be equipped, maintained, and operated, with respect to the supporting members, elevator car, shaftways, guides, cables, doors, and gates, safety stops and mechanism, electrical apparatus and wiring, mechanical apparatus, counterweights, and all other appurtenances, in accordance with the regulations as are authorized in respect thereto. Where reasonable safety is obtained without complying to the literal requirements of such regulations as in cases of practical difficulty or unnecessary hardship, the literal requirements of such regulations shall not be required.

SECTION 192. KRS 336.640 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 198B:

No certificate of operation for any passenger elevator shall be issued until such elevator has been inspected and the report thereof filed with the department. Such certificate of operation, when issued, shall bear the date of inspection, and shall be renewed as of the date of the subsequent inspection, provided such inspection is made at least one year after the issuance of such certificate. If such inspection is made during the year such certificate is in force, the renewal date shall be one year from the date of the certificate being renewed and the renewal certificate shall show the date of inspection.

SECTION 193. KRS 336.650 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 198B:

Before any new installation of an elevator of permanent nature shall be erected or before any existing elevator is removed to a different location, an application of specifications in duplicate shall be submitted to the department giving such information concerning the construction, installation, and operation of said elevator as the department may require on forms to be furnished by the department, together with complete construction plans in duplicate. In all cases where any changes or repairs are made which alter its construction or classification, grade or rated lifting capacity, except when made pursuant to a report of an inspector, an application of specifications in duplicate shall be submitted to the department, containing such information, for approval, except in those municipal corporations which maintain their own elevator inspection departments, in which event such specifications shall be submitted to the elevator department of the municipal corporation for its approval, and if approved, a permit for the erection or repair of such elevator shall be issued by the municipal corporation. Upon approval of such application and construction plans the department shall issue a permit for the erection or repair of such elevator. No new elevator shall be operated until completion in accordance with the approved plans and specifications, unless a temporary permit is granted by the department.

SECTION 194. KRS 336.670 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 198B:

No person shall violate any law relative to the operation, construction, maintenance, and repair of passenger elevators. All fines collected for a violation of this section shall be forwarded to the department, which shall pay the same into the state treasury to the credit of the general revenue fund.

SECTION 195. KRS 336.680 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 198B:

(1) If the department or a general inspector of elevators finds that a passenger elevator or a part thereof does not afford reasonable safety, the department or the general inspector may post a notice upon such elevator prohibiting further use of the elevator until the changes or alterations set forth in the notice have been made to the satisfaction of the department or the inspector. Said notice shall contain a statement that operators or passengers are subject to injury by its continued use, a description of the alteration or other change necessary to be made in order to secure safety of operation, date of such notice, name and signature of the department or inspector issuing the notice.

(2) If any inspector of elevators finds a passenger elevator to be so unsafe as can be reasonably expected to offer imminent danger of death or physical injury, that unit shall be sealed out of service, a hazard notice posted thereon, and the department shall be notified immediately as to the location and condition of the unit.

(3) Any passenger elevator, once sealed, shall not be operated except for the purpose of effecting repairs and in such a manner as prescribed by the department, until all defects are corrected and the unit has been inspected and certified as safe by the department.

(4) Sealing shall consist of rendering a passenger elevator unit inoperable by disconnecting power and/or by placing a sealing device on the operation switch and ordering such additional measures to be effected by the owner, such as erection of barricades, as may be required to prevent use of or public access to the unit.

(5) No seal, notice or barricade placed on or around an elevator in accordance with the provisions of this chapter shall be removed, obstructed or in any way altered without the written consent of the department.

Section 196. KRS 336.990 is amended to read as follows:

(1) Upon proof that any person employed by the department as a labor inspector has taken any part in any strike, lockout or similar labor dispute he shall forfeit his office.

(2) Any person who violates KRS 336.110 shall for each offense be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100) or imprisoned for not more than fifty (50) days, or both.

(3) Any corporation, association, organization, or person that violates KRS 336.190 and 336.200 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. Each act of violation, and each day during which such an agreement remains in effect, shall constitute a separate offense.

(4) Any employer who violates the provisions of KRS 336.220 shall be fined not more than one hundred dollars ($100) for each violation.

[~~(5) Any person who violates any provision of KRS 336.520 to 336.680 or regulation issued thereunder shall be fined a sum of $500 for each offense.~~]

Section 197. KRS 341.310 is amended to read as follows:

(1) A lien on a parity with state, county, and municipal ad valorem tax liens, and superior to the lien of any mortgage or other encumbrance heretofore or hereafter created is hereby created in favor of the department upon all property of any subject employer from whom contributions, interest or penalties are or may hereafter become due. This lien shall be for a sum equal to the amount at any time due from each subject employer to the department on account of contributions, interest and penalties thereon. The lien shall commence from such time as the contributions, interest or penalties become due.

(2) The secretary may file notice of this lien with the county clerk of any county where the subject employer has property, giving the name of the subject employer, his address, and the amount of the lien. The clerk shall file same in the same manner as lis pendens are filed. The files shall be designated "Miscellaneous State Tax Liens." The notice, when so filed, shall be conclusive notice to all persons of the lien on the property having legal situs in that county, except that nothing in this chapter shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in KRS Chapter 355 Art. 3, or affect the rights of any person taking the property *or* [~~for~~] a lien thereon for value without actual or constructive notice. The clerk shall be entitled to a fee of $1.25 for filing the lien, and said fee shall become a part of the lien as an added cost of the delinquent subject employer to be paid by him as a part of the amount necessary to release the lien, and in no event shall the Commonwealth, or the department be required to pay same.

(3) In addition and as an alternative to any other remedy, the secretary may enforce the lien by petition in the name of this state to the Franklin Circuit Court, if the ministerial acts necessary to enforce the lien by the sale of the liened property or any part of it are performed by the appropriate officers of the circuit court of the county in which the property is situated under the direction of and reporting to the Franklin Circuit Court. The manner of enforcement shall be the same as that provided for the enforcement of other tax liens.

(4) (a) The secretary may issue a certificate of release of lien upon the furnishing of a corporate surety bond satisfactory to the secretary by such employing unit in the amount of one hundred and twenty-five percent (125%) of the sum of such contributions, interest and penalty, for which lien is claimed, conditioned upon the prompt payment of such contribution, together with interest and penalty thereon, by such employing unit to the department in accordance with the provisions set forth in such bond.

(b) The secretary may issue a certificate of partial release of any part of the property subject to the lien if he finds that the fair market value of that part of such property remaining subject to the lien is at least equal to the amount of all other liens upon such property plus double the amount of the liability for contributions, interest and penalties thereon remaining unsatisfied.

(c) The secretary may issue a certificate of partial release of any part of the property or individual piece of property subject to the lien if he finds that the interest of the Commonwealth in the property to be so released has no value.

Section 198. KRS 341.710 is amended to read as follows:

A worker shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the commissioner finds that with respect to such week:

(1) He is an "exhaustee" as defined in subsection *(6)*[~~(5)~~] of KRS 341.096, and

(2) He has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to workers claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

Section 199. KRS 342.122 is amended to read as follows:

(1) "Adjusted cost" as used in this section and in KRS 42.475 means all compensation, hospital and medical benefits paid thereunder, plus an additional factor of twelve percent (12%) of such total payments, to cover the administrative cost of the employer. However in no event shall "adjusted cost" be less than twenty percent (20%) of the basic insurance premium computed by applying current manual rates for workmen's compensation insurance to the payroll of every employer carrying his own risk and for this purpose each such employer shall annually furnish payroll data to the department of revenue. "Adjusted cost" shall not include amounts paid for injuries occurring prior to March 22, 1962.

(2) In addition to the taxes and assessments imposed by KRS 342.450 and 342.475, a special fund tax at the rate of three-fourths (¾) of one percent (1%) of the amount of premiums received shall be paid by every insurance carrier as defined in KRS 342.445, subject to the credits therein set out, and the department of revenue shall assess against the "adjusted cost" of every employer carrying his own risk a special fund tax computed by taking three-fourths (¾) of one percent (1%) of the "adjusted cost" determined as provided in KRS 342.475. The provisions of KRS 342.450, 342.455, 342.460, 342.465 and 342.470 shall, so far as applicable, also apply to the levy and collection of such additional tax of three-fourths (¾) of one percent (1%) of such premiums of insurance carriers.

(3) All taxes and assessments imposed by subsection (2) of this section shall be paid into the state treasury and shall be credited to the special fund for the board, which fund shall be used only for the payment of awards of compensation made by the board and chargeable against said fund, expenses of legal representation thereof, fees and expenses of the physicians in connection therewith, and shall be withdrawn for that purpose under the supervision of the commissioner of labor.

(4) Any sum remaining in the special fund at the end of any fiscal year shall be set up by the executive department for finance and administration to the credit of such fund for the next ensuing fiscal year.

(5) If the commissioner of labor finds that the special fund tax levied pursuant to this section is insufficient to pay such claims awarded under the special fund provisions, he shall advise the commissioner of revenue in writing of such fact. The commissioner of revenue may then levy additional assessments against all insurance companies writing *workers'* [~~workmen's~~] compensation insurance in Kentucky, including every employer carrying his own risk. The amount of each insurance company's assessment shall be in the proportion that each company's annual *workers'* [~~workmen's~~] compensation premium writings in Kentucky bears to the total of all annual *workers'* [~~workmen's~~] compensation premiums written in Kentucky. Such assessment will be based upon information contained in the insurance company's last filed annual statement with the department of insurance. Such assessments against every employer carrying his own risk will be based upon that proportion which the "adjusted cost" of such own risk carrier bears to the total "adjusted cost" of all such own risk carriers. "Adjusted cost" reports filed with the board in accordance with KRS 342.475 will be the basis of such determination. Such additional assessment against insurance companies and employers carrying their own risk shall be apportioned between the two (2) classes as the total of premiums and the total of "adjusted cost" each bears to the combined total.

(6) Except for a two percent (2%) collection fee allowance, all moneys charged the insured for assessments and taxes under this chapter and KRS Chapter 136 shall be paid into the state treasury and credited to the appropriate fund for which said assessment or tax is charged. In no case shall the moneys turned over be less than ninety-eight percent (98%) of the moneys charged.

(7) The fund heretofore designated as the subsequent claim fund is abolished and there is substituted therefor the special fund as herein set out and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

Section 200. KRS 344.120 is amended to read as follows:

Except as otherwise provided in KRS [~~344.120 to~~] 344.140 *and 344.145*, it is an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort or amusement, as defined in KRS *344.130* [~~344.120 to 344.140~~], on the ground of race, color, religion, or national origin.

Section 201. KRS 350.240 is amended to read as follows:

The department for natural resources and environmental protection may adopt in the manner provided in subsection *(17)* [~~(16)~~] of KRS 224.033 and subsections (5) and (6) of KRS 224.045 reasonable regulations for the reclamation of land disturbed or removed in the mining of clay. Such regulations shall encourage water impoundments and shall follow the standards established in article III of the interstate mining compact. The department shall have the authority to adopt such regulations prior to the effective date of the interstate mining compact and irrespective of whether the state becomes a member or withdraws from membership in the interstate mining compact.

Section 202. KRS 352.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 352.020 to 352.040, subsection (1) of KRS 352.050, KRS 352.060 to 352.090, KRS 352.110 to 352.140 or [~~subsection (1) of~~] KRS 352.190 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(2) Any person who violates any of the provisions of subsection (2) or (3) of KRS 352.050[~~, subsection (2) of KRS 352.190~~] or KRS 352.220 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(3) Any person who violates any of the provisions of KRS 352.100 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(4) Any person who violates any of the provisions of KRS 352.150 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(5) Any person who shall violate any of the provisions of KRS 352.170 or 352.180 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(6) Any person who violates any of the provisions of KRS 352.201 shall be fines not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(7) Any person who violates any of the provisions of KRS 352.210 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000). Any person who violates any regulations validly prescribed by the department pursuant to KRS 352.220, subsection (3) (b) shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(8) Any operator, manager, superintendent, mine foreman, fire boss or equipment operator who violates any of the provisions of KRS 352.230 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(9) Any person who violates any of the provisions of KRS 352.241 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(10) Any person who violates any of the provisions of KRS 352.251 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates any of the provisions of KRS 352.260 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(12) Any person who violates any of the provisions of KRS 352.270 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(13) Any person who violates any of the provisions of KRS 352.320 to 352.380 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(14) Any person who violates any of the provisions of KRS 352.280 to 352.310 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(15) Any person who violates any of the provisions of KRS 352.371 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(16) Any operator, manager, superintendent, mine foreman or employe who violates any of the provisions contained in any mine rules after they have been approved as provided by KRS 352.400 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(17) Any operator, manager, superintendent or mine foreman who violates any of the provisions of KRS 352.410 or 352.420 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(18) Any mine inspector, operator, manager or superintendent who violates any of the provisions of KRS 352.430 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(19) Any operator, manager, superintendent or engineer who violates any of the provisions of KRS 352.450 to 352.480 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(20) Any owner, tenant, company, corporation, manager, engineer mine foreman or employe who violates any of the provisions of KRS 352.490 or 352.500 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(21) Any person who violates any of the provisions of KRS 352.510 fixing the distance from wells within which mining operations may be conducted without the approval of the department, and any person who violates any of the terms of an order of the department allowing mining operations within a lesser distance of any well than that prescribed by law shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than twelve months, or both.

(22) Any inspector of mine weights, operator, superintendent, agent, company weighman or check weighman who violates any of the provisions of KRS 352.520 or 352.530 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(23) Any person, company or corporation that violates any of the provisions of KRS 352.540 or 352.550 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation.

(24) Any operator, manager, superintendent, mine foreman, assistant mine foreman, or whosoever shall be in charge of the person or persons violating any of the above provisions, may be fined in conjunction with the person or persons, an equal amount, and their certificate may be revoked, if it is shown that the violation occurred with their knowledge.

Section 203. KRS 365.320 is amended to read as follows:

(1) Any wholesaler may advertise, offer to sell or sell cigarettes at a price made in good faith to meet the price of a competitor who is rendering the same type of service and is selling the same article at cost to the said competing wholesaler as defined by this KRS 365.260 to 365.380. Any retailer may advertise, offer to sell or sell cigarettes at a price made in good faith to meet the price of a competitor who is selling the same article at cost to the said competing retailer as defined in this KRS 365.260 to 365.380. The price of cigarettes advertised, offered for sale, or sold under the exceptions specified in KRS 365.310 shall not be considered the price of a competitor and shall not be used as a basis for establishing prices below cost, nor shall the price established at a bankrupt sale be considered the price of a competitor within the purview of this section.

(2) In the absence of proof of the actual cost to the said competing wholesaler or to the said competing retailer, as the case may be, such cost may be presumed to be the lowest cost to wholesaler or the lowest cost to retailer, as the case may be, within the same trading area as determined by a cost survey made pursuant to KRS *365.360* [~~365.340~~] (2).

Section 204. KRS 381.837 is amended to read as follows:

If a condominium does not contain any unit which is designed for occupancy by only one family or household, or if the floor area of all those units which are designed for occupancy by only one (1) family or household does not in the aggregate exceed ten percent (10%) of the floor area of all units in the condominium, then the following provisions shall be applicable notwithstanding any other provisions of this chapter:

The master deed may provide:

(1) That to any extent specified in the master deed the common profits shall be distributed among, and the common expenses shall be charged to, the unit owners in proportions other than according to their respective percentages of the undivided interest in the common areas and facilities;

(2) That to any extent specified in the master deed the unit owners shall not be personally liable for sums assessed for their share of common expenses, but such provisions shall not adversely affect any lien for said share;

(3) That the priority provided in KRS 381.883[~~(2)~~] shall not prohibit subordination of a mortgage lien to the lien for common expenses;

(4) A procedure for submitting the disputes arising from the administration of the condominium to arbitration or other impartial determination;

(5) Provisions giving a particular unit owner or owners voting rights with respect to election of directors, trustees or members of a managing board less than, or in excess of, the voting rights which such owner or owners would otherwise have had, and provisions requiring or permitting approval of any matter, or any specified category or categories of matters, by a proportion greater than a majority, which proportion may be as great as one hundred percent (100%);

(6) Terms and conditions differing from those set forth in KRS 381.830 or 381.890 regarding rebuilding made necessary by fire or other casualty loss, the making of improvements and allocation of the costs of such rebuilding or improvements, and the removal of the condominium or portion thereof from the provisions of this chapter; and in such case the terms and conditions of the master deed shall take precedence over the provisions of KRS 381.830 or 381.890 to the extent they are inconsistent.

Section 205. KRS 388.200 is amended to read as follows:

The administrator of veterans affairs, or his successor, is and shall be a party in interest in any proceeding brought under any law of this state for the appointment of a guardian or committee for any minor or mentally incompetent beneficiary or the veterans administration on whose account benefits have been paid or are payable by said veterans administration, and the said administrator or his successor is and shall be an interested party in any court proceeding pertaining to or effecting in any manner the administration of the estate of any such beneficiary on whose account such benefits are payable or whose estate includes assets derived from benefits paid by the veterans administration, its predecessor or successor. Written notice shall be given by certified mail, return receipt requested [~~or by registered mail~~], unless waived in writing, to the office of the veterans administration having jurisdiction over the area in which the court is located, of the time and place for hearing on any petition or pleading or in connection with any proceeding pertaining to or affecting in any manner the administration of the estate of any such beneficiary of the veterans administration. Said notice shall be deposited in the mails not less than fifteen days prior to the date of such hearing or other proceedings.

Section 206. KRS 389.030 is amended to read as follows:

(1) In an equitable action by the owner of a particular estate of freehold in possession, or by a guardian or committee as provided in KRS 389.010, against the owner of the reversion or remainder, though he be an infant or of unsound mind, and against the owner of the particular estate if he be an infant or of unsound mind; or, if the remainder be contingent, against the person, if in being, in whom it would have vested if the contingency had happened before commencement of the action, though he be an infant or of unsound mind, and against the owner of the particular estate if he be an infant or of unsound mind — real property may be sold for investment of the proceeds in other real property.

(2) The court ordering the sale shall, by its commissioner, retain the custody and control of the fund realized by the sale until the same is reinvested in real estate, or in such other property as the funds of persons under disability may be invested in authority of law, and the court shall order the money to be paid, by its commissioner, directly to the person from whom the purchase for reinvestment is made; or the court may authorize payment of the proceeds of sale of land of an infant or *mentally disabled* person [~~of unsound mind~~] to his guardian or committee as provided in subsection (10) of KRS 389.010.

(3) The court may in its discretion authorize the consummation of a private sale, provided the complaint shall set forth the price and the terms thereof; and provided the chancellor finds the terms and price satisfactory. The proceeds shall remain in the custody of the court, as set forth in subsection (2) above until reinvested as provided in subsection (2) above. The deed shall be executed and delivered by the commissioner and if the property is sold on terms, then the note shall be made payable to the commissioner and the vendor's lien securing same shall be retained in the name of the commissioner, who may make releases in whole or in part as directed by the court.

Section 207. KRS 389.030, 1980 Acts Chapter 396, Section 113, effective July 1, 1982, is amended to read as follows:

(1) In an equitable action by the owner of a particular estate of freehold in possession, or by a guardian or conservator as provided in KRS 389.010, against the owner of the reversion or remainder, though he be an infant or mentally disabled, and against the owner of the particular estate if he be an infant or mentally disabled; or, if the remainder be contingent, against the person, if in being, in whom it would have vested if the contingency had happened before commencement of the action, though he be an infant or mentally disabled, and against the owner of the particular estate if he be an infant or mentally disabled — real property may be sold for investment of the proceeds in other real property.

(2) The court ordering the sale shall, by its commissioner, retain the custody and control of the fund realized by the sale until the same is reinvested in real estate, or in such other property as the funds of persons under disability may be invested in authority of law, and the court shall order the money to be paid, by its commissioner, directly to the person from whom the purchase for reinvestment is made; or the court may authorize payment of the proceeds of sale of land of an infant or *mentally disabled* person [~~of unsound mind~~] to his guardian or conservator as provided in subsection (10) of KRS 389.010.

(3) The court may in its discretion authorize the consummation of a private sale, provided the complaint shall set forth the price and the terms thereof; and provided the chancellor finds the terms and price satisfactory. The proceeds shall remain in the custody of the court, as set forth in subsection (2) above until reinvested as provided in subsection (2) above. The deed shall be executed and delivered by the commissioner and if the property is sold on terms, then the note shall be made payable to the commissioner and the vendor's lien securing same shall be retained in the name of the commissioner, who may make releases in whole or in part as directed by the court.

Section 208. KRS 389A.010 is amended to read as follows:

(1) Notwithstanding any other statutory limitation of the jurisdiction of the district court:

(a) Any fiduciary as defined by KRS 386.010, not otherwise possessing a power of sale, may move the district court of the county in which the fiduciary has qualified for an order granting the fiduciary the power to sell or mortgage any real estate or any interest therein possessed by his ward, incompetent, decedent, or trust; and

(b) The district court may enter an order granting the fiduciary the power to sell or mortgage any real estate or any interest therein possessed by the ward, incompetent, decedent or trust.

(2) The motion shall include an adequate description of the property, a summary of the grounds for the motion, and a request that the bond of the fiduciary be increased in an adequate amount in accordance with KRS 395.130.

(3) Unless waived in writing, written notice of the hearing with a copy of the motion shall be given in a manner authorized by the rules of civil procedure to all persons in being who, but for the sale of the property, have a vested or contingent interest therein.

(4) An aggrieved party may institute an adversary proceeding in circuit court pursuant to KRS 24A.120*(2)*[~~(1)(b)~~] in respect to any order affecting the right of the fiduciary to sell or mortgage. Pending the entry of a final order that has become unappealable, neither the fiduciary nor the owner of any vested interest shall make any conveyance or mortgage of the real estate and any attempt to do so shall be null and void.

(5) No proceedings under this section shall be conducted by or before a commissioner of the district court.

Section 209. KRS 394.110 is amended to read as follows:

A will may be deposited by the person making it, or anyone for him, with the *county* [~~district~~] clerk of the county of his residence for safekeeping, upon payment of a fee as provided for in KRS 64.012 to the clerk. The clerk shall receive, keep, and deliver the will according to the directions on a sealed envelope. If there are no such directions, or the party entitled does not apply, the will shall be handed to and opened by the district court, after the death of the testator, and there retained for probate.

Section 210. KRS 395.016 is amended to read as follows:

When notice of hearing of an application for the appointment of an administrator, administrator with will annexed, guardian, or committee is required hereunder, it shall be given by mailing written notice of the time, place and purpose of such hearing at least five days before said hearing. Proof of such notice shall be by certified mail, return receipt requested [~~or by registered mail receipt~~] or by applicant's affidavit that the same was mailed to each of the parties entitled thereto in a sealed envelope, postage prepaid, and the date when posted, which proof shall be filed at the time of hearing. If all parties entitled to notice are under no disability and waive notice in writing, the court may hear such application as if notice had been given. A minor over fourteen years of age may waive notice if present in person at the time of hearing of application for appointment of his guardian; provided, however in any estate where the gross amount involved is less than one thousand dollars the court in its discretion may dispense with the requirements of this section relating to notice.

Section 211. KRS 422.300 is amended to read as follows:

Medical charts or records of any hospital licensed under KRS *216B.105* [~~216.405 to 216.485~~] that are susceptible to photostatic reproduction may be proved as to foundation, identity and authenticity without any preliminary testimony, by use of legible and durable copies, certified in the manner provided herein by the employe of the hospital charged with the responsibility of being custodian of the originals thereof. Said copies may be used in any trial, hearing, deposition or any other judicial or administrative action or proceeding, whether civil or criminal, in lieu of the original charts or records which, however, the hospital shall hold available during the pendency of the action or proceeding for inspection and comparison by the court, tribunal or hearing officer and by the parties and their attorneys of record.

Section 212. KRS 425.012 is amended to read as follows:

(1) Before a writ of possession shall *be issued* [~~issue~~] by the clerk, the person seeking the writ must first make a demand in writing at or after the time the suit is filed, by delivering such demand and a copy of the complaint, motion and summons to the defendant or by sending them to him by registered or certified mail, return receipt requested, to the last known place of residence, at least seven (7) and not more than sixty (60) days before such order is sought. The demand shall contain a statement in substance that the defendant has seven (7) days in which to petition the court for a hearing or in which to pay the amount claimed in the complaint in full, and that unless a hearing is set or the amount paid, a writ of possession will issue. The statement shall identify the court in which the suit has been filed, the grounds therefor, the date of the demand, the amount claimed, and the name and address of the plaintiff and his attorney. An affidavit of the plaintiff or his attorney evidencing compliance with this subsection shall be filed before a writ shall be issued.

(2) The writ of possession shall be issued by the clerk upon compliance with subsection (1) of this section unless the defendant has requested a hearing, in which case a hearing shall be conducted pursuant to KRS 425.031.

Section 213. KRS 425.086 is amended to read as follows:

(1) In any case where the plaintiff has made a motion for a writ of possession under KRS 425.076 the court may in its discretion deny the motion for the writ and issue instead a temporary restraining order under this chapter if it determines that the requirements of subsection (3) of KRS 425.076 are satisfied but that the issuance of the temporary restraining order instead of the writ of possession would be in the interest of justice and equity to the parties, taking into account the effect on the defendant of issuing a writ of possession ex parte, the effect on the plaintiff of issuing the temporary restraining order instead of the writ and other factors that bear on equity and justice under the circumstances of the particular case.

(2) If the court issues a temporary restraining order under this section, the plaintiff's motion for a writ of possession shall be treated as a motion for a writ of possession under KRS 425.011 [~~and the plaintiff shall comply with the requirements of service provided in KRS 425.021~~].

Section 214. KRS 432.570 is amended to read as follows:

(1) It shall be unlawful for any person except a member of a police department or police force or an official with written authorization from the head of a department which regularly maintains a police radio system authorized or licensed by the federal communications commission, to have in his or her possession, or in an automobile or other vehicle, or to equip or install in or on any automobile or other vehicle, any mobile radio set or apparatus capable of either receiving or transmitting radio or other messages or signals within the wave length or channel now or which may hereafter be allocated by the federal communications commission, or its successor, for the purpose of police radios, or which may in any way intercept or interfere with the transmission of radio messages by any police or other peace officers and it shall be unlawful for any car, automobile or other vehicle other than one publicly owned and entitled to an official license plate issued by the state issuing a license for said car, to have, or be equipped with such sets or apparatus even though said car is owned by an officer. Provided, however, the provisions of this section shall not apply to any automobile or other vehicle owned or operated by a member of a sheriff's department authorized by the fiscal court to operate a radio communications system that is licensed by the federal communications commission or other federal agency having the authority to license same.

(2) Any person guilty of violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars ($50.00) and not exceeding five hundred dollars ($500), or imprisonment not exceeding twelve (12) months, or both so fined and imprisoned.

(3) It shall be the duty of any and all peace officers to seize and hold for evidence any and all equipment had or used in violation of the provisions of this section, and, upon conviction of the person having, equipping or using such equipment, it shall be the duty of the trial court to order such equipment or apparatus destroyed, forfeited or escheated to the Commonwealth of Kentucky, and said property may be ordered destroyed, forfeited or escheated as above provided without a conviction of the person charged with violating this section.

(4) Nothing contained in this section shall prohibit the possession of a radio by:

(a) An individual who is a retailer or wholesaler and in the ordinary course of his business offers such radios for sale or resale or by;

(b) A commercial or educational radio or television station, licensed by the federal communications commission, at its place of business or by;

(c) An individual who possesses such a radio, provided it is capable of receiving radio transmissions only and is not capable of sending or transmitting radio messages, at his place of residence; licensed commercial auto towing trucks; newspaper reporters and photographers,[;] peace officers authorized in writing by the head of their law enforcement agency, commonwealth's attorneys and their assistants, county attorneys and their assistants, except that it shall be unlawful to use such radio to facilitate any criminal activity or to avoid apprehension by law enforcement officers. Violation of this section shall, in addition to any other penalty prescribed by law, result in a forfeiture to the local law enforcement agency of such radio.

(5) The secretary of the department of finance is hereby empowered by issuance of a secretary's order to exempt from the prohibitions and penalties of this section the possession and use of any and all radio communication equipment that he finds is necessary to be owned and used by members of the general public and other non-police persons for utilization in the N.O.A.A. weather radio system.

SECTION 215. KRS 224.223 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 211:

No person shall engage in or offer to engage in or carry on the business of servicing or maintaining septic tanks, seepage pits or cesspools within the commonwealth of Kentucky unless duly licensed and bonded as hereinafter provided.

SECTION 216. KRS 224.225 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 211 AND AMENDED TO READ AS FOLLOWS:

Nothing in *Sections 215 to 220 of this Act* [~~KRS 224.223 to 224.237~~] shall be construed to require a business license for:

(1) A property owner to clean his own septic tank, seepage pit or cesspool.

(2) A municipality servicing and maintaining a public sewage treatment facility.

(3) A plumber, duly qualified and licensed under the laws of the state of Kentucky, except that vehicles which are used as defined in *Sections 215 to 220 of this Act* [~~KRS 224.223 to 224.237~~] shall be licensed as provided.

SECTION 217. KRS 224.227 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 211 TO READ AS FOLLOWS:

Each person engaged in such business for the purposes aforesaid shall file an application directly with the commissioner with such information as he may require. The application shall state the nature of the business, the post office address of the applicant, and the post office address at or from which the business is to be continued. If the applicant shall operate a branch or other places of business, the application shall so state. The application shall state any additional information as the commissioner may require. The application to engage in the business as herein defined shall be accompanied by a license fee of twenty-five dollars ($25.00), payable to the bureau for health services. If the commissioner, after such investigation as he deems necessary, is satisfied that the applicant has the qualifications, experience, reputation and equipment to perform the services in a satisfactory manner and not detrimental to the environment or to public health, he shall issue or cause to be issued a license for the said business. The application for such license shall be made to the commissioner prior to March 1 of each year, and shall be accompanied by a surety bond tendered by a company registered in the Commonwealth of Kentucky, to indemnify persons for whom service and maintenance work is performed, if faulty; or with such sureties, form and sufficiency as shall be approved by the commissioner. Such bonds shall be in the amount of one thousand dollars ($1,000) for residents of the state of Kentucky and five thousand dollars ($5,000) for nonresidents. The commissioner shall be the obligee, and the bond shall be for the benefit and purpose to protect all persons damaged by faulty workmanship in the servicing or maintaining of septic tanks, cesspools or seepage pits, and shall guarantee the appearance of the licensee to answer any summons within thirty (30) days of notice to the bonding company of the issuance of such summons. Such bonds shall be conditioned upon the performance of the services in a workmanlike and hygienic manner.

SECTION 218. KRS 224.230 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 211 TO READ AS FOLLOWS:

All trucks or other vehicles used to transport or carry wastes from septic tanks, cesspools or seepage pits shall carry a license by the commissioner for inspection by his representative or any law enforcement agent. The application for such vehicle license shall be made prior to March 1 of each year, and shall state the make, model and year of such vehicle, as well as the capacity of the tank used in the removal of said wastes from septic tanks, cesspools and seepage pits, and also such other information as the commissioner shall require. Each application shall be accompanied by a license fee of ten dollars ($10.00) for each vehicle sought to be licensed, payable to the treasurer of the Commonwealth of Kentucky. If the commissioner, after such investigation as he deems necessary, is satisfied that such truck or vehicle and equipment is *proper and hygienic for said purpose, he shall issue or cause to be issued a license for the use of said vehicle for said purpose. This license is not transferable from one vehicle to another, and all licenses shall expire on the last day of February of each year. In addition to the vehicle license, which shall be carried on the vehicle at all times, there shall be painted on both sides of said vehicle in letters not less than two inches high the words "K.D.E.P. licensed vehicle," and said words shall be followed with vehicle license number.*

SECTION 219. KRS 224.233 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 211 AND AMENDED TO READ AS FOLLOWS:

(1) The tank shall be kept tightly closed in transit to prevent the escape of contents or odors, and the outside of all vehicles and accessory equipment shall be kept clean.

(2) Waste from any septic tank, seepage pit or cesspool may be dumped into any municipal or public sewage treatment system by any licensee under this section at a time and place approved by the municipal or public sewage system owner or designated representative upon payment of a reasonable fee not to exceed the sum of ten dollars ($10.00) per one thousand (1,000) gallon load; Provided it is determined by the department for natural resources and environmental protection with the concurrence of the system owner or representative that such will not disrupt or impair the efficient operation of the treatment plant.

(3) In the absence of such municipal disposal facilities, wastes may be buried on private property in locations over two hundred (200) yards from any residence, public or private place of business, public gathering place or public thoroughfare, subject to written approval of the property owner. Said written approval must be preserved and carried on the vehicle for inspection; all such wastes must be so disposed of, as to create no public nuisance or health hazard. Burial may be required by the department.

(4) Waste removed from septic tanks, seepage pits or cesspools may be buried on the property from which it originates at least seventy-five (75) feet from any water supply and twenty-five (25) feet from any body of water, provided it is covered with at least twelve (12) inches of earth and protected until settled.

(5) Under no conditions shall dumping be permitted into or adjacent to any public or private lake, pond, stream, river or any other body of water, nor shall any vehicle be permitted to pump directly from such body of water into said vehicle for flushing and cleaning the tank or other equipment on the vehicle.

(6) All services shall be conducted in a *responsible* [~~workmanlike~~] manner and the property served left in a sanitary condition.

(7) After such services are rendered, the licensee or his service representative shall furnish the customer with a signed receipt upon payment in full for services, which receipt carries the business name and address, name of the owner of the business and K.D.E.P. vehicle license number as required under *Section 218 of this Act* [~~KRS 224.230~~].

SECTION 220. KRS 224.237 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 211 AND AMENDED TO READ AS FOLLOWS:

All money paid to the state treasurer for licenses and fees required by *Sections 215 to 219 of this Act* [~~KRS 224.223 to 224.237~~] shall be for the sole use of the department and shall be in addition to any moneys appropriated by the general assembly for the use of the department.

SECTION 221. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 215 to 220 of this Act, unless the context requires otherwise:

(1) "Department" means the department for human resources;

(2) "Bureau" means the bureau for health services;

(3) "Commissioner" means the commissioner of the bureau for health services;

(4) "Cesspool" means a cavity in the ground which receives human excrement and domestic wastes to be partially absorbed directly by the surrounding soil;

(5) "Seepage pit" means a dry well, leaching pit or any other cavity in the ground which receives the liquid discharge of a septic tank;

(6) "Septic tank" means a septic toilet, chemical closet and any other watertight enclosure used for storage and decomposition of human excrement and domestic wastes;

(7) "Tank" means any container when placed on a vehicle to carry in transport wastes removed from a septic tank, cesspool, or seepage pit.

SECTION 222. KRS 224.992 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 211 AND AMENDED TO READ AS FOLLOWS:

Any person who shall violate or refuse to comply with any of the provisions of *Sections 215 to 220 of this Act* [~~KRS 224.223 to 224.237~~] shall be guilty of a misdemeanor punishable by a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) and when such violation is of a continuing nature, each day upon which a violation occurs shall be deemed a separate offense.

Section 223. KRS 224.005 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

(1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;

(2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;

(3) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;

(4) [~~"Cesspool" means a cavity in the ground which receives human excrement and domestic wastes to be partially absorbed directly by the surrounding soil;~~

~~(5)~~]"Closure" means the time at which a waste treatment, storage or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;

(5)[~~(6)~~] "Commission" means the environmental quality commission;

(6)[~~(7)~~] "Secretary" means the secretary for natural resources and environmental protection;

(7)[~~(8)~~] "Department" means the department for natural resources and environmental protection;

(8)[~~(9)~~] "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

(9)[~~(10)~~] "District" means an air pollution control district as provided for in KRS chapter 77;

(10)[~~(11)~~] "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;

(11)[~~(12)~~] "Generating" means the act or process of producing wastes except that any person who produces hazardous wastes in amounts not determined to be harmful to public health or the environment by regulation of the department consistent with the federal resource conservation and recovery act and regulations issued pursuant thereto shall not be a generator of hazardous waste or considered to be engaged in the generation of hazardous waste;

(12)[~~(13)~~] "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, copartnership, association, firm, trust, estate, or other entity whatsoever;

(13)[~~(14)~~] "Post-closure monitoring and maintenance" means the routine care, maintenance and monitoring of a solid waste or hazardous waste treatment, storage or disposal facility following closure of the facility;

(14)[~~(15)~~] "Publicly owned treatment works" means any facility for the treatment of pollutants owned by the state, any political subdivision thereof, municipality, or other public entity;

(15)[~~(16)~~] "Recycling" means any process by which wastes are transformed into new products, useful materials, products, or energy;

(16)[~~(17)~~] "Schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with any limitation or standard;

[~~(18) "Seepage pit" means a dry well, leaching pit or any other cavity in the ground which receives the liquid discharge of a septic tank;~~

~~(19) "Septic tank" means a septic toilet, chemical closet and any other watertight enclosure used for storage and decomposition of human excrement and domestic wastes;~~]

(17)[~~(20)~~] "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes or other wastes;

(18)[~~(21)~~] "Termination" means the final actions taken by the department as to a solid waste or hazardous waste treatment, storage or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;

(19)[~~(22)~~] "Waste disposal site or facility" means any place where waste is managed, processed or disposed of by incineration, landfilling or any other method;

(20)[~~(23)~~] "Storage" means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;

[~~(24) "Tank" means any container when placed on a vehicle to carry in transport wastes removed from a septic tank, cesspool or seepage pit;~~]

(21)[~~(25)~~] "Transportation" means any off-site movement of hazardous waste by any mode, and any loading, unloading, or storage incidental thereto;

(22)[~~(26)~~] "Treatment" means any method, technique, or process designed to alter the physical, chemical, or biological character or composition of any pollutant or hazardous waste so as to render it less hazardous, nonhazardous, safer for transport, amenable to recycling, amenable to storage, or reduced in volume;

(23)[~~(27)~~] "Waste" means:

(a) "Hazardous waste" means any discarded material or material to be discarded or substance or combination of such substances to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed; nothing in this chapter shall be construed to apply to any activity or substance which is subject to the federal Atomic Energy Act of 1954 or to agricultural wastes including manures and crop residues, which are returned to the soil as fertilizers or soil conditioners or to pesticides, herbicides or fertilizers or their respective containers when disposed of under label instructions or in accordance with the federal Insecticide, Fungicide, and Rodenticide Act as amended;

(b) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes) and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended (86 stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 stat. 923);

(24)[~~(28)~~] "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;

(25)[~~(29)~~] "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural or other legitimate purposes;

(26)[~~(30)~~] "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing or recovery of any natural resource which may be discharged into water;

(27)[~~(31)~~] "NPDES" means National Pollutant Discharge Elimination System;

(28)[~~(32)~~] "Manifest" means the principal document used in a management control system to trace the movement of hazardous wastes from generation to final disposal;

(29)[~~(33)~~] "Open dump" means any facility or site for the disposal of solid waste which does not meet the criteria for a sanitary landfill under regulations promulgated by the department which shall be consistent with regulations promulgated under section 4004, Resource Conservation and Recovery Act, PL 94-580, and which is not a facility for disposal of hazardous waste;

(30)[~~(34)~~] "Solid waste management" means any and all processes by which solid waste is collected, transported, stored, separated, processed, or disposed in any manner according to an orderly and planned program of a county or multi-county solid waste management area duly approved by the department;

(31)[~~(35)~~] "Solid waste management facility" means any solid waste treatment and handling or disposal facility, interim holding or transfer facility, or volume reduction plant consisting of, but not limited to, structures, incinerators, pulverizers, compactors, graters, shredders, balers, roller grates, heat transferral units, steam and energy generating units and other related facilities which accept and process solid wastes.

Section 224. KRS 138.820 is amended to read as follows:

(1) An excise tax of ten cents (10¢) per pound is hereby levied and shall be paid by the processor to the department upon all contaminated waste materials and all radioactive waste material delivered in the Commonwealth of Kentucky for processing, packaging, storage, disposal, burial or other disposition.

(2) Any person receiving contaminated waste materials or radioactive waste material or both or any person having an interest or right of occupancy or use in real property or improvements and any person owning, operating or maintaining a solid waste disposal site or facility as defined in KRS 224.005[~~(19)~~] upon or in which the same shall be deposited for processing, packaging, storage, disposal, burial or other disposition shall collect from the person delivering such material the tax imposed by this section.

(3) Every processor shall file with the department, on forms prescribed by the department, a monthly tax return. The return shall be made under penalty of perjury and shall contain such information as the department may require.

(4) The monthly tax return shall be accompanied by remittance of the tax then due.

SECTION 225. KRS 64.348 IS REPEALED AND REENACTED AS KRS 64.092.

Compensation of sheriffs and other law enforcement officers or agencies for attending court shall be as follows:

(1) Compensation shall be provided only for the actual time for which the sheriff or other officer is ordered to be physically present in the courtroom or is ordered to be physically present to discharge a duty ordered by the chief circuit judge, chief district judge, or judge of the court of appeals, as appropriate.

(2) Compensation shall not be provided for more than one sheriff or other officer per courtroom unless the need for additional personnel is certified in writing by the chief circuit judge, chief district judge, or judge of the court of appeals, as appropriate and the utilization of additional personnel is approved by the chief justice, or his designee. In the event of an emergency of such nature precluding contacting the chief justice or his designee, the chief circuit judge, chief district judge, or judge of the court of appeals may authorize such assignment of additional personnel for a period not to exceed twenty-four (24) hours.

(3) Where a single sheriff or other law enforcement officer serves more than one court or courtroom during a single day he shall be paid as if he had served only one courtroom during that day. Dual compensation for service during a single day shall not be permitted.

(4) Time, for compensation purposes, shall be computed as the actual time spent in the courtroom pursuant to court direction or order and the actual time spent in other service to the court as directed or ordered by the appropriate judge.

(5) Time spent in court service by a sheriff or other law enforcement officer shall be certified by the judge of the court which the officer attended and by the chief judge of the circuit court, if the service was to the circuit court, or by the chief judge of the district court, if the service was to the district court.

(6) Compensation shall be at the following rates:

(a) For the first three (3) hours of service in a single day; ten dollars ($10);

(b) For service beyond three (3) hours, such additional service shall be compensated at the current federal minimum wage. Compensation for such service shall be pro-rated for the actual number of minutes service within a given hour.

Section 226. KRS 109.011 is amended to read as follows:

The general assembly of the Commonwealth of Kentucky hereby finds, determines and declares, as follows:

(1) That an ever-increasing volume of solid waste within the Commonwealth is being generated as a result of increasing economic and commercial activity, continuing technological progress and changes in methods of manufacturing, packaging and marketing of consumer products, which results in additional solid wastes discarded by the users of such products;

(2) That the continued economic and population growth of the Commonwealth has required increased industrial and commercial expansion and has made necessary the demolition of obsolete structures, the construction of new structures, the provision of highways and other avenues of transportation and the construction and installation of public works which, together with pre-existing commercial, industrial and agricultural operations, have resulted in the generation of further volumes of solid wastes;

(3) That the handling of solid wastes has been primarily carried out through the dumping of such wastes on open soil and in landfills, which in some cases are inimical to the public health, safety and welfare;

(4) That by the enactment by the Congress of the United States of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580), the collection, sanitary disposal and recovery of solid wastes has been determined to be a matter of nationwide importance, recognizing that the management of solid wastes should continue to be primarily the function of state, regional and local agencies; and that pursuant to such federal law, the Commonwealth has taken and will take certain actions in respect to the planning and implementation of solid waste plans within the guidelines of time requirements set forth in such federal law;

(5) That as a result of the conditions described in the foregoing findings, problems of solid waste collection, management and treatment and resource recovery activities in connection therewith have become a matter of state-wide concern necessitating action by the general assembly to (a) enable responsible planning and management agencies to be created to define solid waste management requirements, with all of the foregoing subject to regulation by the department for natural resources and environmental protection, and (b) assist those units of government primarily responsible for the management of solid waste and the acquisition, financing and operation of facilities to dispose of same to fulfill their functions in a responsible and proper manner with primary emphasis on the regionalization of such functions; and

(6) That it is the intent of the general assembly of the Commonwealth of Kentucky that the primary responsibility for adequate solid waste collection, management, treatment, disposal and resource recovery shall rest with counties, or combinations of cities and counties, subject to rules, regulations, criteria and requirements promulgated by the department for natural resources and environmental protection and subject to approval by such department of the implementation of solid waste collection, treatment, disposal, and resource recovery plans, all for the purpose of effectuating the safe and sanitary management, use and handling of

solid waste, the protection of the health, welfare and safety of the citizens and inhabitants of the Commonwealth and for making the most efficient use of all resources for the benefit of the citizens and inhabitants of the Commonwealth.

(7) That the general assembly recognizes that the generation of solid waste is inevitable, but that much of it is unnecessary and should be discouraged; however, where solid waste does exist, it should be considered to the extent possible as a valuable resource, and be made use of wherever and whenever desirable and economically justifiable; therefore, it shall be the policy of the Commonwealth to, above all things, encourage resource conservation and preservation of our natural resources before such waste contributes in a needless fashion to the volumes of solid waste and litter produced by our society, but in dealing with existing solid waste, materials recovery from the solid waste stream is deemed to be the most environmentally sound alternative for handling waste.

(8) It is not the intent of this chapter to prohibit or discourage the participation of the private sector in any aspect of solid waste management. Moreover, it is preferable for solid waste management functions to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in this chapter.

(9) It is the intent of the general assembly that this chapter provide counties with three (3) alternative approaches to the development and implementation of solid waste management plans. With the approval of the department, a single county in conjunction with the cities in that county may function as a solid waste management area as provided in KRS *109.072* [~~109.061~~], or counties may elect to operate as multi-county areas in which they may agree to function pursuant to the terms of a contract as provided in KRS *109.082* [~~109.020~~], or they may elect to operate as a district pursuant to KRS *109.056, 109.115* [~~109.071~~], 109.120, *or* 109.150[~~, or 109.180~~].

Section 227. KRS 109.012 is amended to read as follows:

(1) "Board of directors" or "board" means the governing body of a solid waste management district.

(2) "City" means an existing city of any class.

(3) "County" means the governing body of a county, including urban county governments.

(4) "Department" means the department for natural resources and environmental protection.

(5) "District" means any solid waste management area electing to operate under the provisions of KRS *109.056, 109.115* [~~109.071~~], 109.120, *or* 109.150[~~, or 109.180~~] in conformance with Public Law 94-580.

(6) "Person" means any and all persons, natural or artificial, including any individual, firm or association, any municipal or quasi-municipal corporation or private corporation, any county and any other governmental agency and political subdivision of the Commonwealth or any subdivision or instrumentality of the United States of America.

(7) "Resource recovery" means any process by which components of solid waste are recovered for reuse or transformed into useful materials, products or energy.

(8) "Sanitary landfill" means a facility for the disposal of solid waste consistent with and pursuant to criteria established by the Solid Waste Disposal Act (42 USC 3251) and the Resource Conservation and Recovery Act of 1976, Public Law 94-580.

(9) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(10) "Solid waste management" means any and all processes by which solid waste is collected, transported, stored, separated, processed or disposed of in any manner according to an orderly and planned program of a county or multi-county solid waste management area duly approved by the department.

(11) "Solid waste management area" or "area" means any county or group of counties designated by the department for the purpose of solid waste management.

(12) "Solid waste management facility" means any solid waste treatment and handling or disposal facility, interim holding or transfer facility, or volume reduction plant consisting of, but not limited to, structures, incinerators, pulverizers, compactors, graters, shredders, bailers, roller grates, heat transferral units, steam and energy generating units and other related facilities which accept and process solid waste.

Section 228. KRS 64.485 is amended to read as follows:

(1) The salary for each justice of the Supreme Court, payable out of the state treasury, shall be forty-nine thousand dollars ($49,000) per annum, except for the salary of the chief justice of the Supreme Court which shall be fifty thousand dollars ($50,000) per annum.

(2) The salary of each judge of the Court of Appeals, payable out of the state treasury, shall be forty-seven thousand dollars ($47,000), with the exception of the chief judge of the Court of Appeals who shall receive a salary of forty-seven thousand five hundred dollars ($47,500).

(3) The salary of each circuit judge, payable out of the state treasury, shall be forty-five thousand dollars ($45,000) per annum.

(4) The salary of each district judge, payable out of the state treasury, shall be thirty-eight thousand five hundred dollars ($38,500) per annum.

(5) In order to equate or adjust the compensation of justices and judges of the court of justice with the purchasing power of the dollar, the department of finance shall compute by July 1 of every year, beginning on July 1, 1981, the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year. Upon notification from the department of finance, the annual salary of justices and judges of the court of justice for fiscal year *1981*-1982 shall be set at a rate which includes the adjustment for the increase or decrease in the consumer price index, but in no event shall a justice or judge of the court of justice receive an annual increase exceeding six percent (6%) of salary.

Section 229. KRS 21.510 is amended to read as follows:

For the purposes of KRS 21.350 to 21.510 there is appropriated to the judicial retirement *fund* [~~board~~] all sums received from contributions of members of the retirement system created by KRS 21.350 to 21.510. There further is appropriated, out of the general expenditure fund in the state treasury, the sum of $53,600 for the fiscal year 1960-61 and the sum of $73,600 for the fiscal year 1961-62. The amount of accumulated state employer contributions to the Kentucky employes' retirement system, on account of judges and commissioners of the Court of Appeals having been members of that system, also is hereby transferred to the judicial retirement *fund* [~~board~~]. All sums appropriated or transferred to the judicial retirement *fund* [~~board~~] shall be deemed to constitute a continuing fund which shall not lapse at the end of any fiscal year.

Section 230. KRS 177.595 is amended to read as follows:

The bonds herein provided for shall be direct obligations of the Commonwealth of Kentucky, and the full faith and credit of the Commonwealth hereby is pledged for the payment of said bonds and the interest thereon. In order to provide for the payment of the principal of all of said bonds at their maturity and the interest thereon annually as same shall accrue, there shall be levied and collected in each of the thirty (30) years from January 1, 1957, to January 1, 1987, taxes for the benefit of the state road fund in the form of license, excise taxes and fees relating to registration, operation and use of vehicles on public highways and excise taxes, use and license taxes relating to gasoline and other motor fuels used upon the public highways in Kentucky at rates not less than the rates now imposed by law or so adjusted as to produce for the road fund not less than the amount now derived from all of such taxes. All funds derived from such taxes hereby are appropriated to the extent necessary for the payment of the principal and interest on said bonds. From the funds derived from said taxes in each year, beginning January 1, 1957, there shall be set aside and held inviolable for that purpose, a fund sufficient to pay the principal and interest on said bonds in each year as and when due until all of said bonds and the interest thereon shall have been paid in full. In each year, after setting aside the funds hereinabove provided, the remainder of the funds derived from such taxes may be expended and used for the cost of administration, statutory refunds and adjustment, payment of highway obligations, costs of construction, reconstruction, right-of-ways, maintenance and repair of public highways, tunnels and bridges and the expense of enforcing state traffic and motor vehicle laws, provided that all the funds collected under KRS Chapter 138 and required by KRS 138.220, 138.565(2) and 138.660*(2)*[~~(4)~~] to be set aside by the bureau of highways for the construction, reconstruction and maintenance of rural and secondary roads shall be first set aside and used for such purposes.

Section 231. KRS 186.020 is amended to read as follows:

(1) Before the owner of a motor vehicle, other than a motor vehicle engaged in the transportation of passengers for hire operating under a certificate of convenience and necessity, may operate it or permit its operation upon a highway, the owner shall apply for registration in accordance with regulations issued by the department, except that a person who purchases a motor vehicle, or brings a motor vehicle into the Commonwealth from another state shall make application for registration within five (5) days. The bill of sale or assigned title must be in the motor vehicle during this five-day period. If the owner of a motor vehicle is an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which he resides. If the owner of a motor vehicle does not reside in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which the motor vehicle is principally operated. If the owner of a motor vehicle is other than an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of either such county. The application when presented to the county clerk for registration shall be accompanied by:

(a) A bill of sale and a manufacturer's certificate of origin if the application is for the registration of a new motor vehicle; or

(b) The owner's registration receipt, if the motor vehicle was last registered in this state; or

(c) A bill of sale and the previous registration receipt, if last registered in another state where the law of such state does not require the owner of a motor vehicle to obtain a certificate of title or ownership; or

(d) A certificate of title, if last registered in another state where the law of such state requires the owner of a motor vehicle to obtain a certificate of title or ownership.

(2) (a) After that, the owner of any motor vehicle registered under KRS 186.050(1) shall register his motor vehicle on or before *the date on which* his certificate of registration expires. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the bureau.

(b) After that, the owner of any motor vehicle registered under KRS 186.050(2) shall register his motor vehicle on or before March 1 of each year. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the bureau.

(3) After that, the owner of any commercial vehicle registered under KRS 186.050(3) through (14) shall register his commercial vehicle on or before April 1 of each year. If, before operating such commercial vehicle in this state, the owner registers it at some later date and pays the required fee, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the bureau.

(4) The application and documents presented therewith, including the sheriff's certificate of inspection, shall be affixed to the department of transportation copy of the certificate of title or registration and sent to the department of transportation by the clerk.

Section 232. KRS 189.090 is amended to read as follows:

(1) No owner shall knowingly operate or permit to be operated on a highway a motor vehicle upon which the brakes are defective.

(2) Every motor vehicle, other than a motorcycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle. There shall be two (2) separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two (2) wheels. If the two (2) separate means are connected in any way, they shall be so constructed that failure of any one (1) part of the operating mechanism shall not leave the motor vehicle without *brakes* [~~brake~~] on at least two (2) wheels.

(3) (a) The service brakes upon any motor vehicle or combination of vehicles shall be adequate to stop the vehicle when traveling twenty (20) miles per hour within a distance of thirty (30) feet when upon dry asphalt or concrete pavement surface free from loose material where the grade does not exceed one per cent (1%).

(b) Under the conditions described in subsection (3) (a) the hand brake shall be adequate to stop the vehicle within a distance of fifty-five (55) feet and the hand brake shall be adequate to hold the vehicle stationary on any grade upon which it is operated.

(c) Under the conditions described in subsection (3) (a) the service brakes upon a motor vehicle equipped with two (2)-wheel brakes only shall be adequate to stop the vehicle within a distance of forty (40) feet and the hand brake adequate to stop the vehicle within a distance of fifty-five (55) feet.

(d) All braking distances specified in this section shall apply whether or not the vehicles are loaded to the maximum capacity permitted by law.

(e) All brakes shall be maintained in good working order and shall be so adjusted as to operate *with equal effect* [~~equally practicable~~] with respect to the wheels on opposite sides of the vehicle.

(4) No person shall operate any semitrailer or semitrailer-trailer combination or truck trailer combination or truck semitrailer combination on any highway in this state unless it is equipped with efficient brakes that may be operated by the operator of the truck or tractor to which the semitrailer or semitrailer-trailer is attached.

Section 233. KRS 216.100 is amended to read as follows:

[~~Except where an election has been held under KRS 216.090 and the proposition has been defeated,~~] Any city of the second, third, fourth or fifth class may, by ordinance, borrow money and issue negotiable bonds for the purpose of defraying the cost of purchasing, establishing, erecting and acquiring a municipal hospital and necessary appurtenances thereto. The ordinance shall specify the proposed undertaking, the amount of bonds to be issued, and the maximum rate of interest the bonds are to bear. The ordinance shall further provide that the proposed hospital, with necessary appurtenances thereto, is to be purchased, established, erected or acquired pursuant to the provisions of KRS *216.100* [~~216.080~~] to *216.220* [~~216.240~~].

Section 234. KRS 334.030 is amended to read as follows:

(1) Any person who practices the fitting and sale of hearing aids must present to each buyer of a hearing aid, at the time such buyer assumes any financial obligation with respect to the purchase, and obtain the buyer's signature to a written and dated agreement, offer to purchase, or receipt which shall contain the following information:

(a) Licensee's signature, and printed name and business address, and license number issued to the licensee by the board pursuant to this chapter;

(b) Immediately following the information required by subsection (a), shall be the statement, in all capital letters in no smaller type than the largest used in the body copy portion, that: ANY COMPLAINTS

CONCERNING THE SALE OR SERVICE OF THIS HEARING AID WHICH ARE NOT CORRECTED BY THE HEARING AID DEALER SHOULD BE DIRECTED TO: KENTUCKY BOARD FOR LICENSING[,] HEARING AID DEALERS, COMMONWEALTH OF KENTUCKY, FRANKFORT, KENTUCKY 40601.

(c) Specifications as to the make and model number of the hearing aid furnished, with full terms of sale clearly stated. If a hearing aid which is not new is offered for sale or is sold, that fact shall be clearly and conspicuously disclosed in the oral sales presentation before the buyer assumes any financial obligation with respect to the purchase, and the receipt and the container in which the hearing aid is packaged must be clearly marked as "used", "reconditioned", or "not new", whatever is applicable, with terms of quarantee, if any.

(d) Notice and statement of the purchaser's thirty (30) day right to cancel pursuant to the requirements of KRS 334.210.

(e) Such written agreement, offer to purchase, or receipt shall bear in no smaller type than the largest used in the body copy portion the following: "The purchaser has been advised at the outset of his relationship with the hearing aid dealer that any examination(s) or representation(s) is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefore must not be regarded as medical opinin or advice."

(2) No person who practices the fitting and sale of hearing aids shall visit the home or place of business of a potential buyer for the purpose of soliciting or inducing a sale of a hearing aid without having obtained, prior to any visit, the expressed written consent of such potential buyer to such a visit. Such consent shall clearly and conspicuously state that such potential buyer is aware that the hearing aid dealer may attempt to sell a hearing aid during such visit. The board may promulgate regulations prescribing a particular form for the written consent.

Section 235. The following KRS sections are repealed:

89.670 Board of education not affected by city manager form of government.

138.225 Imposition of additional tax — Implementation and collection.

138.755 Attorney General to confirm federal action affecting gasoline, diesel, or special motor fuel tax, rates — Department to announce any increase.

216.100 Ordinance for bond issue.

242.1294 Statement of proposition submitted in election.

242.1296 Requisites for subsequent election.

273.060 Rights against person injuring property.

304.2-015 Transfer of other agency functions to department.

425.021 Service of pleadings on defendant.

Announcements

The following meetings were announced:

Committee on Rules: On adjournment, Room 316.

Appropriations and Revenue: Hearing cancelled for Tuesday.

Labor and Industry: Tuesday on adjournment, Room 104.

Labor and Industry: Thursday, regular meeting.

Cities: Tuesday, 8:00 a.m., Room 104.

Education: Tuesday, noon, Room 101.

Counties and Special Districts: Tuesday, 8:00 a.m.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, March 9, 1982.

On the roll call the vote was yeas 54-Barrows, Bendl, Boswell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Farrow, Freibert, Fryman, Haering, Hancock, Harper, Head, Hines, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, Lile, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Petty, Priddy, Rapier, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Tobin, Todd, White, Williams, Worthington. Nays 13-Endicott, Ford, Handy, Holbrook, Holloway, LeMaster, Maggard, Overstreet, Pearman, Perkins, Schmidt, Turner, Van Horn.

The motion to adjourn was adopted.

TUESDAY, MARCH 9, 1982

FORTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Curtis R. Nims, International Christian Aid-Perbonum Foundation, Camarillo, Minister of American Baptist Churches, California.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Guenthner.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of March 8, 1982, be dispensed with and the same approved. Agreed.

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 243, SR 20.**

Cities: **SB 264.**

Education: **SR 38**

Health and Welfare: **SB 197, SB 219.**

Transportation: **SB 144, SB 226.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **HB 533.**

Transportation: **HB 362, HB 391, HB 464, HB 568, HB 605.**

Judiciary-Civil: **SB 204, SB 229, SB 222, SB 269.**

Report of Committees

The Committee on Rules reported **HB 311, HB 532, HB 545, HB 50, HB 146, HB 210, HB 467, HB 489, HB 206, HB 559, HB 562, HB 566, SB 56,** and **SB 100** have been posted for passage in Orders of the Day, March 10, 1982.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 508.**

Health and Welfare: **SB 28.**

The Committee on Counties and Special Districts reported **HB 176, HB 264** with Committee Substitute attached thereto, **HB 598** with Committee Substitute attached thereto, **HB 632, HB 706, HB 745, HCR**

46, and **HCR 49** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 176, AN ACT relating to deputy sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 70.030 is amended to read as follows:

(1) The sheriff may appoint his own deputies, and may revoke the appointment at his pleasure, *except as provided in subsection (2) of this section.* Before any deputy executes the duties of his office he shall take the oath required to be taken by the sheriff.

(2) In a county containing an urban-county government, the sheriff may appoint his deputies; however, no deputy sheriff shall be dismissed as a result of a change in the administration of the office of the sheriff. A sheriff may dismiss any deputy for inefficiency, misconduct, insubordination, or violation of law or rules adopted by the sheriff. All rules adopted by the sheriff must be in writing and signed by the sheriff. Copies of such rules must be provided by the sheriff to each deputy sheriff before such rules become effective. Any amendment to such rules must be made in writing, signed by the sheriff, and copies provided to each deputy before such amendment shall become effective.

(3) Any deputy who is aggrieved at his dismissal pursuant to subsection (2) of this section may appeal in writing such action to the fiscal court within thirty (30) days after such action becomes final. Upon filing of an appeal, the county judge/executive shall notify all parties, including the members of the fiscal court, as to the date, place and hour at which a hearing will be held on the appeal. The fiscal court shall have the power to summon and compel attendance of witnesses at such hearing by subpoena issued by the county judge/executive. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any district court judge, on application of the county judge/executive may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the district court. The deputy as well as the sheriff shall have the right to have subpoenaed any witnesses, upon furnishing their names to the county judge/executive. The action and decision of the fiscal court on the appeal shall be reduced to writing and filed with the county clerk. If the fiscal court finds that the deputy has been dismissed without due cause, the fiscal court shall order the deputy to be reinstated to the position from which he had been dismissed, and restored any back pay as well as all rights, privileges, and benefits accorded that position. Any party aggrieved of the action of the fiscal court may appeal such action as a matter of right to the circuit court of the county within thirty (30) days after such action becomes final.

(4) Subsections (2) and (3) of this section notwithstanding, the sheriff in a county containing an urban-county government may appoint a chief deputy, and may revoke the appointment at his pleasure.

(5) Subsections (2) and (3) of this section shall not be construed to be applicable to the appointment and dismissal of special deputies as provided in KRS 70.045.

HB 264, AN ACT relating to roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) The fiscal court in respect to county roads shall establish the maximum gross weight prescribed on said county roads. If in the opinion of the fiscal court a change in maximum weight on a county road is justified, the fiscal court may adjust the weight classification.

(2) In the establishment of the maximum gross weight prescribed on a county road, the fiscal court shall consider the strength, safety and durability of the county roads and ensure that the established maximum gross weight classification shall not result in unreasonable or unusual damage to the roads or bridges located on said county roads.

SECTION 2. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) The fiscal court may prescribe rules and regulations for the issuance by it of special permits for the operation of motor vehicles and housetrailers whose gross weight including load exceeds the limits provided in Section 1 of this Act. Permits may be issued for stated periods, special purposes and unusual

conditions and upon such terms in the interest of public safety and the preservation of county roads. The fiscal court shall require, as a condition to the issuance of the permit, that the applicant pay a reasonable fee, to be fixed by it, and may require that the applicant give bond, with approved surety, to indemnify the county against damage to the roads or bridges resulting from use by the applicant. The operation of motor vehicles and housetrailers in accordance with the terms of the permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the fiscal court may require, in his possession.

(2) No person shall operate any motor vehicle or housetrailer in violation of the terms of this permit.

Section 3. KRS 189.221 is amended to read as follows:

No person shall operate on any *state* highway, except such *state* highways as may be designated by the secretary of transportation under the provisions of subsection (1) of KRS 189.222, any of the following trucks, trailers or vehicles:

(1) Any motor truck, semitrailer, trailer or vehicle which exceeds 11 ½ feet in height or 96 inches in width, including any part of the body or load;

(2) Any motor truck, except a semitrailer truck, which exceeds 26 ½ feet in length, including any part of the body or load;

(3) Any semitrailer truck which exceeds 30 feet in length, including any part of the body or load;

(4) Any truck, semitrailer truck or truck and trailer unit which exceeds 18,000 pounds gross weight, including the load;

(5) Any truck, semitrailer truck or tractor-trailer unit which exceeds a gross weight equal to the sum of 600 pounds per inch of the combined width of the tires upon which such vehicle may be propelled, but in no event more than 18,000 pounds.

Section 4. KRS 189.270 is amended to read as follows:

(1) The bureau may prescribe, by orders of general application, rules and regulations for the issuance by it of permits for the operation of motor vehicles and housetrailers whose gross weight including load, height, width or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the bureau for stated periods, special purposes and unusual conditions, and upon such terms in the interest of public safety and the preservation of the highways as the bureau may, in its discretion, require. The bureau shall require, as a condition to the issuance of the permit, that the applicant pay a reasonable fee, to be fixed by it, and may require that the applicant give bond, with approved surety, to indemnify the state [~~or counties~~] against damage to highways or bridges resulting from use by the applicant. The operation of motor vehicles and housetrailers in accordance with the terms of any such permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the bureau may require, in his possession.

(2) No person shall operate any motor vehicle or housetrailer in violation of the terms of the permit.

Section 5. KRS 179.990 is amended to read as follows:

(1) Any county engineer who fails to comply with the provisions of subsection (3) of KRS 179.040 shall be fined five hundred dollars ($500).

(2) Any person who fails to perform the duties imposed by KRS 179.220 and 179.230 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50.00).

(3) Any county engineer who fails to publish the notices required by KRS 179.230 shall be fined not less than twenty-five dollars ($25.00), nor more than one hundred dollars ($100).

(4) Any person who violates subsection (2) of KRS 179.240 shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00).

(5) Any railroad company that fails to comply with the provisions of KRS 179.290 within the specified time, shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1000) for each failure.

(6) Any county engineer who wilfully fails to comply with the provisions of KRS 179.320 for sixty (60) days after the fiscal court has ordered the guideboards to be erected, shall be fined not more than twenty-five dollars ($25.00).

(7) Any person who violates subsection (4) of KRS 179.330, shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) for each offense.

(8) Any owner of a toll bridge who fails to repair the bridge when ordered to do so under the provisions of KRS 179.360 shall be fined fifty dollars ($50.00).

(9) Any person who violates subsection (4) of KRS 179.370 shall be fined not less than five dollars ($5.00) nor more than twenty-five dollars ($25.00).

(10) Any person who violates subsection (2) of KRS 179.380 shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00).

(11) Any county engineer who violates KRS 179.460 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(12) Any county engineer who fails to perform the duties of his office shall, unless a different penalty is prescribed, be fined not over one hundred dollars ($100).

(13) Any county engineer who fails to cause contractors for county road and bridge work to perform their duties shall be fined not over one hundred dollars ($100).

(14) Any county engineer who fails to prosecute for any penalty provided in KRS Chapters 178 and 179, knowing that the penalty has been incurred, shall be fined twenty-five dollars ($25.00) for each failure to prosecute.

(15) If a fiscal court or county judge/executive wilfully fails to perform any duty required of it by the provisions of this chapter, except KRS 179.230, 179.320 and 179.430, every member of the court concurring in the failure shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) by the circuit court of the county.

(16) All fines imposed by this chapter shall be paid into the county road fund.

(17) No fine imposed by this chapter shall bar an action for damages for breach of contract.

(18) Any person, subdivider, builder, contractor or developer of any construction project who violates subsection (13) of KRS 179.070 shall be fined not less than five hundred dollars nor more than one thousand dollars for each offense.

(19) Any person in violation of the weight provisions established by the fiscal court in Section 1 of this Act or in violation of the permit provision required by Section 2 of this Act shall be fined not less than sixty dollars ($60.00) and not more than five hundred dollars ($500).

The Committee Substitute to **HB 264:**

HB 264, AN ACT relating to roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.221 is amended to read as follows:

No person shall operate on any *state* highway, except such *state* highways as may be designated by the secretary of transportation under the provisions of subsection (1) of KRS 189.222, any of the following trucks, trailers or vehicles:

(1) Any motor truck, semitrailer, trailer or vehicle which exceeds 11 ½ feet in height or 96 inches in width, including any part of the body or load;

(2) Any motor truck, except a semitrailer truck, which exceeds 26 ½ feet in length, including any part of the body or load;

(3) Any semitrailer truck which exceeds 30 feet in length, including any part of the body or load;

(4) Any truck, semitrailer truck or truck and trailer unit which exceeds 18,000 pounds gross weight, including the load;

(5) Any truck, semitrailer truck or tractor-trailer unit which exceeds a gross weight equal to the sum of 600 pounds per inch of the combined width of the tires upon which such vehicle may be propelled, but in no event more than 18,000 pounds.

Section 2. KRS 189.270 is amended to read as follows:

(1) The bureau may prescribe, by orders of general application, rules and regulations for the issuance by it of permits for the operation *on state highways* of motor vehicles and housetrailers whose gross weight including load, height, width or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the bureau for stated periods, special purposes and unusual conditions, and upon such terms in the interest of public safety and the preservation of the highways as the bureau may, in its discretion, require. The bureau shall require, as a condition to the issuance of the permit, that the applicant pay a reasonable fee, to be fixed by it, and may require that the applicant give bond, with approved surety, to indemnify the state [~~or counties~~] against damage to *state* highways or bridges resulting from use by the applicant. The operation of motor vehicles and housetrailers in accordance with the terms of any such permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the bureau may require, in his possession.

(2) No person shall operate any motor vehicle or housetrailer in violation of the terms of the permit.

HB 598, AN ACT relating to subdivision road districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) "Subdivision road district" means a district in a county or counties which has been established for the maintenance of public roads within that district;

(2) "Board" means the board of trustees of a subdivision road district organized under the provisions of this Act;

(3) "Trustees" means the board of trustees of a subdivision road district;

(4) "Salary" means any compensation received for services;

(5) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural purposes into lots of parcels of five (5) acres or more and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

A petition for the establishment of a subdivision road district signed by at least fifty-one percent (51%) of the voters, as determined by the registration books covering the territory, and living within the boundary of the proposed subdivision road district, may be filed in the county clerk's office of the county in which the greater part of the territory is located. The petition shall set out the metes and bounds of the proposed district, the number of voters thereof, and other facts thought proper. Notice of the filing of the petition, the object thereof, and the date set for a hearing thereon shall be given by publication pursuant to KRS Chapter 424, and by notices posted for at least ten (10) days prior to the hearing, one (1) at the courthouse door, and three (3) others at public places within the bounds of the proposed district. On the day provided for in the notice, the county judge/executive shall, if the proper notice has been given and publication made, and no written objection or remonstrance is interposed, enter an order establishing a subdivision road district in accordance with the prayer of the petition, naming it, and describing by boundary thereof by metes and bounds. Objection or remonstrance may be made to the petition by any inhabitant of the proposed district, or any person owning property therein; and if objection or remonstrance is made, the county judge/executive shall hear and determine the same, and enter an order establishing or refusing to establish the district as may seem proper. Any aggrieved person may appeal the order in circuit court to contest the decision of the county judge/executive.

SECTION 3. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) The territorial limits of an established subdivision road district, as established pursuant to this Act may be enlarged or diminished in the following way: The trustees of the district shall file a petition in the county clerk's office of the county in which that district and the territory to be annexed or stricken off, or the greater part thereof, is located, describing the territory to be annexed or stricken and setting out the reasons therefor. Notice of the filing of such petition shall be given by publication and posting in the same manner as provided for in Section 1 of this Act. On the day fixed in the notice, the county judge/executive shall, if the proper notice has been given, and the publication made, and no written objection or remonstrance is interposed enter an order annexing or striking off the territory described in the petition. Fifty-one percent (51%) or more of the freeholders of the territory sought to be annexed or stricken off may, at any time before the date fixed in the notice, remonstrate in writing, filed in the clerk's office, to the action proposed. If such written remonstrance be filed, the clerk shall properly give notice to the trustees of the subdivision road district and the county judge/executive shall hear and determine the same. If upon such hearing, the county judge/executive finds from the evidence that a failure to annex or strike off such territory will materially retard the functioning of the district and materially adversely affect the owners and the inhabitants of the territory sought to be annexed or stricken off, he shall enter an order, granting the annexation or striking off the territory. In the latter event, no new petition to annex or strike off all or any part of the same territory shall be entertained for a period of two (2) years. Any aggrieved person may bring an action in circuit court to contest the decision of the county judge/executive.

(2) The property in any territory annexed to a subdivision road district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the district prior to the date of the annexation of such territory, except such indebtedness as represents balance owing on purchase price of road equipment. The property in any territory stricken off from a subdivision road district by the incorporation of or annexation by a city of this Commonwealth shall not be relieved of liability of such taxes as may be necessary

to pay its proportionate share of the indebtedness incurred while such territory was a part of that district. Territories stricken by action of the county judge/executive under the provisions of subsection (1) of this section shall be relieved of liability for all indebtedness incurred by the subdivision road district.

SECTION 4. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1)(a) Upon creation of a subdivision road district as provided in this Act, the affairs of the district shall be conducted by the board of trustees consisting of seven (7) members, four (4) to be elected by the members of the district as hereinafter set out and three (3) to be appointed by the county judge/executive. Two (2) members of the board of trustees shall be elected by the members of the subdivision road district and shall be members thereof. Two (2) members of the board of trustees shall be property owners who own and reside in the property in the district and shall be elected by such property owners. The county judge/executive of the county in which the greater part of the district is located shall, with approval of the fiscal court, appoint three (3) members of the board of trustees. In counties containing a city of the first class, trustees appointed by the county judge/executive to serve in subdivision road districts shall reside within the boundaries of that county. At the first election held after the district is formed, one (1) member of the district shall be elected to serve on the board of trustees for a period of one (1) year and one (1) for a period of three (3) years and one (1) property owner shall be elected to serve on the board of trustees for a period of two (2) years and one (1) property owner for a period of four (4) years. On the expiration of the respective terms, the successor to each shall have the same qualifications as his predecessor and shall be elected for a term of four (4) years. In the event of a vacancy in the term of an elected trustee, the remaining elected trustees shall elect a trustee to fill the vacancy for the balance of the term. The original appointed members of the board of trustees shall be appointed for terms of one (1), two (2), and three (3) years respectively. In the event of a vacancy in the term of an appointed trustee, the county judge/executive shall appoint a trustee for the remainder of the term.

(b) An appointed trustee may be removed from office as provided by KRS 65.007.

(2) The elective offices of members of the board of trustees shall be filled by an election to be held once each year on a date determined by the county judge/executive. The polls shall be located at the principal voting location in the district. The date, time and place of the election shall be advertised in accordance with KRS 424.120. This notice shall be advertised at least thirty (30) days prior to the election date and shall include the names and addresses of the candidates to be voted on for each position of trustee. The terms of the three (3) trustees appointed by the county judge/executive shall start at the same time as the term of the elected trustees. The terms of the trustees shall begin on the beginning of the fiscal year or calendar year, depending on which basis the subdivision road district is being operated.

(3) Such trustees shall elect from their number a chairman, a secretary and a treasurer, the latter of whom shall give bond in such amount as shall be determined by the county judge/executive of the county in which the greater part of the subdivision road district is located, conditioned upon the faithful discharge of the duties of his office, and the faithful accounting for all funds which may come into his possession as such treasurer. The premiums on such bonds shall be paid out of the funds of the district.

SECTION 5. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) Upon the creation of a subdivision road district as provided in this Act, the trustees of such district are hereby authorized to levy a tax rate upon the property in said district, provided that said property is subject to county tax, and not exceeding ten cents (10¢) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the maintenance of roads within the subdivision district. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(2) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the department of revenue.

(3) Such taxes shall be subject to the same delinquency date, discounts, penalties and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of one percent (1%) of the amount collected by him.

SECTION 6. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

The secretary of the board of trustees shall keep a minute book, appropriately bound and marked, in which the minutes of each meeting of the board shall be kept, together with all resolutions, tax levies, and other important material the board may designate. A copy of all material required to be kept by the secretary shall be on file in the office of the clerk of the county in which the greater part of the subdivision road district lies. The public shall have the right to inspect the book and its contents at all times.

SECTION 7. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) The board may, in its discretion, employ or retain a regularly licensed attorney to advise them on all matters pertaining to their duties and may delegate such authority to said attorney not forbidden by law. Said attorney shall attend all meetings of the board, except executive sessions when the board does not desire his presence, whenever the board shall request him to attend and shall advise the board on all legal matters on which he is requested to give advice.

(2) In addition to the attorney provided for in subsection (1) of this section, the county attorney in the county in which the subdivision road district lies shall advise and represent the board in all matters and on the occasions when the board so requests.

(3) The board may fix the salary or compensation of the attorney provided for in subsection (1) of this section, in their discretion.

SECTION 8. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) At the end of each fiscal year, the board of trustees of subdivision road districts shall employ a certified public accountant to audit the books and records of the district. The certified public accountant selected shall have no personal interest in the financial affairs of the board of trustees or in the financial affairs of the officers or employees of the district.

(2) Immediately upon completion of each audit, the accountant shall prepare a report of his findings and recommendations. Two (2) copies of this report shall be transmitted to the board of trustees and one (1) copy shall be transmitted to each county clerk within the subdivision road district for the purpose of including the audit as part of the public records which shall be open for public inspection. A copy shall be posted for not less than thirty (30) days.

(3) The actual expense of the audit report and the expense of the audit conducted shall be paid from the funds of the subdivision road district.

(4) Subdivision road districts not exercising their taxing authority pursuant to Section 5 of this Act shall be exempt from the provisions of this section.

(5) This section shall not relieve any subdivision road district from complying with the provisions of KRS 424.220.

SECTION 9. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) The board of trustees of a subdivision road district may fix the respective salaries of its members on a per meeting basis not to exceed twenty-five dollars ($25.00) per meeting and not to exceed one (1) meeting per month.

(2) The board shall meet at least once a month at a time and place designated by the board and all meetings, except executive meetings, shall be open to the public.

Committee Substitute to **HB 598:**

HB 598, AN ACT relating to subdivision road districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) Subdivision means a group of residential structures or residential lots in an unincorporated part of the county which is served by roads constructed to provide ingress and egress for the residents. Subdivisions may contain nonresidential property so long as the principal nature of the subdivision is residential.

(2) "Subdivision road district" means a district in a county or counties which has been established for the maintenance of public roads which are not state or county roads within that district.

SECTION 2. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) A subdivision road district may be created for the purpose of maintaining subdivision roads by the procedures set forth in this section.

(2) A petition for the establishment of a subdivision road district signed by at least fifty-one percent (51%) of the voters, as determined by the registration books covering the territory, and living within the boundary of the proposed subdivision road district, may be filed in the county clerk's office of the county in which the greater part of the territory is located. The petition shall set out the metes and bounds of

the proposed district, the number of voters and residences therein, the proposed property tax, not to exceed ten cents (10¢) on each one hundred dollars ($100) valuation as assessed for county taxes, which the district will be empowered to levy, and other facts thought proper. Notice of the filing of the petition, the object thereof, and the date set for a hearing thereon shall be given by publication pursuant to KRS Chapter 424, and by notices posted for at least ten (10) days prior to the hearing, one (1) at the courthouse door, and three (3) others at public places within the bounds of the proposed district. On the day provided for in the notice, the county judge/executive shall, if the proper notice has been given and publication made, and no written objection or remonstrance is interposed, enter an order establishing a subdivision road district in accordance with the prayer of the petition, naming it, and describing the boundary thereof by metes and bounds. Objection or remonstrance may be made to the petition by any inhabitant of the proposed district, or any person owning property therein; and if objection or remonstrance is made, the county judge/executive shall hear and determine the same, and enter an order establishing or refusing to establish the district as may seem proper. Any aggrieved person may appeal the order in circuit court to contest the decision of the county judge/executive.

SECTION 3. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) The territorial limits of an established subdivision road district, as established pursuant to this Act may be enlarged or diminished in the following way: The trustees of the district shall file a petition in the county clerk's office of the county in which that district and the territory to be annexed or stricken off, or the greater part thereof, is located, describing the territory to be annexed or stricken and setting out the reasons therefor. Notice of the filing of such petition shall be given by publication and posting in the same manner as provided for in Section 1 of this Act. On the day fixed in the notice, the county judge/executive shall, if the proper notice has been given, and the publication made, and no written objection or remonstrance is interposed enter an order annexing or striking off the territory described in the petition. Fifty-one percent (51%) or more of the freeholders of the territory sought to be annexed or stricken off may, at any time before the date fixed in the notice, remonstrate in writing, filed in the clerk's office, to the action proposed. If such written remonstrance be filed, the clerk shall properly give notice to the trustees of the subdivision road district and the county judge/executive shall hear and determine the same. If upon such hearing, the county judge/executive finds from the evidence that a failure to annex or strike off such territory will materially retard the functioning of the district and materially adversely affect the owners and the inhabitants of the territory sought to be annexed or stricken off, he shall enter an order, granting the annexation or striking off the territory. In the latter event, no new petition to annex or strike off all or any part of the same territory shall be entertained for a period of two (2) years. Any aggrieved person may bring an action in circuit court to contest the decision of the county judge/executive.

(2) The property in any territory annexed to a subdivision road district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the district prior to the date of the annexation of such territory, except such indebtedness as represents balance owing on purchase price of road equipment.

(3) The property in any territory stricken off from a subdivision road district by the incorporation of or annexation by a city of this Commonwealth shall not be relieved of liability of such taxes as may be necessary to pay its proportionate share of the indebtedness incurred while such territory was a part of that district.

(4) Territories stricken by action of the county judge/executive under the provisions of subsection (1) of this section shall be relieved of liability for all indebtedness incurred by the subdivision road district.

SECTION 4. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1)(a) Upon creation of a subdivision road district as provided in this Act, the affairs of the district shall be conducted by the board of trustees consisting of seven (7) members, four (4) to be elected by the residents of the district as hereinafter set out and three (3) to be appointed by the county judge/executive. Four (4) members of the board of trustees shall be elected by the residents of the subdivision road district and shall be residents and property owners of the district. The county judge/executive of the county in which the greater part of the district is located shall, with approval of the fiscal court, appoint three (3) members of the board of trustees, who shall reside in a county in which the district is located. At the first election held after the district is formed, two (2) residents and property owners of the district shall be elected to serve on the board of trustees for a period of two (2) years and two (2) for a period of four (4) years. On the expiration of the respective terms, the successor to each shall have the same qualifications as his predecessor and shall be elected for a term of four (4) years. In the event of a vacancy in the term of an elected trustee, the remaining elected trustees shall elect a trustee to fill the vacancy for the balance of the term. The original appointed members of the board of trustees shall be appointed for terms of one (1), two (2), and three (3) years respectively; and on the expiration of their respective terms, the successor to each shall have the same qualifications as his predecessor and shall be appointed for a term of four (4) years. In the event of a vacancy in the term of an appointed trustee, the county judge/executive shall appoint a trustee for the remainder of the term.

(2) The elective offices of members of the board of trustees shall be filled by an election to be held once each year on a date determined by the county judge/executive. The polls shall be located at the principal voting location in the district. The date, time and place of the election shall be advertised in accordance with KRS 424.120. This notice shall be advertised at least thirty (30) days prior to the election date and shall include the names and addresses of the candidates to be voted on for each position of trustee. The terms of the three (3) trustees appointed by the county judge/executive shall start at the same time as the term of the elected trustees. The terms of the trustees shall begin on the beginning of the fiscal year or calendar year, depending on which basis the subdivision road district is being operated.

(3) Such trustees shall elect from their number a chairman, a secretary and a treasurer, the latter of whom shall give bond in such amount as shall be determined by the county judge/executive of the county in which the greater part of the subdivision road district is located, conditioned upon the faithful discharge of the duties of his office, and the faithful accounting for all funds which may come into his possession as such treasurer. The premiums on such bonds shall be paid out of the funds of the district.

SECTION 5. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) Upon the creation of a subdivision road district as provided in this Act, the trustees of such district are hereby authorized to levy a tax rate upon the property in said district, provided that said property is subject to county tax, and not exceeding ten cents (10¢) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the maintenance of roads within the subdivision district. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(2) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the department of revenue.

(3) Such taxes shall be subject to the same delinquency date, discounts, penalties and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of four percent (4%) of the amount collected by him.

SECTION 6. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the board of trustees shall keep a minute book, appropriately bound and marked, in which the minutes of each meeting of the board shall be kept, together with all resolutions, tax levies, and other important material the board may designate. A copy of all material required to be kept by the secretary shall be on file in the office of the clerk of the county in which the greater part of the subdivision road district lies. The public shall have the right to inspect the book and its contents at all times.

(2) Subdivision road districts shall be subject to the provisions of KRS 65.007, 65.060 to 65.070 and 65.164 to 65.176.

SECTION 7. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) The board may, in its discretion, employ or retain a regularly licensed attorney to advise them on all matters pertaining to their duties and may delegate such authority to said attorney not forbidden by law.

(2) In addition to the attorney provided for in subsection (1) of this section, the county attorney in the county in which the subdivision road district lies shall advise and represent the board in all matters and on the occasions when the board so requests.

SECTION 8. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

Members of the board of trustees of a subdivision road district shall be reimbursed for the necessary and reasonable expenses which they incur in the performance of their duties.

Section 9. KRS 74.020 is amended to read as follows:

(1) A water district shall be administered by a board of commissioners which shall control and manage the affairs of the district. The term of each commissioner is four (4) years, except as provided in this section:

(a) If a district lies wholly within a single county, or operates as a single-county district as provided in paragraph (c) of this subsection, the board of commissioners shall consist of three (3) residents of the district, or of any incorporated or unincorporated area served by the district in the county in which the district was originally established, who shall be appointed by the county judge/executive with the approval of the fiscal court. *In the event of a merger of water districts as described in KRS 74.361, the county judge/executive may appoint up to five (5) commissioners with the approval of the fiscal court.* Initial appointments shall be for terms of two (2), three (3) and four (4) years, as designated by the court. Commissioners serving under appointments June 16, 1966 shall continue to serve until the end of their respective terms.

(b) Except as provided in paragraph (c) of this subsection, if a district formed in a single county extends its area to include territory in an adjacent county as provided by KRS 74.115, the board of commissioners shall be appointed by the county judges/executive with the approval of the fiscal courts of the concerned counties as follows: in two (2) county districts, three (3) members from the original district and two (2) members from the extended portion of the district; for extensions into three (3) or more counties, the respective county judges/executive, with the approval of the fiscal courts, shall appoint, in addition to the existing membership of the commission, two (2) members from the original one-county district and two (2) members from the newly extended portion of the district. Orders establishing the extension shall provide for the staggering of initial terms in an equitable manner.

(c) If a single-county district administered as provided in paragraph (a) hereof shall acquire an existing water or gas distribution system serving an area which extends beyond the boundaries of the district into another county, or if a district formed in a single county extends its area to include territory in an adjacent county as provided by KRS 74.115, it may operate the distribution system so acquired, or extended, provided the area served outside the county shall be deemed to be a minor portion of the total area served by the district, and provided the fiscal court of the county containing such minor portion of the total area shall have agreed to the acquisition or to the extension of the distribution system. If less than twenty-five percent (25%) of the total assets of the distribution system are located within the county outside of the boundaries of the district, it will be conclusively presumed that said district comes within the terms of this subsection.

(2) A commissioner may be removed from office as provided by KRS 65.007.

(3) Vacancies shall be filled by the same appointing authority which is empowered to make the original appointment. Vacancies resulting from cause other than expiration of the term shall be filled for the unexpired term only.

(4) The commission shall elect a chairman, secretary and treasurer. Each commissioner shall execute a bond, approved by the county judge/executive, conditioned on the faithful performance of the duties of his position.

(5) Each commissioner shall receive an annual salary of not more than thirty-six hundred dollars ($3600), which shall be paid out of the water district fund. In the case of single-county districts, which shall be deemed to include districts described in paragraph (c) of subsection (1) of this section, the salary shall be fixed by the county judges/executive with the approval of the fiscal court; in multi-county districts it shall be fixed by the agreement between the county judges/executive with the approval of their fiscal courts. In fixing and approving the salary of the commissioners, the county judge/executive and the fiscal court shall take into consideration the financial condition of the district, and its ability to meet its obligations as they mature.

HB 632, AN ACT relating to local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The governing body of any county may, in accordance with the provisions of KRS Chapter 68, appropriate county funds to a city within the county to enable the city to perform proper and necessary governmental functions which the city is by statute authorized or required to undertake and which involves the public interest of the citizens of the county.

(2) The governing body of any city may, in accordance with the provisions of KRS Chapter 91A, appropriate city funds to the county in which the city is located to enable the county to perform proper and necessary governmental functions which the county is by statute authorized or required to undertake and which involves the public interest of the citizens of the city.

(3) The ordinance by which funds are appropriated to a county or a city under this section shall specify the permissible uses of such funds.

(4) A county or a city receiving funds under this section shall administer the funds and shall account at least biannually to the grantor on the expenditure of the funds.

HB 706, AN ACT relating to license fees for waste management facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.178 is amended to read as follows:

(1) The fiscal court of any county may license off-site waste management facilities located within the county with the imposition of a license fee at a percentage rate not to exceed two percent (2%) per annum of the gross receipts of such a waste management facility owned or operated by self-employed individuals, partnerships, or corporations. The proceeds from the license fee shall be used to defray the general revenue requirements of the county where the facility is located. For purposes of assessing the licensing fee provided for in this section, off-site waste management shall consist of establishing and operating a facility whose principal purpose is treatment, storage, disposal, or a combination of these activities but shall not include those treatment, storage, or disposal activities which occur incidental to or which are not otherwise distinguishable from a broader manufacturing operation at the site of said operation.

(2) In the case of hazardous waste facilities involving land disposal, the rate levied under this section shall be calculated so as to produce sufficient revenue to compensate the county for any additional costs incurred by it from having a hazardous waste facility located in its jurisdiction, including, but not limited to the loss of ad valorem property tax revenues from the property on which the facility is located, the loss of ad valorem property tax revenues from abutting properties or other affected properties, the cost of providing any additional emergency services, the cost of monitoring air, surface water, ground water to the extent that other monitoring data is not available, and other costs established as being associated with the facility and for which the county is not otherwise compensated.

(3) In the case of a hazardous waste facility involving land disposal, the county may negotiate additional economic incentives with the facility owner.

HB 745, AN ACT relating to the county officials' compensation board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.770 is amended to read as follows:

(1) The county officials' compensation board is hereby created and shall consist of the secretary of the department of finance, the state-local finance officer, the president of each of the state associations of county clerks, county judges/executive, county attorneys, justices of the peace and commissioners, sheriffs, jailers, and coroners, three (3) members of the general assembly appointed by *the governor from a list of possible appointees submitted to him by* the legislative research commission, and two (2) citizens of the Commonwealth appointed by the governor. The legislative members shall be appointed for terms of two (2) years, unless their legislative term expires prior to the expiration of their term on the board, in which case a vacancy shall exist. Citizen members shall be appointed for terms of four (4) years. The terms of the members representing the state associations shall be identical to the term of their office as president of the state association. Vacancies shall be filled for the unexpired portion of any term in the same manner as an original appointment.

(2) The secretary of the department of finance may, by written order filed with the chairman of the board, designate a deputy or other representative in his department to serve in his stead and to perform his duties as a member of the board in his absence. Such designation shall be deemed temporary and shall not affect the merit system or retirement rights of any person so designated. *Other members may designate by proxy another person to serve in his stead. Such proxies shall clearly state the purpose and the length of time such proxies shall be in effect, but any such proxy shall be subject to immediate termination by the person initially authorizing the proxy. All proxies shall be filed with the chairman or secretary of the board.*

(3)[~~(2)~~] No salary or other compensation shall be allowed any member of the board, but each member *or person serving as a proxy* may be reimbursed for actual and necessary expenses incurred in the performance of his official duties.

(4)[~~(3)~~] The board shall select one (1) of its members as chairman and another member as vice-chairman at its first regular meeting in each calendar year. The secretary of the department of finance *or his designee* shall be secretary of the board and *the secretary of the department of finance* [~~his office~~] shall be responsible for administering the clerical functions of the board.

(5)[~~(4)~~] The board *may* [~~shall~~] hold [~~regular~~] meetings [~~at least~~] once every three (3) months. Special meetings may be called by the chairman or by five (5) members of the board by delivery of a written notice to the office or residence of each member of the board at least ten (10) days in advance of the date of any special meeting. *Five (5)* [~~Eight (8)~~] members of the board shall constitute a quorum at any meeting. The board shall establish bylaws for the conduct of its meetings and shall keep an accurate record of all its proceedings.

(6)[~~(5)~~] The board may employ and compensate such personnel and consultants as may be necessary to effectuate the provisions of KRS 64.780.

HCR 46, A CONCURRENT RESOLUTION directing the formation of a special jail study committee to study the Commonwealth's county jail system and to make recommendations for legislative action.

WHEREAS, many county jails in Kentucky fail to meet minimum requirements established by the federal courts; and

WHEREAS, many proposals for legislative reform of the county jail system have been made to the 1982 General Assembly; and

WHEREAS, there is a need for continued study of the county jail system and the collection of data;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to appoint a special jail study committee to study the Commonwealth's county jail system and to make recommendations for future legislative action. The committee shall consist of the executive directors of the Kentucky Association of Counties, the Kentucky Jailers' Association, the County Judges'/Executive Association, the Kentucky Magistrates' and Commissioners' Association and the Kentucky Municipal League and the chairpersons of House and Senate Committees on Counties and Special Districts. A chairperson and vice-chairperson shall be appointed from the membership by the Legislative Research Commission.

Section 2. The committee shall oversee the collection of data on jail prisoner population and characteristics, jail financing and operational costs, jail service areas, jail facility conditions and construction and renovation and other matters related to the county jail system.

Section 3. The committee shall consider and, as necessary, develop legislative proposals and recommendations for equitable funding formulas for jails, a community corrections plan to better integrate jails with the Commonwealth's correctional system in order to reduce prison overcrowding, necessary executive and administrative action on jails, means of expanding programs for jail construction and renovation and implementation of jail standards. The committee shall report its findings and recommendations to the Legislative Research Commission on or before August 1, 1983.

Section 4. It is estimated that the operation and cost of the committee and the provision of staff services will cost approximately $20,000. Such sum is merely an estimate pursuant to House Rule 63. Services and staff support are to be provided by the Legislative Research Commission from the regular Commission budget and are subject to the limitation and other research responsibilities of the Commission.

HCR 49, A CONCURRENT RESOLUTION directing a study of county officials' compensation.

WHEREAS, some county officials are compensated solely out of the fees of their office, while other officials are compensated by salary; and

WHEREAS, the laws of the Commonwealth regarding the compensation of county officials are specific for some officials, and not for others; and

WHEREAS, compensation among certain officials within the same class varies greatly without regard to the magnitude of such officials' duties and responsibilities; and

WHEREAS, it is within the interest of the Commonwealth that a county official's compensation be reasonable and proper not only in regard to the scope of the official's responsibilities, but also in regard to the intensity of such official's responsibilities;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission conduct a study of the compensation of magistrates and county commissioners serving on fiscal courts and county sheriffs. This study shall include, but not be limited to, an examination of the effects of Section 1, Chapter 196, of the 1978 Acts which amended KRS 64.530 regarding the compensation of magistrates serving on the fiscal court of any county; an analysis of the disparities in compensation among officials within the same classification; a review of all other appropriate sections of the Kentucky Revised Statutes and the Constitution of Kentucky respecting the compensation of such officials; an examination of the extent to which methods of determining the compensation of such officials may be made more uniform, reasonable and proper; and a determination of what constitutional barriers, if any, exist which may impede the provision of just and equitable compensation among such officials.

Section 2. This study, along with any recommendations, shall be reported to the interim joint committee on counties and special districts on or before July 1, 1983.

Section 3. Staff services to be utilized in completing this study are estimated to cost $14,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

The Committee on Cities reported **HB 483** with Committee Amendments attached thereto, **HB 538** with Committee Substitute attached thereto, **HB 693, HB 697, HCR 47, SB 52,** and **SB 202** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 483, AN ACT relating to cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.030 is amended to read as follows:

(1) Each city organized and governed under the mayor-council plan shall have a mayor and each shall have a legislative body composed of:

(a) Twelve (12) members in cities of the first class;

(b) Not less than six (6) nor more than twelve (12) members as prescribed by ordinance in cities of the second, third and fourth classes;

(c) Six (6) members in cities of the fifth and sixth classes.

(2) Each city organized and governed under the commission plan or city manager plan shall have a legislative body composed of a mayor and four (4) commissioners.

(3) Before expiration of the terms of the present legislative body members, each city shall take necessary action to be in compliance with this section and in no event shall a city fail to be in compliance within two (2) years from July 15, 1980. Compliance may be compelled by injunction upon petition to the circuit court by any citizen of the Commonwealth.

[~~(4) Any city required to change legislative body size under this section as a result of a federal census, except cities which have staggered terms under provisions of KRS 83A.110, shall take necessary action to be in compliance with this section upon expiration of the terms of existing legislative body members.~~

~~(5) Any city having staggered terms for legislative body members required to increase legislative body size under this section as a result of a federal census shall take necessary action to elect additional legislative body members under provisions of KRS 83A.050. Length of terms for such additional legislative body members shall be determined as provided in KRS 83A.110.~~

~~(6) Any city having staggered terms for legislative body members required to decrease legislative body size under this section as a result of a federal census shall at the expiration of the terms of half of the legislative body next occurring not fill those offices and at the next succeeding regular election the terms for the remaining legislative body members shall be determined under the provisions of KRS 83A.110.~~]

Section 2. KRS 83A.060 is amended to read as follows:

(1) Each ordinance shall embrace but one (1) subject and shall have a title which shall clearly state the subject.

(2) Each ordinance shall be introduced in writing and shall have an enacting clause styled "Be it ordained by the City of ________________________."

(3) No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section indicating any words being added by a single solid line drawn underneath them, and any words being deleted by a single broken line drawn through them.

(4) Except as provided in subsection (7) of this section, no ordinance shall be enacted until it has been read on two (2) separate days. The reading of an ordinance may be satisfied by stating the title and reading a summary rather than the full text.

(5) A city legislative body may adopt the provisions of any local, statewide or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance which identifies the subject matter by title, source and date and incorporates the adopted provisions by reference without setting them out in full, provided a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.

(6) Unless otherwise provided by statute, a majority of a legislative body shall constitute a quorum and a vote of a majority of a quorum shall be sufficient to take action.

(7) In an emergency, upon the affirmative vote of two-thirds (⅔) of the membership, a city legislative body may suspend the requirements of second reading and publication *in order* for an ordinance *to become*

effective by naming and describing the emergency in the ordinance. *Publication requirements of subsection (9) of this section shall be complied with within ten (10) days of the enactment of the emergency ordinance.*

(8) Every action of the city legislative body shall be made a part of the permanent records of the city and on passage of an ordinance the vote of each member of the city legislative body shall be entered on the official record of the meeting. The legislative body shall provide by ordinance for the maintenance and safekeeping of the permanent records of the city. The person assigned this responsibility and the presiding officer shall sign the official record of each meeting. All ordinances adopted in a city shall, at the end of each month, be indexed and maintained in the following manner:

(a) The city budget, appropriations of money and tax levies shall be maintained and indexed so that each fiscal year is kept separate from other years.

(b) All other city ordinances shall be kept in the minute book or an ordinance book in the order adopted and indexed in a composite index or maintained in a code of ordinances.

(9) Except in cities of the first class *and as provided in subsection (7) of this section*, no ordinance shall be effective until published pursuant to KRS Chapter 424. Ordinances except bond ordinances imposing fines, forfeitures, imprisonment, taxes or fees shall be published in full. The publication requirements for all other ordinances *including all bond and zoning ordinances* shall be satisfied by publication in full or in summary as designated by the legislative body. The requirements for summary publication shall be satisfied by publication of the title and a certified summary of the contents prepared by an attorney licensed to practice law in the Commonwealth of Kentucky. Ordinances that include descriptions of real property may include a sketch, drawing, or map, including common landmarks, such as streets or roads in lieu of metes and bounds descriptions.

(10) A city may by ordinance specify additional requirements for adoption of ordinances in greater detail than contained herein, but a city shall not lessen or reduce the substantial requirements of this section or any other statute relating to adoption of ordinances.

(11) Not less than once every five (5) years each city shall cause all ordinances in the composite index or code of ordinances to be examined for consistency with state law and with one another and to be revised to eliminate redundant, obsolete, inconsistent and invalid provisions.

(12) The legislative body may adopt municipal orders. Any order shall be in writing and may be adopted only at an official meeting. Any order may be amended by a subsequent municipal order or ordinance. All orders adopted shall be maintained in an official order book.

(13) In lieu of an ordinance, a municipal order may be used for matters relating to the internal operation and functions of the municipality and to appoint or remove or approve appointment or removal of members of boards, commissions and other agencies over which the city has control.

(14) All ordinances, and orders of the city may be proved by the signature of the city clerk; and when the ordinances are placed in a printed composite index or code of ordinances by authority of the city, the printed copy shall be received in evidence by any state court without further proof of such ordinances.

(15) For anything said in debate, legislative body members shall be entitled to the same immunities and protections allowed to members of the general assembly.

Section 3. KRS 83A.080 is amended to read as follows:

(1) All nonelected city offices shall be created by ordinance which shall specify:

(a) Title of office;

(b) Powers and duties of office;

(c) Oath of office;

(d) Bond, if required; and

(e) Compensation.

(2) All nonelected city officers shall be appointed by the executive authority of the city and, except in cities of the first class, all such appointments shall be with approval of the city legislative body if separate from the executive authority. The officers may be removed by the executive authority at will unless otherwise provided by *statute* [~~law~~].

(3) Each appointed and elected city office existing upon adoption of this chapter shall continue until abolished by ordinance, except that the offices of mayor and legislative body members may not be abolished. No abolition of any elected office shall take effect until expiration of the term of the current holder of the office. No ordinance abolishing any elected office shall be enacted later than two hundred forty (240) days preceding the regular election for that office, except in the event of a vacancy in the office.

(4) No city may create any elected office. Existing elected offices may be continued under provision of subsection (3) of this section, but no existing elected office may be changed.

Section 4. KRS 83A.130 is amended to read as follows:

(1) The form of government provided in this section shall be known as the mayor-council plan and this section shall together with KRS 83A.010 to 83A.120 govern any city declared to be under the mayor-council plan by KRS 83A.020 or which has adopted the mayor-council plan pursuant to KRS 83A.160.

(2) Each city under this section shall be governed by an elected executive who shall be called mayor and by an elected legislative body which shall be called the city council, and by such other officers and employes as may be provided for by statute or city ordinance.

(3) The executive authority of the city shall be vested in and exercised by the mayor. The mayor shall enforce the mayor-council plan, city ordinances and orders and all applicable statutes. He shall supervise all departments of city government and the conduct of all city officers and employes under his jurisdiction and shall require each department to make reports to him required by ordinance or as he deems desirable. The mayor shall maintain liaison with related units of local government respecting interlocal contracting and joint activities. The mayor shall report to the council and to the public on the condition and needs of city government as he finds appropriate or as required by ordinance, but not less than annually. He shall make any recommendations for actions by the council he finds in the public interest.

(4) Subject to disapproval of the council, the mayor shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statute or ordinance. Upon promulgation or upon revision or rescission of the procedures, copies shall be filed with the person responsible for maintaining city records as provided under KRS 83A.060.

(5) The mayor shall preside at meetings of the council. The council may set by ordinance the manner in which one of its number may be selected to preside at meetings of the council in place of the mayor. The mayor may participate in council proceedings, but shall not have a vote, except that he may cast the deciding vote in case of a tie.

(6) All ordinances adopted by the council shall be submitted to the mayor who shall within ten (10) days after submission either approve the ordinance by affixing his signature or disapprove it by returning it to the council together with a statement of his objections. No ordinance shall take effect without the mayor's approval unless he fails to return it to the legislative body within ten (10) days after receiving it or unless the council votes to override the mayor's veto, upon reconsideration of the ordinance not later than the second regular meeting following its return, by the affirmative vote of one (1) more than a majority of the membership.

(7) Any delegation of the mayor's power, duties or responsibilities to subordinate officers and employes and any expression of his official authority to fulfill executive functions shall be made by executive order. Executive orders shall be sequentially numbered by years and shall be kept in a permanent file.

(8) All bonds, notes, contracts and written obligations of the city shall be made and executed by the mayor or his agent designated by executive order.

(9) The mayor shall be the appointing authority with power to appoint and remove all city employes, *including police officers,* except as tenure and terms of employment are protected by statute, ordinance or contract and except for employes of the council.

(10) The mayor shall provide for the orderly continuation of the functions of city government at any time he is unable to attend to the duties of his office by delegating responsibility for any function to be performed in accordance with subsection (7) of this section, provided that *the mayor shall not delegate the responsibility of presiding at meetings of the council and that*[~~,~~] approving ordinances or promulgating administrative procedures may only be delegated to an elected officer. With approval of the council, the mayor may rescind any action taken in his absence under this subsection within thirty (30) days of such action. If for any reason the disability of the mayor to attend to his duties persists for sixty (60) consecutive days, the office of mayor may be declared vacant by a majority vote of the council and the provisions of KRS 83A.040 shall apply.

(11) The legislative authority of the city shall be vested in and exercised by the elected council of the city. The council shall not perform any executive functions except those functions assigned to it by statute. Regular meetings of the council shall be held at least once each month at such times and places as are fixed by ordinance. Special meetings of the council may be called by the mayor or upon written request of a majority of the council. In the call, the mayor or council shall designate the purpose, time and place of the special meeting with sufficient notice for the attendance of council members and for compliance with KRS Chapter 61. At a special meeting no business may be considered other than that set forth in the designation of purpose. The minutes of every meeting shall be signed by the person responsible for maintaining city records provided under KRS 83A.060 and by the officer presiding at the meeting.

(12) The council shall by ordinance establish all appointive offices and the duties and responsibilities of those offices and codes, rules and regulations for the public health, safety and welfare. The council shall by ordinance provide for sufficient revenue to operate city government and shall appropriate the funds of the city in a budget which shall provide for the orderly management of city resources.

(13) The council shall have the right to investigate all activities of city government. The council may require any city officer or employe to prepare and submit to it sworn statements regarding his performance of his official duties. Any statement required by the council to be submitted or any investigation undertaken by the council, if any office, department or agency under the jurisdiction of the mayor is involved, shall not be submitted or undertaken unless and until written notice of the council's action is given to the mayor. The

mayor shall have the right to review any statement before submission to the council and to appear personally or through his designee on behalf of any department, office or agency in the course of any investigation.

Section 5. KRS 83A.140 is amended to read as follows:

(1) The form of government provided in this section shall be known as the commission plan and this section shall together with KRS 83A.010 to 83A.120 govern any city declared to be under the commission plan by KRS 83A.020 or which has adopted the commission plan pursuant to KRS 83A.160.

(2) Each city under this section shall be governed by an elected officer who shall be called mayor and by elected legislative body members who shall be called city commissioners and which together shall be known as the city commission and by such other officers and employes as may be provided for by statute or city ordinance.

(3) All legislative, executive and administrative authority of the city shall be vested in and exercised by the commission. The commission shall enforce the commission plan, ordinances and orders of the city and all applicable statutes. The commission shall maintain liaison with related units of local government respecting interlocal contracting and joint activities. The commission shall supervise all departments of city government and the conduct of all city officers and employes under its jurisdiction and may require each department to make such reports to it as it finds necessary. The commission shall report to the public on the condition and needs of the city government as provided by ordinance, but not less than annually.

(4) The mayor shall preside at all meetings of the commission and may vote in all proceedings. All bonds, notes, contracts and written obligations of the city authorized by ordinance or resolution shall be executed by the mayor on behalf of the city. The commission shall designate one (1) city commissioner to serve as mayor pro-tem. The mayor pro-tem shall act for the mayor whenever the mayor is unable to attend to the duties of his office and he shall then possess all rights, powers and duties of mayor. If the disability of the mayor to attend to his duties continues for sixty (60) consecutive days, the office of mayor may be declared vacant by a majority vote of the commission membership, and the provisions of KRS 83A.040 shall apply.

(5) In carrying out its duty to supervise the departments of city government and the conduct of all city officers and employes under its jurisdiction, the commission may require any city officer or employe to prepare and submit to it sworn statements regarding the performance of his official duties.

(6) All administrative and service functions of the city shall be classified under departments created by ordinance which shall prescribe the functions of the department and the duties and responsibilities of the department head and his employes. The commission shall at its first regular meeting in each year designate the commission member to have superintendence over each department established under this subsection, except the commission may delegate responsibility for overall supervision of any or all departments to a city administrative officer established pursuant to KRS 83A.090.

(7) Regular meetings of the commission shall be held at least once a month at such times and places as are fixed by ordinance. Special meetings may be called by the mayor or *a majority of the* [~~two (2)~~] city commissioners. In the call, the mayor or city commissioners shall designate the purpose, time and place of the special meeting with sufficient notice for the attendance of commission members and for compliance with KRS Chapter 61. At a special meeting no business may be considered other than that set forth in the designation of purpose. The minutes of every meeting shall be signed by the person responsible for maintaining city records provided under KRS 83A.060 and by the officer presiding at the meeting.

(8) The commission shall by ordinance establish all appointive offices and the duties and responsibilities of those offices and codes, rules and regulations for the public health, safety and welfare. The commission shall by ordinance provide for sufficient revenue to operate city government and shall appropriate such funds in a budget which shall provide for the orderly management of the city's resources. The commission shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statute, ordinance or order.

Section 6. KRS 83A.150 is amended to read as follows:

(1) The form of government provided in this section shall be known as the city manager plan and this section shall together with KRS 83A.010 to 83A.120 govern any city declared to be under the city manager plan by KRS 83A.020 or which has adopted the city manager plan pursuant to KRS 83A.160.

(2) Each city under this section shall be governed by an elected officer who shall be called mayor and by elected legislative body members who shall be called city commissioners and which together shall be known as the board of commissioners and by such other officers and employes as may be provided for by statute or city ordinance.

(3) All legislative and executive authority of the city shall be vested in and exercised by the board. The mayor shall preside at all meetings of the board and may vote in all proceedings. The mayor shall be recognized as the head of the city government by the governor for purposes of military law, but shall have no regular administrative duties. The board shall designate one city commissioner to serve as mayor pro-tem. The mayor pro-tem shall act for the mayor whenever the mayor is unable to attend to the duties of his office and he shall then possess all rights, powers and duties of mayor. If the disability of the mayor to attend his

duties continues for sixty (60) consecutive days, the office of mayor may be declared vacant by a majority vote of the board membership and the provisions KRS 83A.040.

(4) Regular meetings of the board shall be held at least once each month at such times and places as are fixed by ordinance. Special meetings of the board may be called by the mayor or upon written request of *a majority of the* [~~two (2)~~] city commissioners. In the call, the mayor or commissioners shall designate the purpose, time and place of the special meeting with sufficient notice for the attendance of board members and for compliance with KRS Chapter 61. At a special meeting no business shall be considered other than that set forth in the designation of purpose. The minutes of every meeting shall be signed by the person responsible for maintaining city records provided under KRS 83A.060 and the officer presiding at the meeting.

(5) The board shall by ordinance establish all appointive offices and the duties and responsibilities of those offices and codes, rules and regulations for the public health, safety and welfare. The board shall by ordinance provide for sufficient revenue to operate city government and shall appropriate the funds of a city budget which shall provide for the orderly management of city resources.

(6) The board may require any city officer or employe to prepare and submit to it sworn statements regarding his performance of his official duties and may otherwise inquire into the conduct of duties of any department, office, or agency of the city.

(7) The board shall in accordance with KRS 83A.080 create the office of city manager and set qualifications for the office, which shall include, but not be limited to professional training or administrative qualifications with special reference to actual experience in or knowledge of accepted practice regarding duties of the office and list duties and responsibilities of the office which shall include, but not be limited to:

(a) Being responsible to the board for the proper administration of all duties imposed upon him by ordinance;

(b) Recommending to the board, subject to any statute, ordinance or contract which relates to the appointment, tenure or removal of any employe, the appointment, and when necessary for the good of the service, the removal of subordinate employes and officers of the city. No officer or employe of the city shall be appointed or removed except through action by the board, except that the city manager may fill vacancies in the classified service pending the appointment by the board and may employ personnel for temporary positions subject to such conditions as may be imposed by the board;

(c) Preparing the budget and submitting it to the board and being responsible for its administration after adoption;

(d) Preparing and submitting to the board as of the end of each fiscal year a complete report on the finances and administrative activities of the city for the preceding year;

(e) Keeping the board advised of the financial condition and future needs of the city and making recommendations as he deems desirable;

(f) Maintaining liaison with related units of local government respecting interlocal contracting and joint activities;

(g) Supervising all departments of city government and the conduct of all city officers and employes under his jurisdiction and requiring each department to make reports to him required by ordinance or as he deems desirable; and

(h) Performing other duties required of city executive authorities by statute or required of him by the board not inconsistent with this section.

(8) The board shall appoint a city manager by a majority vote of all its members. The city manager shall be appointed for an indefinite term and may be removed only by a majority vote of all board members. At least thirty (30) days before such removal shall become effective the board shall by a majority vote of all its members adopt a preliminary resolution stating the reasons for his removal. The city manager may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of the request. After the public hearing, if requested, and after full consideration, the board by majority vote of all its members may adopt a final resolution of removal. By the preliminary resolution the board may suspend the city manager from duty, but shall in any event cause to be paid to him any unpaid balance of his compensation and compensation for the next calendar month following adoption of the preliminary resolution.

(9) The city manager shall be the chief administrative officer and exercise those executive powers and duties delegated to him by ordinance and statute. He shall enforce the city manager plan, city ordinances and all applicable statutes. Subject to approval of the board, the city manager shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statute or ordinance. Any delegation of the city manager's duties or responsibilities to subordinate officers and employes shall be made by municipal order except that all bonds, notes, contracts and written obligations of the city according to ordinance or resolution shall be made and executed by the mayor on behalf of the city.

Section 7. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by law for primary elections generally. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, at least fifty-five (55) days before the primary election, file with the county clerk a petition signed by at least one percent (1%) of the registered voters in the city or twenty (20) voters, whichever is less, in the following form:

"We the undersigned, qualified voters of the City of ______________ request that the name of ______________ be placed on the city ballot as that of an applicant for nomination for the office of ______________ at the primary election to be held in our city on the first Tuesday after the fourth Monday in May, ________. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name	Number	Street
		”

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.

(4) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear upon the primary ballot.

(5) Subsection (4) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, *or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled*. In that case, the applicants for nomination shall thereby be nominated and no primary election shall be held for that office.

(6) Names of applicants for each nomination shall be placed on the city ballot. Above names of applicants for nomination for all city offices shall be printed the words "vote for one", except above names of applicants for nominations for legislative body member in cities nominating legislative body members at-large shall be printed the words "vote for __________ (the number of legislative body members to be elected)." No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(7) Persons qualified to vote at a regular election are qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election is applicable to challenges made at a nonpartisan primary election.

(8) Votes shall be counted as provided in general election laws and the result shall be published as provided in KRS Chapter 424.

(9) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated, *or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.*

(10) At the regular election following a nonpartisan primary election, the names of the successful nominees shall be placed upon the ballot.

(11) The nominee receiving the greater number of votes cast for each city office shall be elected.

(12) General election law prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 8. KRS 91A.030 is amended to read as follows:

(1) Each city shall operate under an annual budget ordinance adopted and administered in accordance with the provisions of this section. Notwithstanding any other provision of law, after July 15, 1980, no city shall expend any moneys from any governmental or proprietary fund, except in accordance with a budget ordinance adopted pursuant to this section.

(2) *Monies* [~~Assets~~] held by a city as a trustee or agent for individuals, private organizations or other governmental units need not be included in the budget ordinance.

(3) If in any fiscal year subsequent to a fiscal year in which a city has adopted a budget ordinance in accordance with this section, no budget ordinance is adopted, the budget ordinance of the previous fiscal year shall have full force and effect as if readopted.

(4) The budget ordinance of a city shall cover one (1) fiscal year, except that any city required to adjust its fiscal year to conform to the fiscal year set out in Section 169 of the Kentucky Constitution may utilize for transition purposes a fiscal year of any length not to exceed eighteen (18) months. Any such adjustment shall be completed not later than two (2) years from July 15, 1980.

(5) Preparation of the budget proposal shall be the responsibility of the executive authority of the city *in cities operating pursuant to KRS 83A.130 or KRS 83A.140 or the city manager in cities operating pursuant to KRS 83A.150.*

(6) The budget proposal shall be prepared in such form and detail as is prescribed by ordinance.

(7) The budget proposal together with a budget message shall be submitted to the legislative body not later than thirty (30) days prior to the beginning of the fiscal year it covers. The budget message shall contain an explanation of the governmental goals fixed by the budget for the coming fiscal year; explain important features of the activities anticipated in the budget; set forth the reasons for stated changes from the previous year in program goals, programs, and appropriation levels; and explain any major changes in fiscal policy.

(8) (a) The legislative body shall adopt a budget ordinance making appropriations for the fiscal year in such sums as the legislative body finds sufficient and proper, whether greater or less than the sums recommended in the budget proposal. The budget ordinance may be in any form that the legislative body finds most efficient in enabling it to make the necessary fiscal policy decisions.

(b) No budget ordinance shall be adopted which provides for appropriations to exceed revenues in any one (1) fiscal year in violation of Section 157 of the Kentucky Constitution.

(9) The full amount estimated to be required for debt service during the budget year shall be appropriated.

(10) The city legislative body may amend the budget ordinance at any time after the ordinance's adoption, so long as the amended ordinance continues to satisfy the requirements of this section.

(11) Administration and implementation of an adopted budget ordinance shall be the responsibility of the executive authority of the city. Such responsibility shall include the preparation and submission to the legislative body of operating statements which shall include budgetary comparisons of each governmental fund for which an annual budget has been adopted. Such reports shall be submitted not less than once every three (3) months in each fiscal year.

(12) To the extent practical, the system utilized in the administration and implementation of the adopted budget ordinance shall be consistent in form with the accounting system called for in KRS 91A.020.

(13) No city agency, or member, director, officer or employe thereof, may bind the city in any way to any extent beyond the amount of money at that time appropriated for the purpose of the agency. All contracts, agreements and obligations, express or implied beyond such existing appropriations are void; nor shall any city officer issue any bond, certificate or warrant for the payment of money by the city in any way to any extent, beyond the unexpended balance of any appropriation made for the purpose.

Section 9. KRS 83A.100 is amended to read as follows:

(1) The legislative body of a city may by ordinance divide the city into the same number of wards as the number of legislative body members. Wards shall be as nearly equal in population as practicable and their boundaries shall be fixed by the ordinance.

(2) The populations of wards shall be reviewed as necessary to insure that populations are as nearly equal as practicable, but in no event shall the populations of wards be reviewed for equalization less often than each regular federal census.

(3) Wards may be abolished by repeal of the ordinance creating them. No creation, alteration or abolition of wards shall occur within two hundred forty (240) days preceding a regular election.

(4) If a city is divided into wards, legislative body members shall be nominated and elected in the following manner:

(a) Members shall be elected in the regular November election at-large but each candidate shall reside in the ward he seeks to represent and shall be elected in such a manner that each ward is equally represented on the legislative body. The ballot shall be arranged to show for which ward each candidate is seeking election and above the names of the candidates shall be printed the words "vote for one candidate in each ward." The candidate receiving the highest number of votes cast in each ward shall be deemed to be elected from such ward.

(b) Persons seeking the nomination of a political party for the office of *legislative body* [~~council~~] member where a primary election is required for such political party, shall be voted upon exclusively by the eligible voters of the ward in which the person resides and seeks to represent.

Section 10. KRS 424.220 is amended to read as follows:

(1) Excepting officers of [~~a city of the first class,~~] a county containing [~~such~~] a city *of the first class*[~~; a public agency of such a city or county, or a joint agency of such a city and county,~~] or [~~of~~] a school district

of [~~such~~] a [~~city or~~] county *containing a city of the first class*, [~~and excepting officers of a city of the second class that is required by law to publish an annual audit of its financial affairs,~~] every public officer of any school district, [~~city,~~] county, or subdivision or district less than a county, *other than a city* whose duty it is to collect, receive, have the custody, control or disbursement of public funds, and every officer of any board or commission of a [~~city,~~] county or district whose duty it is to collect, receive, have the custody, control or disbursement of funds collected from the public in the form of rates, charges or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. The statement shall show the amount of funds collected and received, from what sources received, the amount disbursed, the date of each disbursement, for what purpose expended, and to whom paid, except that only the totals of amounts paid to each individual as salary or commission and public utility bills need to be shown and except that the amount of salaries paid to all teachers shall be shown as a lump sum instructional expenditure for the school district and not by amount paid to individual teachers and the amount of salaries paid to all other employes of the board shall be shown as lump sum expenditures by category, including, but not limited to, administrative, maintenance, transportation, and food service; however the local board of education must have accessible a factual list of individual salaries for public scrutiny and the local board shall furnish by mail a factual list of individual salaries of its employes to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school employes. The officer shall procure and include in or attach to the statement as a part thereof a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement. The officer shall, within sixty (60) days after the close of the fiscal year, cause the statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county. Within thirty (30) days after publication, the officer shall file with the auditor of public accounts a copy of the newspaper containing the statement.

(2) All cities shall publish their annual audits pursuant to the provisions of KRS 91A.040.

Section 11. KRS 83A.040 is amended to read as follows:

(1) A mayor shall be elected by the voters of each city at a regular election. His term of office shall begin on the first Monday of January following his election and shall be for four (4) years and until his successor qualifies. A mayor shall be at least twenty-five (25) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.

(2) If a vacancy occurs in the office of mayor, the legislative body of the city shall fill the vacancy within thirty (30) days.

(3) Each legislative body member shall be elected at-large by the voters of each city at a regular election. His term of office shall begin on the *tenth day* [~~first Monday~~] of January following his election and shall be for two (2) years [~~and until his successor qualifies~~], except as provided by KRS 83A.050. A member shall be at least twenty-one (21) years of age, shall be a qualified voter in the city and shall reside in the city throughout his term of office.

(4) If one (1) or more vacancies on a legislative body occur in a way that one (1) or more members remain seated, the remaining members shall within thirty (30) days fill the vacancies one (1) at a time, giving each new appointee reasonable notice of his selection as will enable him to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies shall be filled as provided in this section.

(5) If for any reason, any vacancy in the office of mayor or the legislative body is not filled within thirty (30) days after it occurs, the governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.

(6) Except in cities of the first class, any elected officer, in case of misconduct, inability, or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the legislative body exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, shall have the right to appeal to the circuit court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the expiration of the term to which originally elected.

Section 12. KRS 61.260 is amended to read as follows:

If any officer of a city of the second *or third* class shall be directly or indirectly interested in any contract with the city, or in any work done by the city, or in furnishing supplies for the city or any of its institutions, or in the sale of any property to or for the city, he shall be guilty of a misdemeanor. Any appointed officer becoming so interested shall be immediately dismissed from office by the mayor. If the mayor believes that an elective officer is so interested, he shall report the facts to the *legislative body* [~~board of aldermen~~], which shall, as soon as practicable, convene to hear and determine the same, and if, by a two-thirds (⅔) vote of the *legislative body* [~~board~~], the officer is found so interested, he shall be immediately dismissed from office.

SECTION 13. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Any city may by ordinance elect to have all city ad valorem taxes including delinquent taxes collected by the sheriff of the county. The election shall be effective only if a copy of the ordinance is delivered to the sheriff as soon as practicable, and a copy of the ordinance levying the taxes to be collected is delivered to the county clerk as soon as practicable. If the city so elects:

(a) The county clerk shall place city ad valorem taxes due on the tax bills of owners of property in the city prepared in accordance with KRS 133.220 and 133.230.

(b) The sheriff shall collect all city ad valorem taxes including delinquent taxes in the same manner as county ad valorem taxes as provided in KRS Chapter 134 and the sheriff shall be compensated in an amount calculated to defray additional costs to the sheriff for the services performed, but such amount shall not exceed the rates provided for tax collection by KRS Chapter 134. All procedures provided by KRS Chapter 134 concerning collection of delinquent taxes by counties shall be applicable.

(2) If a city does not elect to have city ad valorem taxes collected by the sheriff as provided in subsection (1) of this section, city ad valorem taxes shall be due and payable at the same time as state and county ad valorem taxes are due and payable, unless otherwise prescribed by statute. The city shall establish by ordinance procedures for the collection of ad valorem taxes which shall specify the manner of billing, the place for payment, discounts, if any, for early payment, penalties and interest for late payment, and other necessary procedures related to ad valorem tax administration.

(3) In cities proceeding under subsection (2) of this section, ad valorem taxes upon real or personal property shall be delinquent if not paid by the date due and payable by ordinance or statute. A lien superior to all other liens, except a lien for state taxes, whether such liens were acquired before or after the maturity of the taxes referred to in this section, shall exist in favor of the city from the date the taxes are due, for the amount of the taxes, interest and penalties, upon all the real and personal property of the delinquent taxpayer. The city may enforce the lien by action in the name of the city in the circuit court as provided by statute. In that action it may also obtain a personal judgment against the delinquent taxpayer for the tax, penalties, interest and costs of the suit.

SECTION 14. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Each property valuation administrator shall, as soon as completed, deliver to each city in the county a copy of that portion of the assessment records which represents the assessment of property within the city. The property valuation administrator shall be reimbursed for the cost of providing this service by the department of finance.

(2) The assessment dates for the city shall conform to the corresponding dates for the county.

(3) Each city shall use the annual county assessment for property located within the city as the basis for city ad valorem tax levies, unless the city legislative body provides for the assessment of such property by the city through the adoption of an ordinance which shall:

(a) Assign responsibility for property assessments to an office of the city created by ordinance.

(b) Provide for a board of equalization and such procedures as are necessary to meet constitutional requirements for due process in any grievance or remedy sought by city taxpayers.

(c) Provide assessment procedures in such detail as necessary to fully safeguard any city ad valorem tax revenues, meet all constitutional requirements for property valuation, due process and equal protection under the law and to insure orderly administration of the assessment process.

(4) If a city elects to provide by ordinance for the assessment of property for ad valorem tax purposes by the city, appeals from the decisions of the city board of equalization shall be taken in the same manner as appeals from decisions of county boards of equalization.

SECTION 15. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) The legislative body of each city or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance shall file with the commissioner of insurance a copy of all ordinances and amendments thereto which impose any such license fee or tax.

(2) Any license fee or tax imposed by such a city or urban-county government upon any fire insurance company shall be based upon a percentage of the premiums received by the company within the preceding calendar year, for insurance on property located within the corporate limits of the city or urban-county government, less all premiums returned to policyholders. A fire insurance company entering a city or urban-county government during a license year shall at the end thereof promptly pay to such city or urban-county government the full additional tax due on such percentage basis.

(3) Any license fee or tax imposed by such a city or urban-county government upon a life insurance company may be based upon premiums received, and if so based shall be applied to premiums from new policies written within the preceding calendar year upon the lives of persons residing within the corporate limits of such city or urban-county government.

(4) Any license fee or tax imposed by such a city or urban-county government upon any insurance company other than those specified in subsections (2) and (3) shall be based upon a percentage of the premiums received by such company within the preceding calendar year on risks located within the corporate limits of the city or urban-county government on those classes of business which such company is authorized to transact, less all premiums returned to policyholders; provided, however, that any license fee or tax imposed upon premium receipts on a percentage basis shall not include premiums received for insuring employers against liability for personal injuries to their employes, or death caused thereby, under the provisions of the workmen's compensation act.

(5) The department of insurance shall, by regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting such tax; provided, however, that the collection fee shall not be more than thirty percent (30%) of the fee or tax collected and remitted to the city or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection and remittance of the fee or tax and collection fee provided herein, the fees or taxes set out in subsection (1), (2), (3) or (4) of this section, together with the collection fee herein may be rounded off to the nearest dollar amount.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by regulations promulgated by the department of insurance.

(7) Upon written request of the legislative body of any city or urban-county government, at the expense of the requesting city or urban-county government which shall be paid in advance by such city or urban-county government to the department of insurance, the department of insurance shall examine or cause to be examined by contract with qualified auditors the books or records of the insurance companies or agents subject to such fee or tax determine whether the fee or tax is being properly collected and remitted, and the findings of such examination shall be reported to such city or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2), (3) and (4) of this section shall be due at the beginning of the tax year. The city or urban-county government may collect a fee of five dollars ($5) from any company whose fee or tax on the percentage of premium basis is less than five dollars ($5).

SECTION 16. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

A city may not incur indebtedness which constitutes a general obligation of the city and which cannot be paid without exceeding the income and revenue provided for the city for that year except as provided in this section:

(1) The legislative body of the city shall enact a first ordinance proposing the incurrence of the indebtedness. The ordinance shall specify the amount of indebtedness proposed, the purpose and the tax levy necessary to pay the debt service by the indebtedness.

(2) The legislative body shall deliver a copy of the ordinance to the county clerk of the county in which the city is located, who shall place the question on the ballot at the next regular election which occurs at least thirty (30) days after delivery of the copy of the ordinance.

(3) The legislative body in addition to the publication of the ordinance required by KRS 83A.060 shall publish the ordinance a second time pursuant to KRS Chapter 424 at least thirty (30) days prior to the election.

(4) If at the regular election two-thirds (⅔) of the votes cast on the question are in favor of the incurrence of the indebtedness, the legislative body may proceed to incur the debt and issue the bonds therefor. The legislative body shall enact a second ordinance which shall provide for the mode of creating and paying the indebtedness. The ordinance shall provide for the levy of an annual tax sufficient to paying the interest accruing thereon and to amortize the debt within not more than forty (40) years. The annual tax shall be levied and collected at the same time as other taxes, and shall be in addition to all other taxes. The proceeds of the tax shall be accounted for in a separate fund.

(5) The provisions of this section shall not be applicable to indebtedness which is to be paid within a period of less than one (1) year or to indebtedness which does not constitute a general obligation of the city but is payable out of money derived from income and revenue of specific projects.

Section 17. The following KRS sections are repealed:

66.050 City of first or second class, incurring indebtedness beyond income for year — Issuance of bonds.

66.060 City of third class, issuance of bonds.
66.070 City of fourth, fifth or sixth class, incurring indebtedness beyond income for year.
82.092 City officers not to deal in claims against city.
82.255 Purpose.
82.260 Membership.
82.265 Terms — Vacancies.
82.270 Compensation.
82.275 Reports.
82.280 Director — Employes.
84.230 Fire prevention and protection — Safety inspection.
84.270 Franchises and privileges, advertisement before granting.
84.280 Mayor — Election — Term — Qualifications — Ineligible for succeeding term.
84.290 Vacancy in office of mayor — Temporary absence or disability.
84.300 Duties and powers of mayor.
84.320 City clerk and deputy — Appointment — Bond.
84.330 Duties and powers of city clerk and deputy.
84.340 Officers, agents and employes of city — Appointment — Qualifications — Compensation — Duties and powers.
85.120 General powers of common council.
85.125 City of third class may pay public funds to nonprofit hospital in city or county.
85.130 Survey and map of city.
85.140 Public buildings — Public ways and sewers — Promotion and regulation of navigation.
85.150 Regulation of vehicles — Ferries — Sale of food — Amusements.
85.160 Weights and measures — Inspection of commodities — Monopolistic practices.
85.170 Contagious diseases — Quarantine — Paupers — City physician.
85.180 Nuisances — Firearms — Animals.
85.190 Fire protection and prevention — Unsafe buildings and structures.
85.200 Suppression of vice.
85.210 Release of indebtedness or liability to city.
85.220 Licenses issued by common council, when to expire.
85.335 Removal of members of police and fire departments.
89.670 Board of education not affected by city manager form of government.
91.125 Definitions.
91.130 Commissioners of the sinking fund.
91.140 Officers and employes of sinking fund — Powers as peace officers — Recording of names in district court.
91.150 Sinking fund, control and use of — Taxes for.
91.160 Depository for sinking fund— Withdrawals.
91.170 Power of sinking fund commissioners to borrow money.
91.180 Monthly and annual statements of sinking fund.
92.020 Fiscal year for cities other than the first class.
92.200 Commissioners of sinking fund in cities of second class.
92.210 Annual tax for sinking fund purposes.
92.220 Administration and investment of sinking fund.
92.230 Board of sinking fund commissioners in cities of third class.
92.240 Board of equalization in cities of second class.
92.250 Board of supervisors in cities of third class.
92.260 Supervisors of taxes in cities of the fourth class.
92.270 Board of equalization in cities of fifth and sixth classes.
92.285 License tax on insurance companies — Basis — Ordinances to be filed with department of insurance — Collection fee — Examination of books and records — When taxes due — Minimum tax.
92.410 Definitions for purposes of assessment and taxation.
92.420 Assessment date for city taxation.
92.430 Assessment lists and assessment procedure in cities of second class.
92.440 Equalization of assessments in cities of second class.
92.450 Omitted property, action to assess in cities of second class.
92.460 Assessment list and assessment procedure in cities of third class.
92.470 Omitted property or irregular or improper assessment in cities of third class.
92.480 Equalization of assessments in cities of third class.
92.490 Assessment list and assessment procedure in cities of fourth class — Census.
92.500 Assessment in wrong name in cities of fourth class — Failure to give true list of taxable property — Omitted property.

92.510 Equalization of assessments in cities of fourth class.
92.520 Assessment list and assessment procedure in cities of fifth and sixth classes.
92.530 Equalization of assessments in cities of fifth and sixth classes.
92.540 Manner of assessment, levy and collection, how regulated by ordinance in cities of second, fifth and sixth classes.
92.550 City tax records in cities of second class constitute notice — Irregular tax proceedings.
92.560 Tax bills, how made out and delivered in cities of second class.
92.570 Tax bills, how made out and delivered in cities of third class.
92.580 Tax bills, how made out and delivered in cities of fourth class.
92.590 Time and manner of paying taxes in cities of second, third and fourth classes — Discounts, interest and penalties.
92.600 Collection of city taxes from fiduciary or agent in cities of second and fourth classes.
92.610 Collection of taxes from debtor of taxpayer in cities of second class.
92.620 Powers and duties of collector in cities of third class — Credit for delinquent taxes.
92.630 Settlements of collector with city council and board of education in cities of fourth class.
92.637 Map and statement showing taxes due, due date and collector filed with county clerk in fifth and sixth-class cities in county having first-class city.
92.640 Collection of city taxes in cities of fifth and sixth classes.
92.650 Property subject to sale for taxes — Tax liens — Trust estates.
92.660 Distraint and sale of personal property for taxes.
92.670 Levy upon and sale of real property for taxes in cities of second class — Certificates of delinquency.
92.672 Certificates of delinquency — Interest — Evidence.
92.674 Proceedings on certificate of delinquency — Limitations.
92.676 Payment of certificate of delinquency.
92.678 Enforcement of certificate of delinquency.
92.680 Levy upon and sale of real property for taxes in cities of third class.
92.690 Levy upon and sale of real property for taxes in cities of fourth class.
92.700 Enforcement of tax liens in cities of fifth and sixth classes — Effect of tax deed.
92.710 Report of tax sales in cities of second, third and fourth classes — Certificate to purchaser — Notice to owner.
92.710 Report of tax sales in cities of second, third and fourth classes — Certificate to purchaser — Notice to owner. [Effective July 1, 1982]
92.730 Redemption of real property sold for taxes in cities of third class.
92.740 Redemption of real property sold for taxes in cities of fourth class.
92.750 Redemption of property sold for taxes in cities of fifth and sixth classes.
92.760 Conveyance to or vesting of title in purchaser.
92.770 Recovery of taxes by action in cities of second class — Advertising.
92.780 Recovery of taxes by action in cities of third class.
92.790 Recovery of taxes by action in cities of fourth class.
92.800 Remedies for collection of taxes cumulative in cities of second class.
94.284 Issuance of bonds — Use of proceeds of bonds — Disposition of surplus revenue — Bond procedure.
94.560 Sharing of cost by railroads — Maintenance — Reconstruction.
94.825 Contract powers.
95.640 City marshal — Election — Term of office — Abolishment — Cities of third class.
95.650 Qualifications — Succession.
95.660 Office — Settlement of accounts.
95.670 Compensation.
95.680 Duties and powers.
95.690 Deputy marshals — Appointment — Powers.
97.435 City legislative body may create administrative department for administration of public parks and recreational activities in second-class cities.
132.285 Use by city of county assessment allowance for costs — City's power in adopting procedures to county assessment.

Committee Amendment No. 1 to **HB 483**:

Amend printed copy of **HB 483**, page 29, lines 13-26, by deleting them in their entirety; and

on page 30, lines 1 thru 26, by deleting them in their entirety; and on page 31, lines 1 thru 21, by deleting them in their entirety; and

on page 31, line 22, by renumbering "Section 11" to "Section 10" and then renumbering all subsequent sections.

Committee Amendment No. 2 to **HB 483:**

Amend printed copy of **HB 483,** page 25, line 25, after the word "KRS", by inserting "Chapter 83,"

HB 538, AN ACT relating to neighborhood redevelopment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 99A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Neighborhood Redevelopment Act."

SECTION 2. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Local government" means a county, city, or urban county;

(2) "Mortgage" shall mean a first mortgage on real estate, in fee simple, or on a leasehold (a) under a lease for not less than ninety-nine (99) years which is renewable or (b) under a lease having a period of not less than fifty (50) years to run from the date the mortgage was executed; and the term "first mortgage" means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate, together with the credit instruments, if any, secured thereby;

(3) "Mortgagee" means the original lender under a mortgage and his successors and assigns approved by the Kentucky housing corporation;

(4) "Mortgagor" means the original borrower under a mortgage and his successors and assigns;

(5) "Rehabilitation" means the process of returning a structure to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to historical, architectural, and cultural values;

(6) "Rehabilitation loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, made for the purpose of financing:

(a) The rehabilitation of an existing residential building;

(b) The rehabilitation of such a structure and the refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

(c) The rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

(7) "Residential building" means a structure, the primary purpose and use of which is to provide independent living facilities for one (1) or more persons. Such structure may contain either a single dwelling unit or multiple dwelling units.

SECTION 3. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) Any local government may by ordinance establish one (1) or more neighborhood redevelopment zones. Such zones shall be substantially residential in character and shall consist chiefly of residential buildings at least twenty (20) years of age. To be eligible for designation as a neighborhood redevelopment zone the area shall be found by the legislative body to be characterized by:

(a) Deteriorating housing stock;

(b) Abandoned residential buildings or vacant lots where the dwelling has been demolished by fire, vandalism or as an unsafe structure;

(c) Such other characteristics which cause the legislative body of the local government to believe the neighborhood is in a deteriorating economic and physical condition; or

(d) Such detrimental conditions that the effect is to discourage private lenders from making loans for and present or prospective property owners from investing in the purchase and rehabilitation of residential buildings.

(2) The legislative body of the local government may establish a neighborhood redevelopment zone in accordance with subsection (1) of this section either on its own initiative or upon a petition filed with the clerk of the legislative body, signed by the owners or lessees of seventy-five percent (75%) of the assessed value of the property located within the proposed zone.

(3) Prior to the first reading of an ordinance proposing to establish a neighborhood redevelopment zone, the legislative body shall give notice by mail to the last known owner of all real property within the proposed redevelopment zone. The notice shall contain a description of the boundaries of the proposed zone and shall set out a date for a public hearing on the establishment of the zone at which any of the owners, their lessees or any other resident or taxpayer of the local government may appear.

(4) The notice, petition and public hearing requirements for granting property assessment or reassessment moratoriums pursuant to KRS Chapter 99 shall be sufficient to meet the requirements of subsections (2) and (3) of this section.

(5) Once established, a neighborhood redevelopment zone may be dissolved only by ordinance, but in no event sooner than ten (10) years from its establishment.

(6) Upon the effective date of the ordinance establishing the zone all residential property located therein shall be subject to the provisions of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) Prior to or concurrent with the establishment of a neighborhood redevelopment zone, the legislative body of the local government shall adopt by ordinance the Kentucky building code which shall be applicable to all residential buildings within the neighborhood redevelopment zone. The local government shall delegate responsibility for enforcing the Kentucky building code to the department or agency responsible for local enforcement of the state building code, or such other agency or department deemed best qualified to carry out the responsibilities under this Act.

(2) The Kentucky building code may be modified as it applies to existing housing under this chapter.

(a) Upon a written request by the owner of a residential building or his agent to the commissioner of the department of housing, buildings and construction, the commissioner shall evaluate the requested modification in light of the architectural and historical significance of the structure and allow such modifications as are deemed to be safe, and in the public interest of health, safety, and welfare.

(b) The commissioner shall respond in writing within twenty (20) days of the request, and such response shall be binding upon the local enforcement department or agency. Appeals from the advisory opinion of the commissioner may be taken to the board of appeals.

(c) The commissioner shall maintain a central file of all such opinions, making them available upon request, to all interested parties, and using them as precedent for other cases.

(d) The Kentucky department of housing, buildings and construction and the Kentucky state historic preservation office are hereby authorized to establish a joint study effort to identify and recommend changes in the state building code as it applies to existing housing.

(3) The U.S. secretary of the interior's standards of rehabilitation shall apply to the rehabilitation of the exterior of any house listed individually on the national register of historic places or located in an historic district listed on the national register of historic places.

(4) Upon establishment of the zone, the local government shall issue a certificate of occupancy to the occupant of each residential building, or each unit in multi-family residential structure, located within the zone. Such certificate shall be issued in the name of the occupant and shall not be transferable.

(5) Thereafter it shall be unlawful for any person to occupy or for any owner or agent thereof to permit the occupation of any residential building or unit therein, for any purpose until after inspection and a determination that the residential building is in compliance with the Kentucky building code as modified for existing structures pursuant to this section, and a certificate of occupancy has been issued by the local government. The certificate of occupancy shall state that the structure complies with all the provisions of the Kentucky building code, as modified for existing structures pursuant to this section. The owner or his agent shall have an affirmative duty to notify the department or agency given the responsibility for enforcement of the code under this Act and request an inspection prior to changes in occupancy. The department or agency must make the inspection within three (3) working days of the notice and request.

(6) The local government may impose a reasonable fee, not to exceed twenty dollars ($20), for such inspection.

(7) In order to carry out the provisions of this section, the department or agency given the responsibility for enforcement of the Kentucky building code shall be authorized and directed to make inspections to determine whether residential buildings located within the neighborhood redevelopment zone conform to the requirements of the Kentucky building code, as modified.

(8) Whenever the local government determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, notice of such alleged violation shall be given to the person or persons responsible therefor which shall:

(a) Be in writing;

(b) Contain a statement of the reason why it is being issued;

(c) Be served upon the owner or his agent or the occupant as the case may require. Such notice shall be deemed to be properly served upon such owner or agent or on any such occupant if a copy thereof is:

1. *Served upon him personally;*
2. *Sent by regular mail to his last known address;*
3. *Posted in a conspicuous place in or about the dwelling affected by the notice.*

(9) It shall be unlawful for the owner of any residential building upon whom a notice of violation has been served to sell, contract to sell, transfer, mortgage, lease or otherwise dispose of the residential building until the provisions of the notice of violation have been complied with, or until such owner shall first furnish to the grantee, transferee, mortgagee or lessee a true copy of any notice of violation, issued by the local government and shall furnish to the local government a signed and notarized statement from the grantee, transferee, mortgagee or lessee acknowledging the receipt of such notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) *Any local government establishing a neighborhood redevelopment zone shall establish a program for granting property assessment or reassessment moratoriums pursuant to KRS Chapter 99. Any residential building located within the neighborhood redevelopment zone shall be eligible for a property assessment moratorium certificate if such building is repaired, restored, rehabilitated or stabilized in accordance with the provisions of KRS Chapter 99.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky housing corporation is authorized upon application by the mortgagee to insure, as herein provided, any mortgage or rehabilitation loan which is upon a residential property located within a neighborhood redevelopment zone established pursuant to Section 3 of this Act and which is otherwise eligible for insurance as provided by this Act. Such mortgage insurance shall be upon such terms as prescribed by the Kentucky housing corporation.

(2) The insurance shall cover only that portion of the mortgage or rehabilitation loan which exceeds ninety percent (90%) of the appraised value of the residential building and the property on which it is located after rehabilitation.

(3) The Kentucky housing corporation may fix a premium charge for the insurance of mortgages under this section, but such charge shall not exceed three percent (3%) per annum of the amount of principle insured. The first annual premium charge shall be paid by the mortgagee at the time the mortgage is insured.

(4) In any case when the mortgagee under a mortgage insured under this section shall have foreclosed and taken possession of the mortgaged property, the mortgagee shall be entitled to receive the benefits of the insurance.

SECTION 7. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

To be eligible for mortgage insurance under Section 6 of this Act a mortgage shall:

(1) Have been made to, and be held by, a mortgagee approved by the Kentucky housing corporation as responsible and able to service the mortgage;

(2) Involve a principal obligation in an amount which does not exceed, when added to any other outstanding indebtedness of the borrower which is secured by the residential building and the property on which it is located, one hundred twenty-five percent (125%) of the appraised value of the residential building after rehabilitation;

(3) Involve a residential building located within a neighborhood redevelopment zone established pursuant to Section 3 of this Act;

(4) Be an acceptable risk as determined by the Kentucky housing corporation;

(5) Have been otherwise unobtainable without the guarantee provided by the mortgage insurance; and

(6) Comply with such other terms, conditions and restrictions as may be prescribed by the Kentucky housing corporation.

SECTION 8. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a Kentucky housing mortgage insurance fund which shall be used by the Kentucky housing corporation for carrying out the provisions of Sections 6 and 7 of this Act with respect to the insurance of mortgages on residential buildings located within neighborhood redevelopment zones.

(2) The fund shall be credited with such monies as are appropriated by the general assembly thereto, proceeds from the sale of industrial revenue bonds for such purpose by the Kentucky housing corporation, the premium charges paid by mortgagees pursuant to Section 6 of this Act less the costs of administration, and contributions which may be forthcoming from participating local governments.

(3) The Kentucky mortgage insurance fund shall be used solely and only as a reserve for insurance commitments given under the provisions of this Act. At no time may the total insurance commitment made by the Kentucky housing corporation exceed fifteen (15) times the amount in the fund.

SECTION 9. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

The Kentucky housing corporation is specifically authorized to make available single family mortgages under either KRS 198B.040 or 198B.250 to residential buildings located within urban housing redevelopment zones established pursuant to Section 3 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

Any owner or agent therefor who wilfully violates the provisions of Section 4 of this Act shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each day the violation continues, or imprisoned for not more than thirty (30) days.

Section 11. KRS 103.200 is amended to read as follows:

As used in KRS 103.200 to 103.285, "building" or "industrial building" means any land and building or buildings (including office buildings), any facility or other improvement thereon, and all real and personal properties, including operating equipment and machinery deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for the following or any combination thereof:

(1) Any activity, business or industry for the manufacturing, processing or assembling of any commercial product, including agricultural, mining or manufactured products, together with storage, warehousing and distribution facilities in respect thereof;

(2) Any commercial enterprise engaged in selling, providing or handling any financial service to the general public;

(3) Any undertaking involving the construction, reconstruction and use of airports, mass commuting facilities, ship canals, ports or port facilities, docks or wharf facilities or harbor facilities, off-street parking facilities or of railroads, monorails or tramways, railway or airline terminals, cable television, mass communication facilities, and related facilities;

(4) All or any part of any office building or buildings for the use of such tenant or tenants as may be determined or authorized by the city or county issuing bonds, including without limitation, any industrial, commercial, financial or service enterprise or any nonprofit domestic corporation or enterprise now or hereafter organized, whose purpose is the promotion of the economy of the Commonwealth or the health, welfare and safety of the citizens of the Commonwealth;

(5) Any buildings, structures and facilities, including the site thereof and machinery, equipment and furnishings suitable for use as health care or related facilities, including without limitation, hospitals, clinics, nursing homes, research facilities, extended or long-term care facilities, including housing for the aged or the infirm and all buildings, structures and facilities deemed necessary or useful in connection therewith;

(6) Any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including but not limited to classroom, laboratory, housing, administrative, physical educational and medical research and treatment facilities;

(7) Any facilities for any recreation or amusement park, public park or theme park, including specifically facilities for the use of nonprofit entities in making recreational and cultural benefits available to the public;

(8) Any commercial facilities constructed primarily for making wholesale or retail sales to the general public, if such facilities constitute new construction or substantial reconstruction;

(9) Any medical office building whether or not contiguous with or related to a hospital or health care facility;

(10) Any facilities involving manufacturing and service industries which process raw agricultural products, including timber, provide value added functions, or supply ingredients used for production of basic agricultural crops and products;

(11) Any facilities incident to the development of industrial sites, including land costs and the costs of site improvements thereon, such as grading, streets, drainage, storm and sanitary sewers, and other facilities and structures incidental to the use of such site or sites for industrial or commercial use;

(12) Any facilities for the furnishing of water if available on reasonable demand to members of the general public;

(13) Any facilities for the extraction, production, grading, separating, washing, drying, preparing, sorting, loading and distribution of mineral resources, together with related facilities;

(14) Any convention or trade show facilities, together with all related and subordinate facilities necessary to the development and proper utilization thereof;

(15) Any facilities designed and constructed to be used as hotels and/or motels, together with all related and subordinate facilities necessary to the operation thereof, including site preparation and similar facilities;

(16) Any activity designed for the preservation of residential neighborhoods, provided that such activity *is either approved by* [~~receives approval of~~] the Kentucky Heritage Commission and insures the preservation of not fewer than *four (4)* [~~thirty (30)~~] family units, *or is designed to encourage the rehabilitation of residential buildings located in a neighborhood redevelopment zone established by a local government pursuant to Section 3 of this Act.*

Committee Substitute to **HB 538:**

HB 538, AN ACT relating to neighborhood redevelopment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 99A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Neighborhood Redevelopment Act."

SECTION 2. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Local government" means a county, city, or urban county;

(2) "Mortgage" shall mean a first mortgage on real estate, in fee simple, or on a leasehold (a) under a lease for not less than ninety-nine (99) years which is renewable or (b) under a lease having a period of not less than fifty (50) years to run from the date the mortgage was executed; and the term "first mortgage" means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate, together with the credit instruments, if any, secured thereby;

(3) "Mortgage Insurance Fund" means the fund created pursuant to Section 8 of this Act;

(4) "Mortgage Insurance Fund Administrator" means the Kentucky Housing Corporation;

(5) "Mortgagee" means the original lender under a mortgage and his successors and assigns approved by the Mortgage Insurance Fund Administrator;

(6) "Mortgagor" means the original borrower under a mortgage and his successors and assigns;

(7) "Rehabilitation" means the process of returning a structure to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to historical, architectural, and cultural values;

(8) "Rehabilitation loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, made for the purpose of financing:

(a) The rehabilitation of an existing residential building;

(b) The rehabilitation of such a structure and the refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

(c) The rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

(9) "Residential building" means a structure, the primary purpose and use of which is to provide independent living facilities for one (1) or more persons. Such structure may contain either a single dwelling unit or multiple dwelling units.

SECTION 3. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) Any local government may by ordinance establish one (1) or more neighborhood redevelopment zones. Such zones shall be substantially residential in character and shall consist chiefly of residential buildings at least twenty-five (25) years of age. To be eligible for designation as a neighborhood redevelopment zone the area shall be found by the legislative body to be characterized by:

(a) Deteriorating housing stock;

(b) Abandoned residential buildings or vacant lots where the dwelling has been demolished by fire, vandalism or as an unsafe structure;

(c) Such other characteristics which cause the legislative body of the local government to believe the neighborhood is in a deteriorating economic and physical condition; or

(d) Such detrimental conditions that the effect is to discourage private lenders from making loans for and present or prospective property owners from investing in the purchase and rehabilitation of residential buildings.

(2) The legislative body of the local government may establish a neighborhood redevelopment zone in accordance with subsection (1) of this section either on its own initiative or upon a petition filed with the clerk of the legislative body, signed by the owners or lessees of seventy-five percent (75%) of the assessed value of the property located within the proposed zone.

(3) Prior to the first reading of an ordinance proposing to establish a neighborhood redevelopment zone, the legislative body shall give notice by mail to the last known owner of all real property within the proposed redevelopment zone. The notice shall contain a description of the boundaries of the proposed zone and shall set out a date for a public hearing on the establishment of the zone at which any of the owners, their lessees or any other resident or taxpayer of the local government may appear.

(4) The notice, petition and public hearing requirements for granting property assessment or reassessment moratoriums pursuant to KRS Chapter 99 shall be sufficient to meet the requirements of subsections (2) and (3) of this section.

(5) Once established, a neighborhood redevelopment zone may be dissolved only by ordinance, but in no event sooner than ten (10) years from its establishment.

(6) Upon the effective date of the ordinance establishing the zone all residential property located therein shall be subject to the provisions of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) Prior to or concurrent with the establishment of a neighborhood redevelopment zone, the legislative body of the local government shall adopt by ordinance the BOCA Basic Property Maintenance Code as drafted by the Building Officials and Codes Administrators International, and the Kentucky building code which shall be applicable to all residential buildings within the neighborhood redevelopment zone. The local government shall delegate responsibility for enforcement to the agency responsible for local enforcement of the state building code, or such other agency deemed best qualified to carry out the responsibilities under this Act.

(2) The Kentucky building code may be modified as it applies to the rehabilitation of existing housing under this chapter.

(a) If a submitted plan for rehabilitation of a residential building is not approved by the local enforcement agency, the owner or his agent may, in writing, request the department of housing, buildings and construction to evaluate the requested modification in light of the architectural and historical significance of the structure and allow such modifications as are deemed to be safe, and in the public interest of health, safety, and welfare. The department may impose a reasonable fee for the evaluation of a requested modification.

(b) The department shall respond in writing within twenty (20) working days of the request, and such response shall be binding upon the local enforcement agency. Appeals from the advisory opinion of the department may be taken to the board of appeals.

(c) The department shall maintain a central file of all such opinions, making them available upon request, to all interested parties, and using them as precedent for other cases.

(d) The Kentucky department of housing, buildings and construction and the Kentucky state historic preservation office are hereby authorized to establish a joint study effort to identify and recommend changes in the state building code as it applies to the rehabilitation of existing housing.

(3) The U.S. secretary of the interior's standards of rehabilitation shall apply to the rehabilitation of the exterior of any house listed individually on the national register of historic places or located in an historic district listed on the national register of historic places.

(4) Upon establishment of the zone, the local government shall issue a certificate of occupancy to the occupant of each residential building, or each unit in multi-family residential structures, located within the zone. Such certificate shall be issued in the name of the occupant and shall not be transferable.

(5) Thereafter it shall be unlawful for any person to occupy or for any owner or agent thereof to permit the occupation of any residential building or unit therein, for any purpose until after inspection and a determination that the residential building is in compliance with the BOCA Basic Property Maintenance Code or Kentucky building code as modified for existing structures pursuant to this section, and a certificate of occupancy has been issued by the local government. The certificate of occupancy shall state that the structure complies with all the provisions of the BOCA Basic Property Maintenance Code or the Kentucky building code, as modified for existing structures pursuant to this section. The owner or his agent shall have an affirmative duty to notify the agency given the responsibility for enforcement of the BOCA Basic Property Maintenance Code or the Code under this Act and request an inspection prior to changes in occupancy. The agency must make the inspection within three (3) working days of the notice and request.

(6) The local government may impose a reasonable fee, not to exceed twenty dollars ($20), for such inspection.

SECTION 5. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) *Any local government establishing a neighborhood redevelopment zone shall establish a program for granting property assessment or reassessment moratoriums pursuant to KRS Chapter 99. Any residential building located within the neighborhood redevelopment zone shall be eligible for a property assessment moratorium certificate if such building is repaired, restored, rehabilitated or stabilized in accordance with the provisions of KRS Chapter 99.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) The Mortgage Insurance Fund Administrator is authorized upon application by the mortgagee to insure, as herein provided, any mortgage or rehabilitation loan which is upon a residential property located within a neighborhood redevelopment zone established pursuant to Section 3 of this Act and which is otherwise eligible for insurance as provided by this Act. Such mortgage insurance shall be upon such terms as prescribed by the Mortgage Insurance Fund Administrator.

(2) The insurance shall cover only that portion of the mortgage or rehabilitation loan which exceeds ninety percent (90%) of the appraised value of the residential building and the property on which it is located after rehabilitation.

(3) The Mortgage Insurance Fund Administrator may fix a premium charge for the insurance of mortgages under this section, but such charge shall not exceed three percent (3%) per annum of the amount of principle insured. The first annual premium charge shall be paid by the mortgagor at the time the mortgage is insured.

(4) In any case when the mortgagee under a mortgage insured under this section shall have foreclosed and taken possession of the mortgaged property, the mortgagee shall be entitled to receive the benefits of the insurance.

SECTION 7. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

To be eligible for mortgage insurance under Section 6 of this Act a mortgage shall:

(1) Have been made to, and be held by, a mortgagee approved by the Mortgage Insurance Fund Administrator as responsible and able to service the mortgage;

(2) Involve a principal obligation in an amount which does not exceed, when added to any other outstanding indebtedness of the borrower which is secured by the residential building and the property on which it is located, one hundred twenty-five percent (125%) of the appraised value of the residential building after rehabilitation;

(3) Involve a residential building located within a neighborhood redevelopment zone established pursuant to Section 3 of this Act;

(4) Be an acceptable risk as determined by the Mortgage Insurance Fund Administrator;

(5) Have been otherwise unobtainable without the guarantee provided by the mortgage insurance; and

(6) Comply with such other terms, conditions and restrictions as may be prescribed by the Mortgage Insurance Fund Administrator.

SECTION 8. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a Mortgage Insurance Fund which shall be used by the Mortgage Insurance Fund Administrator for carrying out the provisions of Sections 6 and 7 of this Act with respect to the insurance of mortgages on residential buildings located within neighborhood redevelopment zones.

(2) The fund shall be credited with such monies as are appropriated by the general assembly thereto, the premium charges paid by mortgagees pursuant to Section 6 of this Act less the costs of administration, and contributions from participating local governments.

(3) The Mortgage Insurance Fund shall be used solely and only as a reserve for insurance commitments given under the provisions of this Act. At no time may the total insurance commitment made by the Mortgage Insurance Fund Administrator exceed fifteen (15) times the amount in the fund.

SECTION 9. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

Any owner or agent therefor who wilfully violates the provisions of Section 4 of this Act shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) for each day the violation continues, or imprisoned for not more than ninety (90) days.

Section 10. KRS 103.200 is amended to read as follows:

As used in KRS 103.200 to 103.285, "building" or "industrial building" means any land and building or buildings (including office buildings), any facility or other improvement thereon, and all real and personal properties, including operating equipment and machinery deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for the following or any combination thereof:

(1) Any activity, business or industry for the manufacturing, processing or assembling of any commercial product, including agricultural, mining or manufactured products, together with storage, warehousing and distribution facilities in respect thereof;

(2) Any commercial enterprise engaged in selling, providing or handling any financial service to the general public;

(3) Any undertaking involving the construction, reconstruction and use of airports, mass commuting facilities, ship canals, ports or port facilities, docks or wharf facilities or harbor facilities, off-street parking

facilities or of railroads, monorails or tramways, railway or airline terminals, cable television, mass communication facilities, and related facilities;

(4) All or any part of any office building or buildings for the use of such tenant or tenants as may be determined or authorized by the city or county issuing bonds, including without limitation, any industrial, commercial, financial or service enterprise or any nonprofit domestic corporation or enterprise now or hereafter organized, whose purpose is the promotion of the economy of the Commonwealth or the health, welfare and safety of the citizens of the Commonwealth;

(5) Any buildings, structures and facilities, including the site thereof and machinery, equipment and furnishings suitable for use as health care or related facilities, including without limitation, hospitals, clinics, nursing homes, research facilities, extended or long-term care facilities, including housing for the aged or the infirm and all buildings, structures and facilities deemed necessary or useful in connection therewith;

(6) Any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including but not limited to classroom, laboratory, housing, administrative, physical educational and medical research and treatment facilities;

(7) Any facilities for any recreation or amusement park, public park or theme park, including specifically facilities for the use of nonprofit entities in making recreational and cultural benefits available to the public;

(8) Any commercial facilities constructed primarily for making wholesale or retail sales to the general public, if such facilities constitute new construction or substantial reconstruction;

(9) Any medical office building whether or not contiguous with or related to a hospital or health care facility;

(10) Any facilities involving manufacturing and service industries which process raw agricultural products, including timber, provide value added functions, or supply ingredients used for production of basic agricultural crops and products;

(11) Any facilities incident to the development of industrial sites, including land costs and the costs of site improvements thereon, such as grading, streets, drainage, storm and sanitary sewers, and other facilities and structures incidental to the use of such site or sites for industrial or commercial use;

(12) Any facilities for the furnishing of water if available on reasonable demand to members of the general public;

(13) Any facilities for the extraction, production, grading, separating, washing, drying, preparing, sorting, loading and distribution of mineral resources, together with related facilities;

(14) Any convention or trade show facilities, together with all related and subordinate facilities necessary to the development and proper utilization thereof;

(15) Any facilities designed and constructed to be used as hotels and/or motels, together with all related and subordinate facilities necessary to the operation thereof, including site preparation and similar facilities;

(16) Any activity designed for the preservation of residential neighborhoods, provided that such activity *is either approved by* [~~receives approval of~~] the Kentucky Heritage Commission and insures the preservation of not fewer than *four (4)* [~~thirty (30)~~] family units, *or is designed to encourage the rehabilitation of residential buildings located in a neighborhood redevelopment zone established by a local government pursuant to Section 3 of this Act.*

HB 693, AN ACT relating to sanitary sewers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.882 is amended to read as follows:

(1) Proposals for the construction of the project shall be solicited upon the basis of submission of sealed, competitive bids after advertisement by publication pursuant to KRS Chapter 424, following adoption of the ordinance of determination and expiration of the permissive litigation period, or alternatively, the conclusion of litigation in a manner favorable to the project.

(2) After all costs of the project have been determined upon the basis of the construction bidding, the costs shall be apportioned among the owners of benefited property pursuant to the method of assessment previously determined in the ordinance of initiation and the ordinance of determination. However, in determining the apportionment of individual costs for purposes of affording to the owners of benefited property the privilege of paying the assessment levies in full on a lump sum basis, the urban-county government shall exclude amounts required for the creation of the debt service reserve fund, capitalized interest costs, and any bond discount which the government may allow in connection with the sale of bonds to provide funds for the costs of construction not paid initially by the owners of benefited properties on a lump sum basis.

(3) The owners of benefited property shall be notified in writing of the exact amount levied against their individual properties, which amount may, at the option of each owner, be paid in full on a lump sum basis within thirty (30) days. Such owners shall be notified that in the event *they exercise the option to pay in full on a lump sum basis and in the event any refund of lump sum payments or of interest earned on lump sum payments is subsequently made, it shall be paid to the owners of the benefited properties for which lump sum payments have been made as determined at the date the appropriate ordinance under either KRS 67A.894 or subsection (5) of this section is adopted* [~~the costs of construction of the project exceed lump sum payments and bond proceeds, an additional apportionment of costs will be made and that all owners who paid the initial improvement benefit assessment on a lump sum basis must likewise pay the additional assessment on the same basis~~]. The statement submitted to such owners of benefited property shall additionally advise such owners that in the event such owners do not elect to pay the special improvement benefit assessment in full within the period of thirty (30) days from receipt, the urban-county government shall issue bonds pursuant to KRS 67A.871 to 67A.894 for the purpose of providing the cost of construction of the project, including the debt service reserve fund, if paid from bond proceeds, capitalized interest costs, any bond discount, together with all other costs, as the term is defined in KRS 67A.871(5). The owners of the benefited property shall further be advised that bonds and the interest thereon shall be amortized by annual improvement benefit assessment levies against all benefited properties which have not made lump sum payments in accordance with the method of apportionment provided by the ordinance of initiation and the ordinance of determination.

(4) At the conclusion of the thirty (30) day permissive lump sum payment period, the urban-county council shall determine the aggregate principal amount of improvement benefit assessments paid in full by owners of benefited property; shall order the deposit of the monies in a trust account *the principal of* which shall be used solely to pay the costs of construction of the project; shall aggregate all unpaid improvement benefit assessments for purposes of determining the principal amount of bonds to be issued by the government to provide the costs of the project; shall compute the debt service reserve fund in respect to the bonds, if the fund is to be capitalized from bond proceeds; shall determine the bond discount and capitalized interest which shall be applicable to the issue of bonds; and shall proceed to complete the financing of the costs of construction of the project through the adoption of the ordinance of bond authorization as provided in KRS 67A.883 and the sale of bonds authorized pursuant thereto. Provided, however, that the ordinance of bond authorization may, as provided in KRS 67A.884, provide that, in lieu of issuing bonds, the government may contract with the Kentucky pollution abatement authority for the financing of the project, in which latter event all procedures with respect to the annual assessment of benefited properties shall continue in full force and effect, but the urban-county government shall secure funding for the project through the Kentucky pollution abatement authority in lieu of issuing bonds and shall pledge to and pay to the authority the annual improvement benefit assessment levies and enforce them for the security of the financing.

(5) If an urban-county government has taken steps under KRS 67A.871 to 67A.893 to provide for, construct and finance any project, and finally determines, by appropriate ordinance, that the project is essentially completed, the legislative body of the urban-county government may, in its discretion, refund any part, or all, of the interest earned on lump sum payments, pro-rata, to the current owners of the benefited properties which paid on a lump sum basis, as determined at the date the ordinance determining the project is essentially completed is adopted.

Section 2. KRS 67A.883 is amended to read as follows:

(1) Following compliance with the foregoing provisions of KRS 67A.871 to 67A.882, the urban-county council of the government may adopt an ordinance known as the ordinance of bond authorization. The ordinance of bond authorization shall make provision, for the following:

(a) Determining and confirming the nature and scope of the project, the real properties to be benefited thereby (which shall be all benefited properties identified in the ordinance of initiation and the ordinance of determination, excepting properties as to which lump sum payment of improvement benefit assessment levies has been made within the statutory period), the exact method of assessment of benefited properties and the costs of the projects;

(b) Authorizing the issuance of bonds of the government from time to time which shall be designated "improvement lien bonds" and which shall additionally identify the project by reference to its name or title;

(c) Determining the principal amount of the bond issue, subject to the provisions of KRS 67A.891;

(d) Establishing the denomination and maturity dates of the bonds, which my be term or serial maturities not to exceed thirty (30) years from date of issue, and providing for the issuance of the bonds in series, if so ordered, each such series to be equally secured on a pari passus basis by improvement benefit assessments levied on all benefited properties and by liens in respect thereto;

(e) Levying an annual improvement benefit assessment effective upon the benefited properties *except such properties for which lump sum payment of the improvement benefit assessment has been made pursuant to KRS 67A.882(3)* pursuant to the assessed value basis according to either their respective assessed land values as determined for purposes of general ad valorem taxation, or upon a basis of equality by zones, pursuant to findings of fact by the urban-county council that benefited properties in particular zone classifications are to be treated equally for assessment purposes because of substantial equality of benefits conferred, such assessments to be made without regard to any constitutional or other limits otherwise applicable to taxation for general ad valorem purposes, the annual rate of such improvement assessment to be fixed when regular county ad valorem taxes are levied and to be sufficient in each year to provide for the payment of the bonds and interest coupons as they mature; and, in each year until accrual of the debt service reserve requirement, to be sufficient to provide in addition a sum equal to twenty percent (20%) of maximum annual principal and interest requirements, the same to constitute a debt service reserve fund as a precaution against possible default by reason of failures in the collection of the annual levies as hereinafter provided; provided, however, that in the event the government shall have provided that the debt service reserve requirement be financed from bond proceeds as one of the costs of the project, such additional levies to accrue, the debt service reserve requirement shall be omitted, but it shall be promptly instituted at any time in order to maintain the debt service reserve requirement at its prescribed level;

(f) Covenanting with the holders of the bonds and coupons that until the payment in full thereof the government will levy annually an improvement benefit assessment upon each benefited property, as provided in the foregoing subsection (e) hereof; provided, that the government may provide by ordinance that certain benefited properties shall be omitted from assessment during initial periods not to exceed three (3) years because of construction scheduling;

(g) Covenanting with the holders of the bonds and coupons that until payment in full thereof, the government will pursue and exhaust at the expense of the government all remedies available to the government for the benefit and protection of the bondholders, including both termination of water service to delinquent real properties and enforcement of judgment and decretal sale of the liens upon benefited properties which are granted by KRS 67A.871 to 67A.894;

(h) Designating one or more places of payment of principal and interest within or without the Commonwealth;

(i) Specifying or omitting provisions for redemption and payment prior to stated maturities and the terms thereof;

(j) Providing for the payment by the government of any and all reasonable and customary charges for the services of trustees and paying agents to the end that the holders of the bonds and coupons will receive the sums therein stipulated without deduction for such charges; and

(k) Any other provisions not contrary to law. The government is expressly authorized and empowered to finance any particular project by an issue of bonds which may be sold and delivered in one or more series, each of which series is equally and indistinguishably secured, as provided in KRS 67A.871 to 67A.894, by improvement benefit assessments levied upon all benefited properties, *except such properties for which lump sum payment of the improvement benefit assessment has been made pursuant to KRS 67A.882(3)* and liens granted for the security of bondholders by KRS 67A.871 to 67A.894 on benefited properties shall apply to each *such* benefited property and in favor of every bond of each such series, whenever issued.

(2) In the discretion of the urban-county council of the government, any improvement lien bonds or bond anticipation notes issued under the provisions of KRS 67A.871 to 67A.894 may be secured by a trust indenture by and between the government and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth of Kentucky. The trust indenture of the government providing for the issuance of improvement lien bonds or notes may pledge or assign for the security of improvement lien bonds or notes all or any part of the totality of improvement benefit assessments levied, collected, enforced and received by the government. The trust indenture shall contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable, proper and not in violation of law, including covenants and provisions setting forth the duties of the government in relation to the purposes to which improvement lien bond proceeds may be applied; the disposition and pledging of receipts of improvement benefit assessments; and the custody, safeguarding and application of all improvement benefit assessment revenues. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds, notes or of government revenues, to furnish indemnity bonds or to pledge securities as may be required by the trust indenture of the government. Any trust indenture may set forth the rights and remedies of the bondholders and of the indenture trustee and may restrict the individual right of action by bondholders. In addition to the foregoing, any trust indenture may contain any other provisions as the government may determine to be reasonable and proper for the further security of the holders of the bonds. All expenses incurred in carrying out the provisions of the trust indenture shall be treated as a part of the costs of the project and shall be paid from either the proceeds of the bonds or, during the life of the bond issue, from the proceeds of improvement benefit assessments levied against and collected from, benefited properties.

(3) All bonds issued under the provisions of KRS 67A.871 to 67A.894 shall have and are hereby declared to possess all of the qualities and incidences of negotiable instruments under the laws of Kentucky. The bonds may be issued in coupon or in registered form or in both, as the government may determine, and provision may be made for the registration of any coupon bonds as to principal only and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and

interest. The government may sell the bonds in any manner either at public or private sale, and for any price as it may determine will best effect the purposes of KRS 67A.871 to 67A.894.

(4) Any government initiating a project pursuant to KRS 67A.871 to 67A.894 shall have and possess all powers and the authority set forth in KRS 58.150.

Section 3. KRS 67A.888 is amended to read as follows:

The annual improvement benefit assessment for the project shall be levied by the government against benefited properties *except such properties for which lump sum payment of the improvement benefit assessment has been made pursuant to KRS 67A.882(3)* when the levy for general urban-county government taxes is made; and such improvement benefit assessment levy shall be due at the same time when general urban-county government taxes are due and shall be subject to the same penalties and accrual of interest in the event of nonpayment as in the case of the general urban-county government taxes. Improvement benefit assessments shall be collected by the urban-county government officers charged with responsibility for the collection of ad valorem taxes and shall be enforced in like manner.

Section 4. KRS 67A.892 is amended to read as follows:

If, by reason of miscalculation or the happening of unforeseen events or conditions, the *total* proceeds of the *lump sum payments and* bonds authorized by the ordinance of bond authorization should prove to be insufficient to provide for the completion of the project and the payment in full of all costs thereof, the urban-county government shall be responsible for any such deficiency.

Section 5. KRS 67A.894 is amended to read as follows:

If an urban-county government has taken any steps under KRS 67A.871 to 67A.893 to provide for, construct or finance any project, and for any reason the project cannot be completed according to the provisions of KRS 67A.871 to 67A.893, the government shall return all improvement benefit assessments paid in full by owners of benefited property on a lump sum basis to the owners *of such benefited properties, as determined at the date the ordinance determining the project cannot be completed is adopted* [~~thereof~~]. Any interest earned on such prepayments shall be applied by the government to the payment of any costs resulting from effort to carry out the project, and any remainder shall be returned, pro rata, to such owners of benefited property. Thereafter, such urban-county government may proceed to finance and construct the project in any other manner authorized by law.

HB 697, AN ACT relating to city retirement boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.869 is amended to read as follows:

(1) The responsibility for the proper operation of the fund and the direction of its policies shall be vested in a board of trustees of six (6) members, consisting of: (a) the mayor ex officio; (b) the city treasurer ex officio; (c) the chiefs of the police and fire departments ex officio; and (d) one (1) active member of each department, who shall be elected by ballot by the active members of the respective departments and shall serve for a term of one (1) year under rules adopted by the board. In the event of a vacancy of an elected member, the pension board may fill the vacancy by appointment until the next regular election.

(2) It is the intention of KRS 95.851 to 95.991 that the present elected members of the pension board shall continue in office as members of the board of trustees herein provided, shall succeed to the office of trustee under the provisions hereof and shall assume the duties and obligations as herein provided. Such members shall continue in office until the expiration of their respective terms of office, when elections shall be held for successors as herein provided.

(3) Any member of the board convicted of an offense relating to mismanagement or embezzlement of the fund created pursuant to KRS 95.852 shall be removed from the board, and shall be prohibited from serving on the board thereafter. If the board member so removed is an ex officio member, the city council shall appoint a replacement until such time as another person shall fill the office entitled to a seat on the board. If the board member so removed is an active policeman or firefighter, the board shall fill the vacancy by appointment of another active policeman or firefighter, as the case may be, until the next regular election.

HCR 47, A CONCURRENT RESOLUTION establishing a Municipal Pension Study Commission.

WHEREAS, a Legislative Research Commission study of city pension systems published in 1977 revealed that many of Kentucky's city pension systems were seriously underfunded, and many had insufficient information to determine their funding status; and

WHEREAS, KRS 95.016, enacted in 1978, required many city pension systems which had previously never been evaluated by an actuary to purchase actuarial evaluations at least once every three years; and

WHEREAS, action taken by the 1982 General Assembly will require that copies of actuarial evaluations of city pension systems be sent to the Legislative Research Commission for study; and

WHEREAS, study of accumulated city pension data will enable the members of the General Assembly to determine the extent and seriousness of any financial problems which city pension systems may have; and

WHEREAS, it is in the best interests of cities and members of the General Assembly to know the extent and seriousness of financial problems which city pension systems may have in order to deal with those problems;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to conduct a study of the actuarial soundness of Kentucky's city pension systems.

Section 2. A Municipal Pension Study Commission shall be appointed by the Legislative Research Commission to guide and assist in the study. The Commission shall be comprised of:

1. One Senator who is a member of the Senate Cities Committee;
2. One Representative who is a member of the House Cities Committee;
3. One elected city official;
4. One person nominated by the Kentucky Municipal League;
5. One person nominated by the Kentucky State Lodge of the Fraternal Order of Police;
6. One person nominated by the Associated Professional Firefighters of Kentucky;
7. The General Manager of Kentucky Retirement Systems or his designee.

The chairman of the Commission shall be the member of the Senate Cities Committee or of the House Cities Committee, or they may serve as co-chairmen.

Section 3. The Municipal Pension Study Commission shall analyze recent actuarial data, and other data as may be available and useful. They shall develop a report for the Legislative Research Commission on the actuarial soundness and administration of city pension systems, and shall make recommendations for improving the financial position and administration of these systems.

Section 4. Commission members not otherwise compensated or reimbursed for their time and expenses shall be reimbursed for their necessary and reasonable expenses.

Section 5. The Municipal Pension Study Commission shall present its report to the Interim Joint Committee on Cities for review prior to submitting their final report to the Legislative Research Commission no later than September 1, 1983.

Section 6. Staff services to be utilized in completing this study are estimated to cost $9,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

SB 52, AN ACT changing the classification of the city of Rolling Hills, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of Rolling Hills in Jefferson County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The city of Rolling Hills, in Jefferson County, is transferred from the sixth to the fifth class of cities.

SB 202, AN ACT changing the classification of the city of Lyndon, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the city of Lyndon in Jefferson County, is such as to justify its being classified as a city of the fourth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The city of Lyndon, in Jefferson County, is transferred from the fifth to the fourth class of cities.

The Committee on Health and Welfare reported **HB 686, SB 151,** and **SB 159** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 686, AN ACT relating to a model fireworks code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.700 is amended to read as follows:

(1) The term "fireworks" shall mean any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, and which meets the definition of "common" or "special" fireworks as set forth in the U.S. department of transportation's (DOT) hazardous materials regulations, title 49, code of federal regulations, parts 173.88 and 173.100.

(a) Exception number 1: Toy pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured in accordance with DOT regulations, 49 CFR 173.100 (p)1, and packed and shipped according to said regulations, are not considered to be fireworks and shall be allowed to be used and sold at all times.

(b) Exception number 2: Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models are not considered to be fireworks. (See NFPA 1122, code for unmanned rockets.)

(c) Exception number 3: Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and saltpeter are not considered as being designed for producing audible effects.

(d) Exception number 4: Items described in paragraph (2)(e) of this section are not considered to be common fireworks.

(2) The term "common fireworks" shall mean any small firework device designed primarily to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. consumer product safety commission, as set forth in title 16, code of federal regulations, part 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing fifty (50) mg. or less of explosive composition, and aerial devices containing one hundred thirty (130) mg. or less of explosive composition. Common fireworks are classified as class C explosives by the U.S. department of transportation and include the following:

(a) Ground and hand-held sparkling devices.

1. Dipped stick-sparkler. Stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition may not exceed one hundred (100) grams per item. Those devices containing any perchlorate or chlorate salts may not exceed five (5) grams of pyrotechnic composition per item. Wire sparklers which contain no magnesium and which contain less than one hundred (100) grams of composition per item are not included in this category, in accordance with DOT regulations.

2. Cylindrical fountain. Cylindrical tube not more than three-fourths (¾) in. (19 mm) inside diameter, containing up to seventy-five (75) grams of pyrotechnic composition. Upon ignition, a shower of colored sparks, and sometimes a whistling effect, is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle, if intended to be hand-held (handle fountain).

3. Cone fountain. Cardboard or heavy paper cone containing up to fifty (50) grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain.

4. Illuminating torch. Cylindrical tube containing up to one hundred (100) grams of pyrotechnic composition. Upon ignition, colored fire is produced. May be spike, base or hand-held.

5. Wheel. Pyrotechnic device attached to a post or tree by means of a nail or string. Each wheel may contain up to six (6) "driver" units: tubes not exceeding one-half (½) in. (12.5 mm) inside diameter and containing up to sixty (60) grams of pyrotechnic composition. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect.

6. Ground spinner. Small device similar to a wheel in design and effect and placed on the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device.

7. Flitter sparkler. Narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. This device does not have a fuse for ignition. The paper at one end of the tube is ignited to make the device function.

(b) Aerial devices.

1. Sky rocket. Tube not exceeding one-half (½) in. (12.5 mm) inside diameter that may contain up to twenty (20) grams of pyrotechnic composition. Sky rockets contain a wooden stick for guidance and stability and rise into the air upon ignition. A burst of color or noise or both is produced at the height of flight.

2. Missile-type rocket. A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability.

3. Helicopter, aerial spinner. A tube not more than one-half (½) in. (12.5 mm) inside diameter and containing up to twenty (20) grams of pyrotechnic composition. A propeller or blade is attached, which, upon ignition, lifts the rapidly spinning device into the air. A visible or audible effect is produced at the height of flight.

4. Roman candles. Heavy paper or cardboard tube not exceeding three-eighths (⅜) in. (9.5 mm) inside diameter and containing up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) "stars" (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals.

5. Mine, shell. Heavy cardboard or paper tube up to two and one-half (2 ½) in. (63.5 mm) inside diameter attached to a wood or plastic base and containing up to forty (40) grams of pyrotechnic composition. Upon ignition, "start" (see paragraph (2)(b)4. of this section), firecrackers (see paragraph (2)(c)1. of this section), or other devices are propelled into the air. The tube remains on the ground.

(c) Audible ground devices.

1. Firecrackers, salutes. Small paper-wrapped or cardboard tube containing not more than fifty (50) mg. of pyrotechnic composition. Upon ignition, noise and a flash of light is produced.

2. Chaser. Small paper or cardboard tube that travels along the ground upon ignition. A whistling effect, or other noise, is often produced. The explosive composition used to create the noise may not exceed fifty (50) mg.

(d) Combination items. Firework devices containing combinations of two (2) or more of the effects described in categories (a), (b) and (c) of this subsection.

(e) Novelties and trick noisemakers.

Items listed in this section are not classified as common fireworks by the U.S. department of transportation.

1. Snake, glow worm. Pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices may not contain mercuric thiocyanate.

2. Smoke device. Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

3. Wire sparkler. Wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. These items may not contain magnesium and must not exceed one hundred (100) grams of composition per item. Devices containing any chlorate or perchlorate salts may not exceed five (5) grams of composition per item.

4. Trick noisemaker. Item that produces a small report intended to surprise the user. These devices include:

a. Party popper. Small plastic or paper item containing not more than sixteen (16) mg. of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

b. Booby trap. Small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

c. Snapper. Small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes producing a small report.

d. Trick match. Kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match a small report or a shower of sparks is produced.

e. Cigarette load. Small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one (1) of the pegs, a small report is produced.

f. Auto burglar alarm. Tube which contains pyrotechnic composition that produces a loud whistle and/or smoke when ignited. A small quantity of explosive, not exceeding fifty (50) mg. may also be used to produce a small report. A squib is used to ignite the device.

(3) The term "special fireworks" shall mean large fireworks designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes, but is not limited to, firecrackers containing more than two (2) grains (130 mg) of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as "common fireworks." Special fireworks are classified as class B explosives by the U.S. department of transportation.

(4) No person, firm, co-partnership, or corporation shall offer for sale, expose for sale, sell at retail, keep with intent to sell at retail, or use or explode any fireworks, except as hereinafter provided [~~As used in KRS Chapter 227 "fireworks" means and includes any combustible or explosive composition, or any substance or combination of substances, or article, prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and shall include but not be limited to blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman Candles, Daygo~~

~~bombs, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance. The term "fireworks" shall not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for use, toy pistol paper caps which contain less than twenty-hundredths grains of explosive mixture, and gold star producing sparklers, which contain no magnesium or chlorate, toy snakes which contain no mercury, smoke novelties and party novelties, which contain less than twenty-five hundredths of a grain of explosive mixture, the sale and use of which shall be permitted at all times~~].

Section 2. KRS 227.710 is amended to read as follows:

Nothing in this Act shall be construed as prohibiting any of the following: [~~No person shall sell at retail, or offer, advertise or expose for sale at retail, possess, or use or explode, any fireworks within this state, except gold star producing sparklers, which contain no magnesium or chlorate, toy snakes which contain no mercury, smoke novelties and party novelties, which contain less than twenty-five hundredths of a grain of explosive mixture; provided, however, that~~]

(1) In cities the chief of the fire department, or mayor or similar official where there is no fire department, and in counties outside of cities the county judge/executive, shall have power to grant permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals. Every such display shall be handled by a competent operator to be approved by the public official by whom the permit is granted, and shall be of such character, and so located, discharged or fired as in the opinion of such official, after proper inspection, shall not be hazardous to property or endanger any person. Applications for permits shall be *filed with the office of state fire marshal* [~~made in writing~~] at least fifteen (15) days in advance of the date of the display. After such privilege shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

(2) The sale, at wholesale, of any fireworks for supervised displays by any resident manufacturer, wholesaler, dealer, or jobber, in accordance with regulations of the U.S. bureau of alcohol, tobacco and firearms. (See title 27, code of federal regulations, part 181).

(3) The sale, at wholesale, of any kind of fireworks by any resident manufacturer, wholesaler, dealer, or jobber, provided such fireworks are intended for shipment directly out of state in accordance with regulations of the U.S. department of transportation.

(4) The sale, and use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation and highway use.

(5) The use of fuses and railway torpedoes by railroads.

(6) The sale and use of blank cartridges for use in a show or theater or for signal or ceremonial purpose in athletics or sports.

(7) The use of any pyrotechnic device by military organizations.

(8) The use of fireworks for agricultural purposes under the direct supervision of the U.S. department of the interior or any equivalent or local agency. (See title 16, code of federal regulations, part 1500.17(a)(8).)

Section 3. KRS 227.720 is amended to read as follows:

No permit shall be issued under KRS 227.710 unless the applicant shall give bond or evidence of liability insurance deemed adequate by the official to whom application for the permit is made, in a sum not less than *ten thousand dollars ($10,000). However, the local fire chief or state fire marshal may require a larger amount if in their judgment the situation requires it* [~~five hundred dollars ($500)~~], conditioned for the payment of all damages which may be caused thereby either to a person or to property by reason of the permitted display, and arising from any acts of the licensee, his agents, employes or subcontractors.

Section 4. KRS 227.740 is amended to read as follows:

(1) Prior to the selling, offering for sale, possessing, storing, or use within this state, of: *snake, glow worms, smoke devices, wire sparklers containing no magnesium and not exceeding one hundred (100) grams of composition and chlorate or perchlorate salts of less than five (5) grams, and trick noisemakers,as set out in* [~~the gold star producing sparklers which contain no magnesium or chlorate, toy snakes which contain no mercury, smoke novelties and party novelties which contain less than twenty-five hundredths of a grain of explosive mixture, as provided for under the provisions of~~] KRS 227.700; sufficient samples for inspection thereof must be submitted to the state fire marshal. Within ten (10) days after receiving same the state fire marshal shall make a determination if the submitted items comply with the provisions of KRS 227.700 and upon finding that the provisions of KRS 227.700 have been complied with, he shall issue a certificate of compliance to the person submitting the samples. If, upon inspection, the state fire marshal finds that the samples do not comply with the provisions of KRS 227.700 he shall refuse to issue a certificate of compliance and state to the party submitting the samples his reason therefor.

(2) *No snakes, glow worms, smoke devices, wire sparklers containing no magnesium and not exceeding one hundred (100) grams of composition and chlorate or perchlorate salts of less than five (5) grams,*

and trick noisemakers, as set out in KRS 227.700 [~~No gold star producing sparklers which contain no magnesium or chlorate, toy snakes which contain no mercury, smoke novelties and party novelties which contain less than twenty-five hundredths of a grain of explosive mixture~~], which have been certified by the fire marshal as complying with provisions of KRS 227.700 shall be sold, offered for sale, possessed, stored, or used within this state unless they shall be properly named on all shipping cases and by printing on *each* [~~the~~] article and so positioned as to be readily recognized by law enforcement authorities and the general public.

Section 5. KRS 227.750 is amended to read as follows:

The state fire marshal shall seize, take, remove or cause to be removed at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of the Act [~~All fireworks held, possessed, or used in violation of KRS Chapter 227 shall be seized and destroyed as contraband~~].

Section 6. KRS 227.990 is amended to read as follows:

(1) Except for mobile homes manufactured under the federal act, any person who violates any provision of this chapter or any provision of a lawful order, rule or regulation made under the provisions of this chapter, or who induces another to violate any provisions of this chapter or of any lawful order, rule or regulation made thereunder, upon conviction thereof shall be fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000), or confined in the county jail for not more than sixty (60) days, or both. Each day such violations exist shall, in the discretion of the courts, be considered as a separate offense.

(2) Any person who, for mobile homes manufactured under the federal act, violates any provision of the federal act or of KRS 227.550 to 227.660 or any regulation or final order issued thereunder shall be liable for a civil penalty not to exceed one thousand dollars ($1,000) for each such violation. Each violation of a provision of KRS 227.550 to 227.660 or of the federal act or any regulation or order issued thereunder shall constitute a separate violation with respect to each mobile home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars ($1,000,000) for any related series of violations occurring within one (1) year from the date of the first violation.

(3) Any individual, or a director, officer or agent of a corporation who knowingly and wilfully violates the federal act or KRS 227.550 to 227.660 in a manner which threatens the health or safety of any purchaser shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than one (1) year in the county jail, or both.

(4) Any person violating the provisions of KRS 227.710 to 227.750, or who knowingly induces another, directlyor indirectly, to violate the provisions of those sections, shall be fined not more than *one thousand* [~~five hundred~~] dollars *($1,000)* [~~($500)~~], or imprisoned in the county jail for not more than *thirty (30)* [~~twenty (20)~~] days, or both.

SB 151, AN ACT relating to the prevention and control of venereal disease.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 214.160 is amended to read as follows:

Every physician and every other person legally permitted to engage in attendance upon a pregnant woman in this state shall take or cause to be taken from the woman a specimen of blood, for serological test for syphilis as soon as he is engaged to attend the woman and has reasonable grounds for suspecting that pregnancy exists. If the woman is in labor at the time the diagnosis of pregnancy is made, which may make it inadvisable to obtain a blood specimen then, the specimen shall be obtained within ten (10) days after delivery. The specimen of blood shall be submitted to the laboratory of the department for human resources or a laboratory approved by the department, for the purpose of having made a serological test for syphilis. The test shall be of a type approved by the department for human resources. [~~If the laboratory test is made by the laboratory of the department for human resources, it shall be made without charge.~~]

Section 2. KRS 402.990 is amended to read as follows:

(1) Any party to a marriage prohibited by KRS 402.010 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000). If the parties continue after conviction to cohabit as man and wife, either or both of them shall be imprisoned in the penitentiary for not less than three (3) nor more than twelve (12) months.

(2) Any person who aids or abets the marriage of any person who has been adjudged incompetent, or attempts to marry, or aids or abets any attempted marriage with any such person shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500).

(3) Any authorized person, with or without a license, who knowingly solemnizes a marriage prohibited by this chapter shall be fined not more than one thousand dollars ($1,000) or imprisoned not less than one (1) month nor more than twelve (12) months, or both.

(4) Any minister or priest who breaches the covenant required by KRS 402.060 shall be fined not more than two thousand dollars ($2,000).

(5) Any person who attempts to solemnize a marriage without a marriage license or without being authorized by the county judge/executive to solemnize marriages shall be fined not more than one thousand dollars ($1,000) or imprisoned for not less than one (1) month nor more than twelve (12) months, or both.

(6) Any unauthorized person who solemnizes a marriage under pretense of having authority, and any person who falsely personates the father, mother or guardian of an applicant in obtaining a license shall be imprisoned in the penitentiary for not more than three (3) years.

(7) Any person who falsely and fraudulently represents or personates another, and in such assumed character marries that person, shall be imprisoned in the penitentiary for not less than one (1) nor more than five (5) years. Indictment under this subsection shall be found only upon complaint of the injured party and within two (2) years after the commission of the offense.

(8) Any clerk who knowingly issues a marriage license to any persons prohibited by this chapter from marrying shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), and removed from office by the judgment of the court in which he is convicted.

(9) Any clerk who knowingly issues a marriage license in violation of his duty under this chapter shall be fined not more than one thousand dollars ($1,000).

(10) If any deputy clerk or any person other than a county clerk knowingly issues a marriage license in violation of this chapter, but not for a prohibited marriage, he shall be fined not more than one thousand dollars ($1,000), and if he knowingly issues a license for a marriage prohibited by this chapter he shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than one (1) year, or both.

(11) Any person who violates any of the provisions of KRS 402.090 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) for each offense.

(12) Any county clerk who violates any of the provisions of KRS 402.110 or 402.230 shall be fined not less than twenty dollars ($20.00) nor more than fifty dollars ($50.00).

(13) [~~Any person who violates any of the provisions of KRS 402.120 to 402.200 by disclosing any matter of confidential nature shall be fined one thousand dollars ($1,000), which shall be paid to the applicant for a marriage license in lieu of damages. Upon failure to pay the fine, the defendant shall be imprisoned as for failure to pay any other fine.~~

~~(14) Any physician, laboratory representative, county clerk or applicant for a marriage license who violates any of the provisions of KRS 402.120 to 402.200, or makes any false representation of fact or identity, shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100), and imprisoned in the county jail for a term fixed by the jury.~~

~~(15)~~] Any person failing to make the return required of him by KRS 402.220 shall be fined fifty dollars ($50.00).

Section 3. KRS 402.990, 1980 Acts Chapter 396, Section 125, effective July 1, 1982, is amended to read as follows:

(1) Any party to a marriage prohibited by KRS 402.010 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000). If the parties continue after conviction to cohabit as man and wife, either or both of them shall be imprisoned in the penitentiary for not less than three (3) nor more than twelve (12) months.

(2) Any person who aids or abets the marriage of any person who has been adjudged mentally disabled, or attempts to marry, or aids or abets any attempted marriage with any such person shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500).

(3) Any authorized person, with or without a license, who knowingly solemnizes a marriage prohibited by this chapter shall be fined not more than one thousand dollars ($1,000) or imprisoned not less than one (1) month nor more than twelve (12) months, or both.

(4) Any minister or priest who breaches the covenant required by KRS 402.060 shall be fined not more than two thousand dollars ($2,000).

(5) Any person who attempts to solemnize a marriage without a marriage license or without being authorized by the county judge/executive to solemnize marriages shall be fined not more than one thousand dollars ($1,000) or imprisoned for not less than one (1) month nor more than twelve (12) months, or both.

(6) Any unauthorized person who solemnizes a marriage under pretense of having authority, and any person who falsely personates the father, mother or guardian of an applicant in obtaining a license shall be imprisoned in the penitentiary for not more than three (3) years.

(7) Any person who falsely and fraudulently represents or personates another, and in such assumed character marries that person, shall be imprisoned in the penitentiary for not less than one (1) nor more than five (5) years. Indictment under this subsection shall be found only upon complaint of the injured party and within two (2) years after the commission of the offense.

(8) Any clerk who knowingly issues a marriage license to any persons prohibited by this chapter from marrying shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), and removed from office by the judgment of the court in which he is convicted.

(9) Any clerk who knowingly issues a marriage license in violation of his duty under this chapter shall be fined not more than one thousand dollars ($1,000).

(10) If any deputy clerk or any person other than a county clerk knowingly issues a marriage license in violation of this chapter, but not for a prohibited marriage, he shall be fined not more than one thousand dollars ($1,000), and if he knowingly issues a license for a marriage prohibited by this chapter he shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than one (1) year, or both.

(11) Any person who violates any of the provisions of KRS 402.090 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) for each offense.

(12) Any county clerk who violates any of the provisions of KRS 402.110 or 402.230 shall be fined not less than twenty dollars ($20.00) nor more than fifty dollars ($50.00).

(13) [~~Any person who violates any of the provisions of KRS 402.120 to 402.200 by disclosing any matter of confidential nature shall be fined one thousand dollars ($1,000), which shall be paid to the applicant for a marriage license in lieu of damages. Upon failure to pay the fine, the defendant shall be imprisoned as for failure to pay any other fine.~~

~~(14) Any physician, laboratory representative, county clerk or applicant for a marriage license who violates any of the provisions of KRS 402.120 to 402.200, or makes any false representation of fact or identity, shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100), and imprisoned in the county jail for a term fixed by the jury.~~

~~(15)~~] Any person failing to make the return required of him by KRS 402.220 shall be fined fifty dollars ($50.00).

Section 4. The following KRS sections are repealed:

402.120	Medical examination required — Exception.
402.130	Medical examination — Laboratory tests.
402.140	Procedure upon return of examination.
402.150	License for marriage of pregnant woman without medical certificate.
402.160	Submission of specimen to laboratory — Report to department.
402.170	Protest after refusal of medical certificate and marriage license — Hearing.
402.180	Appeal to circuit court.
402.200	County health officer to advise district court.

SB 159, AN ACT relating to prescriptions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217.215 is amended to read as follows:

(1) The state board of pharmacy, its agents and inspectors shall have the same powers of inspection and enforcement as the department under KRS 217.005 to 217.215, insofar as it relates to drugs in *licensed pharmacies* [~~retail pharmacy~~].

(2) The board of pharmacy may establish regulations relating to the storage and retrieval of prescription records in licensed pharmacies, including regulations regarding computerized recordkeeping systems.

(3) No prescription for any drug may be refilled by a pharmacist unless authorized by the prescribing practitioner, except that the board of pharmacy may promulgate rules and regulations to permit a pharmacist to dispense up to a seventy-two (72) hour supply of maintenance medication in emergency situations in which such authorization may not be readily or easily obtained from the practitioner. Such emergency refills shall not be authorized for any controlled substance or for any drug which is not essential to maintenance of life or continuation of therapy in chronic disease conditions.

The Committee on Transportation reported **HB 320, HB 381, HB 465** with Committee Amendment attached thereto, **HB 678, SB 2,** and **SB 137** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 320, AN ACT relating to boating.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 235.010 is amended to read as follows:

As used in this chapter unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion;

(3) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(4) "Waters of this state" means any waters within the territorial limits of this state;

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity;

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel;

(7) "Department" means the department of transportation;

(8) *"Commission" means the commission of water patrol* [~~"Bureau" means the bureau of state police, department of justice~~];

(9) "License" and "certificate of number" as used herein are synonymous;

(10) "Clerk" means circuit court clerk;

(11) [~~"Division of water enforcement" means the water enforcement section, bureau of state police;~~
~~(12)~~] "Division of driver licensing" means the licensing division, bureau of vehicle regulation, department of transportation.

Section 2. KRS 235.020 is amended to read as follows:

(1) The head of the *commission of water patrol* [~~division of water enforcement~~] shall be appointed by the *governor* [~~commissioner of the bureau of state police with the concurrence of the secretary of justice~~].

(2) The *commission* [~~division~~] of water *patrol* [~~enforcement~~] shall be authorized to employ necessary personnel to carry out the functions assigned to the *commission* [~~division~~] in this chapter.

Section 3. KRS 235.030 is amended to read as follows:

This chapter shall be known as the state boating act and shall be administered by the *commission* [~~division~~] of water *patrol* [~~enforcement, bureau of state police~~] and the division of driver licensing within the bureau of vehicle regulation.

Section 4. KRS 235.250 is amended to read as follows:

(1) It shall be the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he can do so without serious danger to his own vessel, crew, and passengers (if any), to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident or other casualty, and also to give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

(2) In the case of collision, accident, or other casualty involving a vessel, the operator thereof, if the collision, accident or other casualty results in death or injury to a person or damage to property in excess of one hundred dollars ($100), shall file with the *commission* [~~division of water enforcement~~] a full description of the collision, accident, or other casualty, including such information as said agency may, by regulation, require. When the operator of a vessel, who is not the owner of it, cannot submit the casualty or accident report required by paragraph (1) of this section, the owner shall submit the casualty or accident report.

Section 5. KRS 235.260 is amended to read as follows:

All required accident reports and supplemental reports shall be without prejudice to the individual making them, and shall be for the confidential use of the *commission* [~~division of water enforcement~~], except that the *commission* [~~division~~] may disclose the identity of a person involved in an accident when his identity is not otherwise known or when he denies his presence at an accident. No such report shall be used in evidence in any trial arising out of an accident, but the *commission* [~~division~~] shall furnish upon demand of any person who has, or claims to have, made such a report or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the *commission* [~~division~~], solely in order to prove compliance or noncompliance with the requirements of KRS 235.250 that such a report be made.

Section 6. KRS 235.280 is amended to read as follows:

The *commission* [~~division~~] of water *patrol* [~~enforcement, with the approval of the commissioner of the bureau of state police~~], shall promulgate rules and regulations to govern the fair, reasonable, equitable and safe use of all waters of this state.

Section 7. KRS 235.310 is amended to read as follows:

The commissioner of *water patrol* [~~state police~~] shall designate *its* officers and employes [~~of the bureau~~] to enforce the provisions of this chapter and such officers when duly authorized by the commissioner shall have the general powers of a peace officer for the enforcement of other offenses against the Commonwealth. In enforcing the provisions of this chapter such officers and all other peace officers of the Commonwealth and its subdivisions shall have the right to enter upon all waters of this state, either private or public, for the purpose of inspecting certificate of registration and boat numbering, and shall have the right to enter upon all boats on such waters for the purpose of examining their registration documents. They may arrest on sight, without warrant, any person detected by them in the act of violating any of the provisions of this chapter. They shall have the same rights as sheriffs to require aid in arresting, with or without process, any person found by them violating any of the provisions of this chapter or other offenses against the Commonwealth.

Section 8. KRS 235.320 is amended to read as follows:

The *commission* [~~division~~] of water *patrol* [~~enforcement~~], with approval of the commissioner [~~of state police~~], and the division of driver licensing, with the approval of the commissioner of the bureau of vehicle regulation, may promulgate any rules and regulations not inconsistent herewith to carry out the purposes of this chapter.

Section 9. KRS 235.330 is amended to read as follows:

(1) All moneys collected under the provisions of this chapter shall be paid into the state treasury in the manner prescribed by law, and credited to *a trust and agency account to be used by the commission of water patrol* [~~the general expenditure fund~~].

(2) *All moneys collected by boat dock operators under the provisions of KRS 138.220 shall be deposited by the department of revenue into a trust and agency account to be used by the commission of water patrol.*

(3) Appropriations for the operation of the *commission* [~~division~~] of water *patrol may also* [~~enforcement shall~~] be made from the general expenditure fund.

Section 10. KRS 235.410 is amended to read as follows:

As used in KRS 235.410 to 235.480, unless the context clearly indicates otherwise, the following words shall have the following meanings:

(1) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto;

(2) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;

(3) "Person" or "persons" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate, or other entity whatsoever;

(4) "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments, vessels, or other places, together with such industrial wastes, underground, surface, storm or other water, as may be present;

(5) "Industrial wastes" means liquid, or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resource;

(6) "Other wastes" means sawdust, bark or other wood debris, garbage, refuse, ashes, offal, tar, oil, chemicals, acid drainage and all other foreign substances not included within the above definitions of industrial wastes and sewage which may cause or contribute to the pollution of any waters of the Commonwealth;

(7) *"Commission" means commission of water patrol* [~~"Department" means the department of justice, and the water safety enforcement program of the bureau of state police~~].

Section 11. KRS 235.420 is amended to read as follows:

No person shall discharge or permit the discharge of sewage, industrial wastes or other wastes to the waters of the Commonwealth from any vessel except as specifically authorized by the *commission* [~~department~~].

Section 12. 235.430 is amended to read as follows:

No person shall dispose of sewage accumulated in a holding tank or other similar container on a vessel in such manner that the sewage reaches or may reach the waters of the Commonwealth except through a disposal system or treatment works approved by the *commission* [~~department~~].

Section 13. KRS 235.440 is amended to read as follows:

No motorboat equipped with marine toilet facilities shall be operated on the waters of the Commonwealth unless such motorboat is equipped with a water pollution control device of one (1) of the following types:

(1) Holding tanks. Holding tanks approved for use as water pollution control devices shall meet the following criteria:

(a) Be so constructed and installed as to provide for discharge of its contents only by pumping and to eliminate discharges by gravity flow;

(b) Be constructed of materials capable of withstanding the corrosive effects of sewage and odor inhibitors;

(c) Be vented so as to prevent the escape of gases and odors to motorboat interiors.

(2) Incinerators. Incinerators approved for use as water pollution control devices shall meet the following criteria:

(a) Be so designed and constructed as to reduce sewage completely to an inert ash and provide a satisfactory means of ash removal;

(b) Be vented so as to prevent the escape of gases and odors to motorboat interiors and otherwise minimize the presence of objectionable conditions. Forced air ventilation must be provided for use at all times during the incineration operating cycle;

(c) Provide safeguards to minimize the dangers of shock or explosion from operation of the unit.

(3) Devices with effluent discharges. Types of water pollution control devices providing for discharges of treated sewage to the waters of the Commonwealth shall be approved or disapproved on an individual basis by the *commission* [~~department~~]. In approving or disapproving such types of devices the *commission* [~~department~~] shall consider whether the quality of performance of the type of device has been certified by the national sanitation foundation or a comparable national testing agency approved by the *commission* [~~department~~] as meeting its criteria, and the *commission* [~~department~~] shall consider such other factors as it deems appropriate to prevent and abate water pollution. All water pollution control devices approved for use on motorboats with marine toilet facilities shall be maintained in satisfactory working condition at all times that the motorboat is in operation.

Section 14. KRS 235.450 is amended to read as follows:

For the purposes of KRS 235.440, a motorboat shall not be deemed to be equipped with marine toilet facilities if the facilities are rendered inoperable in a manner approved by the *commission* [~~department~~].

Section 15. KRS 235.460 is amended to read as follows:

The *commission* [~~department~~] shall, upon request, furnish interested persons a list of the approved types of water pollution control devices currently available and acceptable for use on motorboats on the waters of the Commonwealth.

Section 16. KRS 235.470 is amended to read as follows:

The *commission* [~~department~~] shall issue such regulations and standards and approve such equipment as may be necessary for the proper enforcement of the provisions of KRS 235.410 to 235.470.

Section 17. KRS 235.480 is amended to read as follows:

(1) An appeal to the Franklin Circuit Court may be taken from any final order of the *commission* [~~department~~] by anyone who was a party to the proceedings before the hearing held by the *commission* [~~department~~] under the provisions of this chapter.

(2) An appeal may be taken by filing a petition of appeal with the clerk of the Franklin Circuit Court within twenty (20) days after the rendition of the final order of the *commission* [~~department~~]. The petition shall state completely the grounds upon which the review is sought and shall assign all errors relied upon. The appellant shall furnish a copy of the petition to each person who was a party to the hearing before the *commission* [~~department~~]. Summons shall be issued upon the petition directing the adverse party or parties to file answer within twenty (20) days after service of summons. The *commission* [~~department~~] shall, upon being served with the summons, and within thirty (30) days thereafter, file a copy of the record, duly certified by the secretary thereof, the cost of such record to be taxed as costs upon appeal. In lieu of filing of such record, an abstract thereof may be filed if agreed to by all parties to the hearing.

Section 18. KRS 433.757 is amended to read as follows:

(1) When any litter, as defined in KRS 512.010 is thrown or dropped from a motorboat or vessel as defined in KRS 235.010, the operator thereof shall be deemed prima facie to have violated KRS 512.070.

(2) It shall be the duty of law enforcement officers of the *commission* [~~division~~] of water *patrol* [~~enforcement~~] as provided in KRS 235.010 and fish and wildlife conservation officers as provided in KRS Chapter 150 and all other law enforcement and peace officers of the Commonwealth and its political subdivisions to enforce the provisions of KRS 512.070.

(3) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation for a violation of KRS 512.070.

HB 381, AN ACT relating to motor vehicle equipment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.030 is amended to read as follows:

(1) *Every vehicle in use upon a highway within this state at any time* [~~Lights, when required on a vehicle shall be illuminated~~] during the period from one-half (½) hour after sunset to one-half (½) hour before sunrise, *at any time when it is raining within the driving zone* and at such other times as atmospheric conditions render visibility as low as or lower than is ordinarily the case during that period *shall display lighted lamps and illuminating devices as hereafter required for different classes of vehicles, subject to the exceptions with respect to parked vehicles.* Provisions as to distances that lights must be visible refer to visibility under ordinary atmospheric conditions.

(2) Cities may by ordinance designate certain well-lighted streets or parts of the streets as being sufficiently illuminated during certain periods as to make lights unnecessary. In this case subsection (1) shall not apply to vehicles parked in those streets during such periods.

HB 465, AN ACT relating to traffic regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.450 is amended to read as follows:

(1) No person shall stop a vehicle, leave it standing or cause it to stop or to be left standing upon the *roadway* [~~main traveled portion of a highway~~]; provided, however, that this section shall not be construed to prevent parking *in front of a private residence* off the *roadway* [~~main traveled portion of a highway~~] or street in a city or suburban area where such parking is otherwise permitted, *as long as the vehicle so parked does not impede the flow of traffic.* This subsection shall not apply to:

(a) A vehicle that has been disabled on the main traveled portion of such a highway in such a manner and to such extent that it is impossible to avoid the occupation of the main traveled portion or impracticable to remove it from the highway until repairs have been made or sufficient help obtained for its removal;

(b) Motor vehicles when required to stop in obedience to the provisions of any section of the Kentucky Revised Statutes or any traffic ordinance, regulation or sign or the command of any peace officer;

(c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on such vehicle or discharging passengers therefrom, provided that no such vehicle shall stop for such purposes at a place on the highway which does not afford reasonable visibility to approaching motor vehicles from both directions;

(d) Any vehicle required to stop by reason of an obstruction to its progress.

(2) Whenever any police officer finds a vehicle standing upon such a highway in violation of this section, he may move the vehicle, or require the operator or other person in charge of the vehicle to move it, to a position off the paved or improved or main traveled part of the highway.

(3) Whenever any police officer finds a vehicle unattended upon any bridge or causeway or in a tunnel where the vehicle constitutes an obstruction to traffic, the officer may provide for the removal of the vehicle to the nearest garage or other place of safety.

(4) No person shall stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in the following places:

(a) On a sidewalk;
(b) In front of sidewalk ramps provided for handicapped persons;
(c) In front of a public or private driveway;
(d) Within an intersection;
(e) At any place where official signs prohibit stopping or parking; or
(f) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway.

(5) No person shall move a vehicle not lawfully under his control into any such prohibited area.

(6) The restrictions in subsection (4) (e) of this section shall not apply to sheriffs and their deputies when operating properly identified vehicles during performance of their official duties.

Committee Amendment No. 1 to **HB 465:**

Amend printed copy of **HB 465,** on page 3, line 13, after the word "deputies" by inserting the following: "*or police officers*"

HB 678, AN ACT relating to the Kentucky state police.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

The bureau of state police shall permit payroll deductions of dues to the Kentucky state police professional association when authorized in writing by the employes requesting the payroll deduction.

SB 2, AN ACT relating to traffic safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.125 is amended to read as follows:

(1) No person shall sell any new passenger vehicle in this state nor shall any person make application for registering a new passenger vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.

(2) Any resident parent or legal guardian of a child, forty inches (40") in height or less, when transporting his child in a motor vehicle owned by that parent or guardian operated on the roadways, streets and highways of this state, shall have such child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.

(3) As used in this section, "child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards.

(4) The term "motor vehicle" as used in subsection (2) of this Act shall not apply to recreational vehicles or trucks having a tonnage rating of more than one (1) ton.

(5) Failure to wear a child passenger restraint shall not be considered as contributory negligence, nor shall such failure to wear said passenger restraint system be admissible as evidence in the trial of any civil action.

(6) Any person who violates subsection (2) of this Act shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00). Provided, however, that the fine and any court costs shall be waived upon presentation of evidence by the offender of the acquisition, purchase or rental of a child passenger restraint system meeting the requirements of subsection (3) of this section. Such evidence may be presented either to the clerk of the court before the court date indicated on the citation, or to the presiding judge on the court date.

SB 137, AN ACT relating to limited access facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.240 is amended to read as follows:

(1) The highway authorities of the state, county, city, town, and village are authorized to so design any limited access facility and to so regulate, restrict, or prohibit access as to best serve the traffic for which such facility is intended; and its determination of such design shall be final. In this connection such highway authorities are authorized to divide and separate any limited access facility into separate roadways by the construction of raised curbings, central dividing sections, or other physical separations, or by designating such separate roadways by signs, markers, stripes, and the proper lane for such traffic by appropriate signs, markers, stripes, and other devices. No person shall have any right of ingress or egress to, from or across limited access facilities to or from abutting lands, except at such designated points at which access may be permitted, upon such terms and conditions as may be specified from time to time.

(2) The bureau of highways shall construct or cause to be constructed on all interstate highways and toll roads suitable public facilities, which shall include restrooms which shall be available to the motoring public on a twenty-four (24) hour basis.

The Committee on Education reported **HB 537,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 537, AN ACT relating to the teachers' retirement system and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state.

(b) "Immediate family" shall mean the teacher's spouse, children including stepchildren, parents and spouse's parents without reference to the location or residence of said relative.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill or that the teacher was absent for the purpose of attending to a member of his immediate family who was ill. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section. Any accumulated sick leave days, not to exceed thirty (30) days, credited to a teacher shall remain so credited in the event he transfers his place of employment from one school district to another within the state.

(4) Accumulated days of sick leave shall be granted to a teacher, if prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

(5) After July 1, *1982* [~~1981~~], a district board of education may compensate, at the time of retirement, a teacher for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service, *provided that the member makes the regular retirement contribution for members on the sick leave payment and provided further that either the member, the employing school district or the state shall pay the remaining cost of such service to the retirement system upon receiving notification of the cost from the retirement system. The board of trustees of the teachers' retirement system shall formulate and adopt necessary rules and regulations for the administration of the provision that relates to the member's retirement account.* The accumulation of such days includes unused sick leave days held by the teacher at the time of implementation of such a program.

Section 2. KRS 161.230 is amended to read as follows:

The teachers' retirement system is established as of July 1, 1940, for the purpose of providing retirement allowances for teachers, their beneficiaries and survivors under the provisions of KRS 161.220 to *161.990* [~~161.710~~]. *The teachers' retirement system of the state of Kentucky shall be an independent agency and instrumentality of the Commonwealth and this status shall only be amended or changed by the general assembly.* It shall have the powers and the privileges of a corporation and shall be known as the "Teachers' Retirement System of the State of Kentucky." Its business shall be transacted, its funds invested, and its cash and securities held in that name, or in the name of its nominee provided that its nominee is authorized by board of trustees' resolution solely for the purpose of facilitating the transfer of securities. The board of trustees may designate a nominee as provided in KRS 287.225; or it may name as nominee a partnership composed of selected trustees and employes of the system, and formed for the sole purpose of holding legal or registered title of such securities, and for the transfer of securities in accordance with directions of the board of trustees.

Section 3. KRS 161.250 is amended to read as follows:

The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective provisions of KRS 161.220 to *161.990* [~~161.710~~] are vested in a board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky." The board of trustees shall consist of the superintendent of public instruction, the state treasurer, and seven (7) other trustees elected as provided in KRS 161.260. Four (4) of the elective trustees shall be members of the retirement system, to be known as teacher trustees, two (2) shall be persons who are not members of the teaching profession, to be known as the lay trustees, and one (1) shall be an annuitant of the retirement system to be known as the retired teacher trustee. In 1973, one (1) teacher trustee shall be elected for a regular four-year term and one (1) teacher trustee shall be elected for a two-year term. Thereafter, one (1) teacher trustee shall be elected annually for a four-year term. The retired teacher trustee shall be elected in 1973, and each four (4) years thereafter. *The superintendent of public instruction and the state treasurer are considered ex-officio members of the board of trustees and may designate in writing a person to represent them at board meetings.*

Section 4. KRS 161.290 is amended to read as follows:

(1) *The board of trustees shall meet on the third Monday during the months of March, June, September, and December of each year. Special meetings may be called by the chairperson upon giving adequate notice to each member of the board of trustees. The business to be transacted at special meetings shall be specified in the notice of the meeting* [~~The members of the board of trustees shall serve without compensation except that elective trustees shall receive sixty dollars ($60.00) for each day the board is in session and all~~

~~trustees shall be reimbursed from the expense fund for all necessary expenses they incur through service on the board. Suitable office quarters for the operation of the retirement system shall be provided by the state at the capital~~].

(2) *The members of the board of trustees shall serve without compensation except that elective trustees shall receive sixty dollars ($60.00) for each day the board is in session and all elected trustees shall be reimbursed from the expense fund for all necessary expenses they incur through service to the board without limitation of the provisions of KRS Chapters 44 and 45.*

(3) The board of trustees may authorize a per diem, not to exceed sixty dollars ($60.00) per day for trustees representing the system on committees or commissions established by statute or for service as an official representative of the board of trustees.

Section 5. KRS 161.340 is amended to read as follows:

(1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the rules and regulations of the board of trustees. It shall appoint an executive secretary and fix the compensation for this position without limitation of the provisions of KRS Chapter 18 and KRS 64.640, except that such compensation shall not exceed the maximum set for commissioners by KRS 64.640(2). The compensation set by the board of trustees for the position of executive secretary may provide for the same annual leave, sick leave, insurance and similar benefits as provided for other employees of the retirement system. The executive secretary, at the time of appointment or selection, shall be a graduate of a standard four-year college, and shall possess such other qualifications as the board of trustees may require by regulation. The executive secretary shall not have held by appointment or election an elective public office within the five-year period next preceding the date of appointment or selection.

(2) The board shall employ such clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all such persons employed by the board shall be paid at such rates and in such amounts as the board approves subject to the approval of the commissioner of personnel. *Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employes in the system shall be under the exclusive jurisdiction of the board of trustees.*

(3) The board shall contract for such actuarial, auditing, medical, investment counseling, and other professional or technical services as are required to carry out the obligations of the board without limitations of KRS Chapter 56 and KRS Chapter 45A, and shall provide for legal counsel and such other legal services as may be required in defense of trustees, officers and employes of the system who may be subjected to civil action arising from the performance of their legally assigned duties in the event such counsel and services are not provided by the attorney general.

(4) The board shall require the trustees, executive secretary and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

Section 6. KRS 161.470 is amended to read as follows:

(1) The membership of the retirement system shall consist of all new teachers and all present teachers except as provided in Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 29. No person without previous Kentucky service who was age sixty-five (65) or older on July 1, next preceding employment may become a member of the teachers' retirement system.

(2) Service credit shall be forfeited upon withdrawal. If a teacher again enters service it shall be as a new teacher, except that any teacher who withdraws by claiming his deposits may repay the system the amount withdrawn plus interest and re-establish his service credit as provided in subsection (3) of this section.

(3) Effective July 1, 1974, and thereafter, an active contributing member of the retirement system with contributing service equal to two (2) years or the number of years subsequent to the withdrawal of contributions, whichever is the lesser number, may regain such service credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit.

(4) Effective July 1, 1974, any active contributing member with at least two (2) years of contributing service credit who declined membership as provided in Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 29, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of six percent (6%) compounded annually to the date of deposit.

(5) Membership in the retirement system shall be terminated:

(a) By retirement for service;

(b) By death; [~~or~~]

(c) By withdrawal of the member's accumulated contributions*; or*

(d) When a teacher, having less than five (5) years of Kentucky service is absent from service for more than three (3) consecutive years. Upon termination of member accounts under this subsection, funds

in the account shall be transferred to the state accumulation fund. Inactive members may apply for refunds of such funds at any time. Such terminated service shall be reinstated, if not withdrawn by the member, in the event that the teacher returns to active contributing service.

(6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the teacher return all of his accumulated contributions with regular interest including any payments made by the teacher to the state accumulation fund, but the teacher shall have no claim on any contributions made by the state with a view to his retirement or to contributions made to the survivor, death and medical insurance fund. If the member is eligible for an immediate service retirement allowance as provided in KRS 161.600 no withdrawal and refund shall be permitted, unless the allowance would prohibit the member from qualifying for social security benefits.

(7) Except as provided in KRS 161.520 and 161.525 in case of death prior to retirement the board of trustees shall pay to the estate of the deceased member or to his assigns all of his accumulated contributions, with regular interest, including any payments made by the teacher to the state accumulation fund, but the estate or assigns shall have no claim on any contributions made by the state with a view to the retirement of the teacher or to contributions made to the survivor, death and medical insurance fund.

(8) Any active contributing member of the Kentucky employes retirement system, the county employes retirement system, the state police retirement system, or the judicial retirement system may use service, under such retirement system for the purpose of meeting the service requirement of subsections (3) and (4) of this section.

Section 7. KRS 161.540 is amended to read as follows:

(1) [~~Each member shall contribute to the retirement system seven and seven-tenths percent (7 7/10%) of his annual compensation. The contribution of a member shall not exceed this percentage on his current annual compensation.~~

~~(2)~~] Effective July 1, 1979, each member shall contribute to the retirement system seven and eighty-four hundredths percent (7 84/100%) of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation.

(2)[~~(3)~~] Effective *January 1, 1984* [~~July 1, 1982~~], each member shall contribute to the retirement system nine and thirty-two hundredths percent (9 32/100%) of annual compensation except that university faculty members shall contribute seven and eighty-four hundredths percent (7 84/100%) of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation.

Section 8. KRS 161.550 is amended to read as follows:

Beginning with July 1, 1976, the state shall contribute annually to the retirement system a permanent amount equal to that contributed by all members. The state shall, in addition to the above amount, provide an annual overmatch of three and one-fourth percent (3.25%) of total member salaries to discharge the system's unfunded obligations with interest assumed by the state. *The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.220 through 161.714. In the event an annual appropriation is in excess of these requirements, such excess funds shall lapse to the credit of the general fund. In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system.*

Section 9. KRS 161.565 is amended to read as follows:

Notwithstanding any other provisions of KRS Chapter 161, the contribution of *members may be reduced by amounts of two and two hundred fifteen thousandths percent (2 215/1000%) if amounts sufficient to replace the reduction are authorized and contributed to the teachers' retirement system by the employer. Such reductions must apply to all employes of participating employers who are members of the teachers' retirement system. The amounts of reduction shall be placed in the individual accounts of the member and shall be subject to income taxes at the time the member retires or terminates the account by withdrawal. The board of trustees shall formulate and adopt necessary rules and regulations for administration of this provision* [~~university faculty members may be reduced by amounts up to two and two hundred fifteen thousandths percent (2 215/1000%) if amounts sufficient to replace the reduction are authorized and contributed to the teachers' retirement system by the board of regents of the employing university~~].

Section 10. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age *or service credit* at retirement may be applied as provided in this section.

(b) For retirements effective *January 1, 1984* [~~July 1, 1982~~], and thereafter the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after *January 1, 1984* [~~July 1, 1982~~], shall be valued at *the annual rate of* two and one-half percent

(2 ½%) of the final average salary for all members not employed by a state university or college. *For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%).*

(c) If the member has five (5) years or more of Kentucky service, but less than thirty (30) years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than thirty (30) years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than eighty-eight dollars ($88) multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums shall be effective July 1, 1978, and shall apply to those members retiring on or subsequent to that date.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) *Effective July 1, 1982, the monthly allowance of each member retired on or before July 1, 1981, and each recipient of a retirement option of such retired members shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member has been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month* [~~Effective July 1, 1980, the monthly allowance of each member retired on or before July 1, 1979, and of each recipient of a retirement option of such retired member shall be increased in the amount of three percent (3%) of the monthly allowance. Effective July 1, 1980, the monthly allowance of each member retired on or before July 1, 1975, and of each recipient of a retirement option of such retired member shall be increased in the amount of two percent (2%) of the monthly allowance. Effective July 1, 1981, the monthly allowance of each member retired on or before July 1, 1980, and of each recipient of a retirement option of such retired member shall be increased in the amount of three percent (3%) of the monthly allowance. Effective July 1, 1981, the monthly allowance of each member retired on or before July 1, 1976, and of each recipient of a retirement option of such retired member shall be increased in the amount of two percent (2%) of the monthly allowance. The above percentages shall be based on an assumed minimum allowance of two hundred dollars ($200) per month and an assumed maximum allowance of seven hundred and fifty dollars ($750) per month of annuity in effect the previous month~~].

(6) Effective July 1, *1983, the monthly allowance of each member retired on or before July 1, 1982, and each recipient of a retirement option of such retired member shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member had been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month* [~~1980, each member retired prior to that date and each recipient of a retirement option of such member shall receive an increase in monthly benefits equal to one dollar ($1.00) for each year, up to a maximum of fifteen (15) years, of credited service prior to July 1, 1941. Effective July 1, 1980, each member who retired prior to that date and each recipient of a retirement option of such member shall receive an increase in monthly benefits equal to five dollars ($5.00) for each year, after the first fifteen (15) years, of credited service prior to July 1, 1941~~].

(7) Effective July 1, 1980, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of such child or until such time as the mental condition creating the dependency no longer exists. Benefits under this subsection shall not apply to adopted children. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82 and 1982-84 shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the 1982-84 biennium for the cost-of-living increases approved under subsections (5) and (6) of this section.

SECTION 11. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the teachers' retirement system may compensate, at the time of retirement for service, an active teacher for unused sick leave days in accordance with this section.

(2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick leave balance to the board of trustees of the Kentucky teachers' retirement system. The member's sick leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account. A maximum of one-half (½) year of credit may be added to a member's service credit for the purpose of determining the retirement allowance under KRS 161.620. Such sick leave credit shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 161.600.

(3) The board shall compute the cost to the retirement system of the sick leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.

(4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155(5) or any other statutory provision.

(5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.

(6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.

SECTION 12. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

The employes of the teachers' retirement system shall endeavor to provide full and complete information to all inquiries presented by members or beneficiaries of members. The members or beneficiaries of the members shall assume full responsibility for obtaining adequate and sufficient information concerning their eligibility for retirement benefits and for selection of the type of benefit available to them.

Section 13. Whereas, retirement annuity adjustments are implemented at the beginning of a fiscal year, an emergency is declared to exist and the provisions of this Act shall become effective July 1, 1982.

Committee Amendment No. 1 to **HB 537**:

Amend printed copy of **HB 537**, page 3, lines 6 through 14, by adding a period after the word "*payment*" on line 6 and deleting all new material following

page 3, line 22 and 23, by inserting "*161.155 and*" after KRS and by deleting "*161.990*" and inserting "*161.714*" in lieu thereof

page 4, line 20, by adding "*161.155 and*" before "161.220" and by deleting "*161.990*" and inserting "*161.714*" in lieu thereof

page 12, line 20, by inserting "*161.155 and*" before "*161.220*"

page 12, line 22, by deleting "*lapse to the credit of the general fund*" and inserting the following in lieu thereof: "*, in the 1982-84 biennium, be retained by the system to be applied to any unfunded remaining costs as described in subsection 5 of section 1 of this act*"

page 13, delete all of lines 1 through 21 and renumber sections 10 through 12.

The Committee on Energy reported **HB 636, HB 820, HJR 54,** and **SB 33** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 636, AN ACT relating to electricians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.490 is amended to read as follows:

(1) A city or county may require all electrical contractors and electricians[~~, except those who have had at least five (5) years of experience as an electrical contractor and/or electrician,~~] to be examined by

an examining board before being issued a license to engage in their occupation. An electrician desiring to become a contractor may apply for an examination to the examining board. A city or county may require all nonresident electrical contractors and electricians to conform to reasonable standards prior to engaging in their occupation within the jurisdiction of the city or county.

(2) The examining board shall be composed of seven (7) members appointed by the city or the county and in such instances as where the provisions of KRS 227.450 to 227.500 are accomplished jointly as provided for in KRS 227.470, the appointment shall be by joint resolution of the governing body of each local government which is party to the cooperative agreement. Such cooperative agreement shall conform to the provisions of KRS Chapter 65. The board shall consist of two (2) fire department officials, two (2) consulting electrical engineers or architects, two (2) electrical contractors and one (1) utility company official. No appointee shall serve more than two (2) consecutive years.

(3) The members of the examining board shall serve without salary.

(4) In order to administer KRS 227.450 to 227.500, the board may issue and revoke licenses; conduct and make regulations for conducting examinations of applicants; govern the method and time of making application for examination and the time within which applicant shall be examined after application has been filed. It may adopt any other reasonable regulations to administer KRS 227.450 to 227.500.

(5) Electrical contractors and electricians may be required to pay a reasonable fee before issuance of a license to them.

HB 820, AN ACT relating to the energy development and demonstration projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.750 is amended to read as follows:

(1) It shall be the policy of the Commonwealth of Kentucky to encourage and promote the development and demonstration of efficient, environmentally acceptable and commercially feasible technologies, techniques, and processes for production, transportation, conversion and utilization of coal, *oil shale and tar sands* in liquid, gaseous, or solid forms, *and to insure that additional public service demands on local governments resulting from this development be met in an orderly fashion.*

(2) This policy may be implemented by the creation of a coal warehousing industry in the Commonwealth consisting of one or more coal storage sites with attendant loading, processing and transportation facilities to serve coal conversion facilities, any national energy project approved by the federal energy mobilization board, any synthetic fuel project approved by the federal energy security corporation and any other coal-related energy project, facility, process or technique involving increased production, transportation, conversion and utilization of Kentucky coal.

(3) This policy may be implemented by the creation of a commodities exchange for the trading of coal futures in Kentucky consisting of a contract market and state certified coal warehousing facilities wherein coal which is subject to outstanding futures contracts can be stored for future delivery.

(4) This policy may be implemented by contracts and agreements with the federal government and its agencies and/or with other organizations, including private industry, and through organizations that may be formed jointly by the state, the federal government or its agencies, and private industry to conduct developmental and demonstration projects in such organizational form or legal entity deemed appropriate by the participants.

(5) This policy may be implemented by the expenditure of state funds for the preliminary engineering and planning, design, construction, and/or operation of developmental and demonstrative projects in Kentucky, including pilot and demonstration plants, and for the acquisition and improvement of land, construction of roads, and provision of other public facilities incidental and necessary to the accomplishment of developmental and demonstrative projects in Kentucky.

(6) This policy may be implemented by the sale or lease of state property or property rights to organizations engaged in developmental and demonstrative projects in Kentucky, either for a fair and reasonable consideration or solely or partly as all or a portion of the state's participation under KRS 152.755 to 152.785 in developmental and demonstrative projects.

(7) This policy may be implemented by acquisition by purchase, *or option to purchase,* and if the Commonwealth is unable to contract or agree with the owner after a good faith effort to do so, by the exercise of eminent domain the fee simple title to, or any acceptable lesser interest in such lands, rights of way, franchises, or easements, including submerged lands and riparian rights that are necessary for the construction, use or operation of any authorized demonstration project or projects and for the construction and operation of a line of railroad, truck road, overhead conveyor, pipeline or other transportation facilities for the transportation of coal, water, or other materials and supplies, to the authorized demonstration project or projects from

the most convenient and accessible point on a railroad, navigable stream, or [~~coal~~] mine *site* together with the necessary rights of ingress and egress to construct, examine, alter, repair, maintain, operate, or remove such transportation facilities. The proceedings for condemnation shall be as provided in the Eminent Domain Act of Kentucky.

(8) *For purposes of this Act the authority for the exercise of eminent domain, as defined in subsection (7), shall be confined solely to authorized demonstration projects which deal specifically with commercially feasible technologies, techniques and processes for production, transportation, conversion and utilization of coal in liquid gaseous and solid forms.*

(9) This policy may be implemented by contracts and agreements for the Commonwealth to purchase all or a portion of the usable output of developmental and demonstration projects, either for a fair and reasonable consideration or solely or partly as all or a portion of the state's participation under KRS 152.755 to 152.785 in developmental and demonstrative projects, and to dispose of this output by use in state facilities or by resale at fair market value.

HJR 54, A JOINT RESOLUTION establishing a Hazardous Waste Facility Siting Commission and declaring an emergency.

WHEREAS, there is a need to evaluate existing state policy regarding hazardous waste facility siting and assess its adequacy to meet state needs; and

WHEREAS, there is a need to review existing data concerning the amounts and types of hazardous waste generated in the Commonwealth, the capacity of existing facilities to handle these wastes, and the feasibility of alternative technologies for handling these wastes;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission be directed to appoint a Hazardous Waste Facility Siting Commission and to select a Chairperson and Vice Chairperson. The Commission shall consist of membership from both houses of the legislature. In addition, the Legislative Research Commission shall appoint to the commission representatives from the waste industry, including generators, transporters, and operators of treatment and disposal facilities; representatives from environmental groups; university representatives knowledgeable in the area of chemicals; local government officials; and citizens. In no case shall the membership of the Commission exceed eighteen (18) members.

Section 2. That the Commission is directed to:

(a) Review all available data from all sources to determine the amount and types of hazardous waste generated in Kentucky, to determine the capacity and operational life of existing hazardous waste facilities to handle these wastes.

(b) Assess the technological feasibility of hazardous wastes generated in Kentucky to be recycled, incinerated or otherwise rendered nonhazardous so as not to require land disposal.

(c) Based on the above analyses, assess the need for new hazardous waste facilities in the Commonwealth, both as to type and number.

(d) Review existing statutes relating to hazardous waste facility siting in Kentucky and suggest alternatives to existing procedures that would provide a workable siting mechanism and at the same time provide for local involvement in decision-making and compensation to assure the health, safety, social and economic security of the host community.

Section 3. That the Department for Natural Resources and Environmental Protection, the Commerce Cabinet, and the Department of Energy each be directed to assign one (1) person to provide staff services to the Commission and that primary responsibility for staff coordination be provided by the staff of the Legislative Research Commission.

Section 4. That the Commission report its findings and recommendations to the Legislative Research Commission by December 1, 1982.

Section 5. That members of the Commission shall be reimbursed for their expenses involved in the attendance of meetings. It is estimated that the operation of the Commission will cost approximately $10,000, such monies to be provided from the regular budget of the Legislative Research Commission.

Section 6. Because of the lead time involved in establishing hazardous waste facilities, the evaluation of the policy of the Commonwealth in this regard is of the utmost urgency, and this resolution shall become effective upon its passage and approval by the Governor.

SB 33, AN ACT relating to rural cooperative corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 279.080 is amended to read as follows:

(1) Each corporation formed under this chapter shall have a board of directors of not less than five (5) members, which shall be the governing body of the corporation. Unless otherwise provided in the articles of incorporation, directors need not be members of the corporation. The directors, other than those named in the articles of incorporation, shall be elected annually or as provided for in the bylaws, but no director shall be elected for a longer term than three (3) years. *The directors shall be elected in a manner to insure secrecy and anonymity of ballots cast provided the result of such election is determined by ballot vote.* The directors shall receive such compensation and reimbursement of expenses as the bylaws provide. When a vacancy on the board of directors occurs other than by expiration of a term, the remaining members of the board, by a majority vote, shall fill the vacancy for the remainder of the term by appointment, unless the bylaws otherwise provide.

(2) Subject to the provisions of the articles of incorporation and the bylaws, the board of directors may adopt rules and regulations governing the procedure of the board and the operations of the corporation, and shall manage and conduct the business and affairs of the corporation.

(3) The officers of a corporation shall consist of a president, a secretary, and a treasurer, each of whom shall be elected by the board of directors at such time and in such manner as may be prescribed by the bylaws. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws. Any two or more offices may be held by the same person, except that the offices of the president and secretary may not be held by the same person. All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws.

(4) Every officer, employe or agent handling funds, securities or negotiable instruments of or for any corporation created under this chapter shall be required to execute an adequate bond for the faithful performance of his duties in an amount and with security approved by the board.

Section 2. KRS 279.380 is amended to read as follows:

(1) The business of a cooperative shall be managed by a board of not less than five (5) trustees, each of whom shall be a member of the cooperative, or of another cooperative which is a member thereof. The bylaws shall prescribe the number of trustees, their qualifications, other than those prescribed in this section, the manner of holding meetings of the board of trustees and of electing successors to trustees who shall resign, die, or otherwise be incapable of acting. The bylaws may also provide for the removal of trustees from office and for the election of their successors. Trustees shall not receive any salaries for their services as trustees and, except in emergencies, shall not receive any salaries for their services in any other capacity without the approval of the members. The bylaws may, however, prescribe a fixed fee for attendance at each meeting of the board of trustees and may provide for reimbursement of actual expenses of attendance.

(2) The trustees of a cooperative named in any articles of incorporation, consolidation, merger, conversion or combined consolidation and conversion shall hold office until the next annual meeting of the members and until their successors are elected and qualify. At each annual meeting or, in case of failure to hold the annual meeting as specified in the bylaws, at a special meeting called for that purpose, the members shall elect trustees to hold office until the next annual meeting of the members, except as otherwise provided in KRS 279.310 to 279.600. *The trustees so elected shall be elected in a manner to insure secrecy and anonymity of ballots cast provided the result of such election is determined by ballot vote.* Each trustee shall hold office for the term for which he is elected and until his successor is elected and qualifies.

(3) Instead of electing all the trustees annually, the bylaws may provide that one-third (⅓) of them, or a number as near thereto as possible, shall be elected annually for a term of three (3) years.

(4) A majority of the board of trustees shall constitute a quorum.

(5) The board of trustees may exercise all of the powers of a cooperative not conferred upon the members by KRS 279.310 to 279.600, or its articles of incorporation or bylaws.

(6) The officers of a cooperative shall consist of a president, vice president, secretary and treasurer, who shall be elected annually by and from the board of trustees. When a person holding any such office ceases to be a trustee he shall cease to hold such office. The office of secretary and of treasurer may be held by the same person. The board of trustees may also elect or appoint such other officers, agents, or employes as it deems necessary or advisable and shall prescribe their powers and duties. Any officer may be removed from office and his successor elected in the manner prescribed in the bylaws.

Calendar

HB 436, HB 527, HB 528, HB 648, HB 594, HB 526, SB 72, HB 646, and **HB 720** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage of **SB 36, SB 152, SB 172, SB 174, SB 198, SB 235, SB 320, SB 341, SJR 41, HB 83** with Senate Amendments, **HB 107** with Senate Amendment, **HB 179** with Senate Amendment, **HB 245, HB 332,** and **HB 372.**

Orders of the Day

HB 290, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Floor Amendment No. 1 to **HB 290.** Agreed.

Representative Barrows moved that **HB 290,** as amended be passed.

On the roll call the vote was yeas 61-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Burch, Caldwell, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Farrow, Foster, Gray, Handy, Head, Heleringer, Hines, Holbrook, Kenton, Kidd, LeMaster, List, Long, Lundergan, Mann, Meyer, Moberly, Moore, Nett, Noe, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, Williams, Worthington, Yates. Nays 33-Allen, Bruce, Clapp, Cline, Deskins, Ellington, Endicott, Ford, Freibert, Fryman, Haering, Harper, Holloway, R. Jones, Layman, Lefevers, Lile, Little, Maggard, McBee, McNutt, Morris, Noland, O'Brien, Overstreet, Patrick, Pearman, Petty, Schmidt, B. Smith, Tobin, Turner, White.

HB 290, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 290,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HR 33 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of **HR 33.**

HR 33 was adopted by voice vote.

Speaker Pro Tempore Thomason presiding.

SB 44, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the Floor Amendment No. 2 to **SB 44.** Agreed.

Representative Patrick moved that **SB 44,** as amended, be passed.

On the roll call the vote was yeas 80-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Haering, Hancock, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 4-Allen, Handy, Pearman, Perkins.

SB 44, as amended, was passed and the title agreed to.

Representative Patrick moved that the vote by which **SB 44,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 312, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Floor Amendment No. 3 to **HB 312.** Agreed.

Representative Mann moved that **HB 312,** as amended, be passed.

Representative Van Horn moved the adoption of the Floor Amendment No. 2 to **HB 312.**

On the roll call the vote was yeas 44-Allen, Bennett, Brinkley, Bronger, Burnette, Crupper, Curd, Dawahare, Dunn, Ellington, Farrow, Ford, Fryman, Gray, Haering, Hancock, Harper, Head, Heleringer, Holbrook, Holloway, Layman, Lefevers, Little, Maggard, Meyer, Moore, Noland, Overstreet, Patrick, Perkins, Rapier, Riner, Robinson, Schmidt, F. Smith, Stone, Tobin, Todd, Turner, Van Horn, White, Williams, Yates. Nays 42-Arnold, Barrows, Bendl, Blandford, Blevins, Boswell, Bruce, Burch, Caldwell, Clapp, Clarke, Cline, Cowan, Craddock, Deskins, Endicott, Freibert, Handy, Johnson, R. Jones, Kenton, LeMaster, Lile, List, Long, Mann, McBee, McNutt, Moberly, Morris, Nett, Noe, Pearman, Petty, Priddy, Rattliff, Richards, P. Richardson, Seum, Stumbo, Thomas, Thomason.

Floor Amendment No. 2 to **HB 312** was adopted.

Representative Schmidt moved the adoption of the Floor Amendment No. 1 to **HB 312.**

Representative Fryman moved that Floor Amendment No. 1 to **HB 312** be laid on the table.

On the roll call the vote was yeas 16-Allen, Caldwell, Ford, Foster, Freibert, Fryman, Handy, Layman, Long, Moore, Overstreet, Patrick, Perkins, Rattliff, Todd, Turner. Nays 60-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Burch, Burnette, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Farrow, Gray, Haering, Hancock, Head, Hines, R. Jones, T. Jones, Kenton, Kidd, LeMaster, List, Little, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Pearman, Petty, Priddy, Rapier, Richards, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Tobin, Van Horn, Williams, Yates.

The motion that Floor Amendment No. 1 to **HB 312** be laid on the table was rejected.

The Speaker resumed the Chair.

Representative Schmidt moved the adoption of the Floor Amendment No. 1 to **HB 312.** Rejected.

Representative Mann moved that **HB 312,** as amended, be passed.

On the roll call the vote was yeas 31-Arnold, Barrows, Bendl, Bennett, Brinkley, Bruce, Burch, Craddock, Cyrus, Deskins, Donnermeyer, Dunn, Foster, Gray, Hancock, Hines, T. Jones, Kidd, Little, Mann, Meyer, Noe, Perkins, Petty, Seum, F. Smith, Stone, Thomas, Van Horn, Williams, Yates. Nays 62-Allen, Blandford, Blevins, Boswell, Bronger, Brown, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Crupper, Curd, Dawahare, Ellington, Endicott, Farrow, Ford, Friebert, Fryman, Haering, Handy, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, Layman, Lefevers, LeMaster, Lile, List, Long, Maggard, McBee, McNutt, Moberly, Moore, Morris, Nett, Noland, Overstreet, Patrick, Pearman, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, B. Smith, Stumbo, Thomason, Tobin, Todd, Turner, White.

HB 312, as amended, was defeated.

Representative Mann moved that the vote by which **HB 312,** as amended, was defeated be reconsidered and said motion be placed on the table. Agreed.

HB 314, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved the adoption of the Committee Amendment No. 1 to **HB 314.** Agreed.

Representative Hines moved that **HB 314,** as amended, be passed.

On the roll call the vote was yeas 66-Arnold, Barrows, Bendl, Bennett, Blandford, Boswell, Brinkley, Bronger, Brown, Burch, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Nett, Noe, Pearman, Petty, Priddy, Rapier, Richards, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Tobin, White, Worthington, Yates. Nays 15-Allen, Burnette, Caldwell, Dawahare, Ford, Freibert, Haering, Layman, Moore, Overstreet, Patrick, Perkins, Schmidt, Turner, Van Horn.

HB 314, as amended, was passed and the title agreed to.

Representative Hines moved that the vote by which **HB 314,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 421, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Craddock moved the adoption of the Committee Substitute to **HB 421.** Agreed.

Representative Craddock moved that **HB 421,** by way of Committee Substitute, be passed.

Representative Clark moved that **HB 421** be laid on the Clerk's desk. Rejected.

On the roll call the vote was yeas 72-Arnold, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, Clarke, Cline, Craddock, Crupper, Cyrus, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Hancock, Handy, Harper, Head, Holbrook, Johnson, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Moberly, Morris, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 16-Allen, Bennett, Blandford, Brown, Clark, Cowan, Curd, Dawahare, Dunn, Fryman, Gray, Haering, Heleringer, Moore, Priddy, Williams.

HB 421, by way of Committee Substitute, was passed and the title agreed to.

Representative Craddock moved that the vote by which **HB 421,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 133** had been examined and found correctly enrolled. **SB 133** read at length, compared and signed in open session by the Speaker. (Time - 3:28 p.m.)

Orders of the Day (continued)

HB 450, with Committee Substitute and Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Committee Substitute to **HB 450.** Agreed.

Representative Farrow moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to **HB 450.** Agreed.

Representative Pearman moved that **HB 450,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 85-Allen, Arnold, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noland, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 6-Barrows, Crupper, Cyrus, Deskins, Moore, Overstreet.

HB 450, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 450,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 438 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Craddock moved that **HB 438** be passed.

On the roll call the vote was yeas 57-Arnold, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Clark, Cowan, Craddock, Crupper, Curd, Deskins, Donnermeyer, Dunn, Ellington, Foster, Freibert, Hancock, Handy, Harper, Head, Hines, Holbrook, Johnson, Kidd, Lefevers, Long, Lundergan, McNutt, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Tobin, White, Worthington, Yates. Nays 27-Allen, Brown, Caldwell, Clapp, Cyrus, Dawahare, Farrow, Ford, Fryman, Haering, Heleringer, Layman, Lile, List, Little, Maggard, Mann, Meyer, Moberly, Moore, Patrick, Perkins, Rattliff, Schmidt, Thomason, Van Horn, Williams.

HB 438 was passed and the title agreed to.

Representative Craddock moved that the vote by which **HB 438** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 574, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Floor Amendment No. 1 to **HB 574.** Agreed.

Representative Johnson moved that **HB 574,** as amended, be passed.

On the roll call the vote was yeas 83-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Haering, Hancock, Harper, Holbrook, Johnson, R. Jones, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington. Nays 0.

HB 574, as amended, was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 574,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 184, SB 339, HB 308** with Senate Amendment, **HB 373, HB 374,** and **HB 439.**

Ordered of the Day (continued)

HB 98 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 98** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gray, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 98 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 98** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 143, with Committee Substitutes, Committee Amendment, and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Second Committee Substitute to **HB 143.** Agreed.

Representative Burch moved that **HB 143,** by way of Second Committee Substitute, be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Ford, Foster, Freibert, Fryman, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Gray.

HB 143, by way of Second Committee Substitute, was passed.

Representative Burch moved the adoption of the Committee Title Amendment to **HB 143.** Agreed.

Representative Burch moved that the vote by which **HB 143,** by way of Second Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 430, with Committee Amendments and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved the adoption of the Committee Amendment No. 1 to **HB 430.** Agreed.

Representative O'Brien moved the adoption of the Committee Amendment No. 2 to **HB 430.** Agreed.

Representative Morris moved the adoption of the Floor Amendment No. 1 to **HB 430.** Agreed.

Representative Freibert moved the adoption of the Floor Amendment No. 2 to **HB 430.** Agreed.

Representative List moved that **HB 430,** as amended, be passed.

On the roll call the vote was yeas 54-Barrows, Bendl, Bennett, Blevins, Boswell, Brinkley,Bronger, Brown, Bruce, Caldwell, Cline, Cowan, Craddock, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Gray, Handy, Heleringer, Hines, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Noe, Overstreet, Petty, Priddy, Richards, B. Richardson, Seum, F. Smith, Stumbo, Thomas, Thomason, Tobin, Van Horn, White, Williams, Yates. Nays 39-Allen, Arnold, Blandford, Burch, Burnette, Clapp, Clark, Clarke, Crupper, Curd, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Haering, Hancock, Head, Holbrook, Holloway, Johnson, R. Jones, Layman, McNutt, Nett, Noland, O'Brien, Patrick, Pearman, Perkins, Rapier, Rattliff, Robinson, B. Smith, Stone, Todd, Turner.

HB 430, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 430,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 478, with Committee Substitute and Committee Title Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Substitute to **HB 478.** Agreed.

Representative LeMaster moved that **HB 478,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 85-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Freibert, Gray, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Williams, Worthington, Yates. Nays 3-Fryman, Noland, Van Horn.

HB 478, by way of Committee Substitute, was passed.

Representative LeMaster moved the adoption of the Committee Title Amendment to **HB 478.** Agreed.

Representative LeMaster moved that the vote by which **HB 478,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that the rules be suspended for announcements. Agreed.

The following meetings were announced.

Committee on Rules: On adjournment, Room 109.

Majority Caucus: Fifteen minutes after adjournment, Room 109.

Minority Caucus: Fifteen minutes after adjournment, Room 315.

Transportation: An adjournment, Room 101.

Labor and Industry: Cancelled today.

Judiciary-Civil: Wednesday, 8:00 a.m., Room 104.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsor of Bills and Resolutions: Representative Bendl, **HB 648, HB 779**; Representative Blevins, **HB 779**; Representative Heleringer, **HB 779**; Representative Johnson, **HB 779**, Representative Kenton, **HB 779**; Representative McBee, **HB 727**; Representative Moore, **HR 49**; Representative Noe, **HB 779**; Representative Perkins, **HB 779**; Representative P. Richardson, **HB 779**; Representative Riner, **HB 106, HB 450, HB 779**; Representative Todd, **HB 779.**

Representative O'Brien moved that **HCR 70** be reassigned to the Committee on Cities. Agreed.

Representative O'Brien moved that **HB 803** be reassigned to the Committee on Labor and Industry. Agreed.

Representative Bendl moved that **HB 609** be withdrawn. Agreed.

Representative Richards moved that **HB 825** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Williams moved that he be recorded as voting "yea" on **HB 314.** Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 245, HB 332, HB 372, HB 373, HB 374,** and **HB 439** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:23 p.m.)

Motions, Petitions and Communications (continued)

Representative Noland moved the adoption of Legislative Citations Nos. 47, 48, 49, 50, 51, 52, and 53. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends the Irvine Fire Department of Irvine, Kentucky, for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Noland)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Ravenna Fire Department of Ravenna, Kentucky, for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Noland)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Estill County Fire Department of Irvine, Kentucky, for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Noland)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Sandgap Volunteer Fire Department of Sandgap, Kentucky, for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Noland)

The House of Representatives of the Commonwealth of Kentucky hereby commends the McKee Volunteer Fire Department of McKee, Kentucky, for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Noland)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Pond Creek Volunteer Fire Department of Annville, Kentucky, for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Noland)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Gray Hawk Volunteer Fire Department of Gray Hawk, Kentucky, for your indispensable and outstanding services to your community in Fire prevention and safety, and in protection of the public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Noland)

The following Floor Amendments were filed to Bills and Resolutions.

Floor Title Amendment No. 1 to **HB 141,** by Representative Foster:

Amend printed copy of **HB 141,** page 1, title, by deleting the title and by substituting therefor: "AN ACT levying costs and fees to fund spouse abuse services.".

Floor Amendment No. 9 to **HB 280,** by Representative Burnette:

Amend printed copy of **HB 280,** page 2, line 24, by inserting after the word "*another*" the following: "*who grows and cultivates ginseng for a cash, agricultural product*"

Floor Amendment No. 1 to **HB 311,** by Representative Boswell:

Amend printed copy of **HB 311,** page 18, between lines 22 and 23, insert the following:

"*(c) The person performing the plumbing inspection is certified by the department as having successfully completed the requirements provided in KRS 318.410 to practice as a certified plumbing inspector.*

(d) The person, firm or company does not have a conflict of interest between their plan review or inspection functions and any other employment or business activities."

Floor Amendment No. 1 to **HB 320,** by Representative Gray:

Amend printed copy of **HB 320,** on page 2, line 25, after the word "chapter." by inserting the following language: "*Water patrol officers employed by the commission shall not be less than the total officers employed by the division of water enforcement on July 1, 1981.*"

and on page 5, line 8, before the word "The" by adding "*(1)*"

and on page 6, line 1, after the word "Commonwealth." by inserting the following language:

"*(2) The bureau of state police shall cooperate with the commission of water patrol for the purpose of radio communication of water patrol officers when any assistance is necessary.*"

and on page 6, lines 18-21, after "(2)" by deleting the lines in their entirety.

and on page 6, line 22, by deleting "*(3)*"

and on page 13, line 1, after "KRS 512.070." by inserting the following language:

"Section 19. *Whereas, an adverse situation with regard to boating and water safety is now occurring, an emergency is declared to exist, and this Act shall be effective upon its passage and approval by the Governor.*"

Floor Amendment No. 2 to **HB 320,** by Representative Gray:

Amend printed copy of **HB 320,** on page 13, line 1, after "KRS 512.070." by adding the following language:

Section 19. KRS 235.080 is amended to read as follows:

"(1) The annual registration fee for motorboats shall be based upon the following:

1 foot through 15 feet 11 inches	$ *10.00*[~~5.00~~]
16 feet through 25 feet 11 inches	*14.00*[~~7.00~~]
26 feet through 39 feet 11 inches	*20.00*[~~10.00~~]
40 feet and over	*24.00*[~~12.00~~]
All inboards and inboard/outboards	*24.00*[~~12.00~~]

Every application shall be accompanied by the registration fee above set out.

(2) The annual registration fee for motorboats for hire from a livery shall be the registration fees set forth in subsection (1) above. Owners of a livery shall apply for licenses or certificates in the manner provided in this chapter, but the department may promulgate special rules and regulations relating to their certification and registration."

Floor Amendment No. 3 to **HB 320,** by Representative Fryman:

Amend printed copy of **HB 320,** on page 6, lines 18-21, after "(2)" by deleting the lines in their entirety.

and on page 6, line 22, by deleting "*(3)*"

Floor Amendment No. 3 to **HB 345,** by Representative B. Smith:

Amend printed copy of **HB 345,** page 10, by inserting the following between lines 7 and 8:

"*Energy and agriculture cabinet.*

Department of agriculture (headed by

elected officer)."; and

on page 10, between lines 14 and 15, by inserting the following:

"*7. State fair board.*

8. Kentucky council on agriculture.

9. Kentucky tobacco research board."

and on page 10, by bracketing and striking through lines 16 and 17 in their entirety; and

on page 10, line 18, by bracketing and striking through "7." and by placing "*10.*" in front of "7."; and

on page 10, line 21, by bracketing and striking through "8." and by placing "*11.*" in front of "8."; and

on page 10, line 23, by bracketing and striking through "9." and by placing "*12.*" in front of "9."; and

on page 10, line 25, by bracketing and striking through "10." and by placing "*13.*" in front of "10."; and

on page 11, by bracketing and striking through line 1 in its entirety; and

on page 11, line 2, by bracketing and striking through "12." and by inserting "*14.*" in front of "12."; and

on page 11, by bracketing and striking through line 3 in its entirety; and

on page 11, line 4, by bracketing and striking through "14." and by placing "*15.*" in front of "14."; and

on page 11, line 5, by bracketing and striking through "15." and by placing "*16.*" in front of "15."; and

on page 11, line 6, by bracketing and striking through "16." and by placing "*17.*" in front of "16."; and

on page 11, line 7, by bracketing and striking through "17." and by placing "*18.*" in front of "17."; and

on page 11, line 8, by bracketing and striking through "18." and by placing "*19.*" in front of "18."; and

on page 11, by bracketing and striking through line 9 in its entirety; and

on page 18, between lines 8 and 9, by adding the following:

SECTION 12. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The Kentucky council on agriculture shall consist of the following divisions each headed by directors, appointed pursuant to KRS 12.050, as follows:

(1) Division of research and statistics;

(2) Division of domestic markets;

(3) Division of export markets; and

(4) North American International Livestock Exposition division.

Section 13. KRS 11.400 is amended to read as follows:

(1) In addition to the duties prescribed for the office by the constitution of the Commonwealth of Kentucky and by the rules of the senate, the duties of the lieutenant governor shall be as follows:

(a) To serve as vice-chairman of the state property and buildings commission as prescribed by KRS 56.450;

(b) To serve as vice-chairman of the Kentucky turnpike authority as prescribed in KRS 175.430;

(c) To serve as a member of the *Kentucky* [~~governor's~~] council on agriculture in accordance with KRS 247.417;

(d) To serve as vice-chairman of the county debt commission as provided in KRS 66.300;

(e) To appoint three (3) members of the board of ethics of the Kentucky general assembly in accordance with KRS 6.810;

(f) To appoint one (1) member of the public officials' compensation board as provided in KRS 64.742;

(g) To serve as a member of the economic development commission;

(h) To serve as a member of the Kentucky port and river development authority pursuant to KRS 154.320;

(i) To serve as a member of the board of the Kentucky housing corporation in accordance with KRS 198A.030;

(j) To serve as a member of the appalachian development council as provided in KRS 154.600;

(k) To serve as a member of Kentucky delegations on the following interstate compact commissions or boards:

(i) The southern growth policies board as prescribed by KRS 147.585;

(ii) The breaks interstate park commission as provided in KRS 148.225;

(iii) The falls of the Ohio interstate park commission pursuant to KRS 148.242;

(iv) The Tennessee-Tombigbee waterway development authority pursuant to KRS 182.305;

(v) The interstate water sanitation control commissions as prescribed by KRS 224.205; and

(vi) The Kentucky mining advisory council for the interstate mining compact as provided by KRS 350.310.

(2) Nothing in this section shall prohibit the governor and lieutenant governor from agreeing upon additional duties within the executive branch of the state government to be performed by the lieutenant governor.

Section 14. KRS 12.265 is amended to read as follows:

The cabinets established in KRS 12.250 shall be composed of departments, boards and commissions as follows:

I. Cabinet for development

A. [~~Department of agriculture~~

~~B.~~] Department of commerce

B.[~~C.~~] Department of fish and wildlife resources

C.[~~D.~~] Department of parks

D.[~~E.~~] Kentucky historical events celebration commission

[~~F. State fair board~~]

E.[~~G.~~] Economic development commission

[~~H. Governor's council on agriculture~~]

F.[~~I.~~] Department for local government

G.[~~J.~~] State horse park board

H.[~~K.~~] Office for program administration

I.[~~L.~~] Urban development office

[~~M. Kentucky tobacco research board~~]

J.[~~N.~~] Appalachian development council.

II. Cabinet for education and the arts

A. Kentucky arts commission

B. Department of education

C. The Kentucky authority for educational television

D. Kentucky heritage commission

E. Kentucky historical society

F. Department of library and archives

G. Bureau for the blind.

III. Cabinet for public protection and regulation

A. Department of alcoholic beverage control

B. Department of banking and securities

C. Department of insurance

D. Department of labor

E. Department of mines and minerals

F. Kentucky registry of election finance

G. Energy regulatory commission and utility regulatory commission

H. Kentucky quarterhorse and appaloosa commission

I. Kentucky state racing commission

J. Kentucky harness racing commission

K. Kentucky board of tax appeals

L. Department of housing, buildings and construction

M. Board of claims

N. Crime victims compensation board.

Section 15. KRS 246.030 is amended to read as follows:

The department shall consist of:

(1) The commissioner;

(2) The board of agriculture;

(3) The state fair board;

(4) The division of markets;

(5) The division of weights and measures;

(6) The board of veterinary examination;

(7) The division of pest and noxious weed control;

[~~(8) The division of statistics and export;~~]

(8)[~~(9)~~] The division of pesticides; and

(9)[~~(10)~~] The exposition management division.

Section 16. KRS 247.410 is amended to read as follows:

As used in KRS 247.410 to 247.430:

(1) "Council" means the *Kentucky* [~~governor's~~] council on agriculture.

(2) "Executive director" means the chief administrative officer of the council.

Section 17. KRS 247.413 is amended to read as follows:

There is hereby established the *Kentucky* [~~governor's~~] council on agriculture which shall be attached to the *energy and agriculture* [~~development~~] cabinet for administrative purposes. The object of the council shall be the development and promotion of a broadly conceived statewide agricultural and agri-business program, including the distribution and promotion of agricultural products, which will stimulate the acceleration of the state's agricultural economy by endeavoring to improve all phases thereof.

Section 18. KRS 247.417 is amended to read as follows:

(1) The membership of the council shall consist of [~~the governor,~~] the lieutenant governor, the *secretary* [~~commissioner~~] of *the energy and* agriculture *cabinet*, the secretary of the development cabinet, [~~the dean of the college of agriculture and home economics of the university of Kentucky,~~] and *eighteen (18)* [~~fifteen~~] citizen members, a majority of whom shall be full-time farmers, appointed by the governor. *Two (2) members shall be appointed from each congressional district and four (4) from the state-at-large.* All members shall serve at the governor's will during his incumbency, and until each member's successor is appointed.

(2) The *secretary of the energy and agriculture cabinet* [~~governor~~] shall serve as chairman of the council. The council may elect by majority vote a vice-chairman and such officers of the council as may be deemed necessary.

(3) Citizen members of the council shall receive a compensation of fifty dollars ($50) per day for each day of attendance at meetings of the council, and shall be reimbursed by the secretary's office for necessary and actual expenses in accordance with the provisions of KRS chapters 44 and 45.

(4) The council shall meet at the call of the chairman, but not less often than four (4) times during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

Section 19. KRS 247.423 is amended to read as follows:

From the council membership, the chairman shall name *three (3)* [~~four (4)~~] members, at least two of whom shall be full-time farmers, who, along with the chairman, *and the executive director,* shall serve as the steering committee. The steering committee shall be responsible for the execution of duties and functions assigned to the council.

Section 20. KRS 247.430 is amended to read as follows:

(1) [~~The council shall submit an annual report to the Governor before the 15th day of August each year, summarizing the council's expenditures and activities, including such recommendations as the council deems appropriate.~~

~~(2)~~] The receipt, control, and expenditure of all funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of other state agencies.

(2)[~~(3)~~] No provision of KRS 247.410 to 247.430 shall be construed as a repeal of any other laws relating to agriculture, but shall be held and construed as supplemental thereto.

and on page 18, line 9, by changing "12" to "21".

Floor Amendment No. 1 to **HB 346,** by Representative Cyrus:

Amend printed copy of **HB 346,** page 4, deleting all of lines 11 through 12 and insert in lieu thereof the following:

(d) The sheriff shall collect the tax, turn it over to the board of the ambulance district, and shall be entitled to a fee of four percent (4%) of the amount of the tax collected by him for such district and all other special ad valorem taxes authorized by KRS 108.080 to 108.180 shall be collected in the same manner as are other county and city ad valorem taxes in each county and city affected and shall be turned over to the board of directors as the governing body of the district. The special ad valorem tax shall be in addition to all other ad valorem taxes. The sheriff shall be entitled to a fee of one percent (1%) of the amount of the tax collected by him for all special ad valorem taxes except the tax for the ambulance district.

Floor Amendment No. 1 to **HB 469,** by Representative LeMaster:

Amend printed copy of **HB 469,** page 13, line 9, after "(14)" by deleting "*rating*" and inserting "*advisory*" in lieu thereof;

and on page 13, line 13 after the word "filing" by inserting "*in a non-competitive market*";

and on line 14, by deleting "*under KRS 304.13-040*";

and on page 67, line 8, by inserting a new section of Subtitle 2 of KRS Chapter 304 is created to read as follows:

(1) There is created in the state treasury the "insurance administration improvement fund" for the use of the department. The commissioner shall promptly deposit one-half of all of he funds received under KRS 304.4-010(12), (15) with the state treasurer to the credit of such fund.

Floor Amendment No. 1 to Committee Substitute to **HB 525,** by Representative List:

Amend printed copy of Committee Substitute to **HB 525,** page 1, delete lines 1 through 19 page 2, delete lines 1 through 26

page 3, delete lines 1 through 26

page 4, delete lines 1 through 26

page 5, delete lines 1 through 19

page 5, line 20, amend "Section 6" to read "Section 1".

page 5, line 22, insert after "(1)" the following words:

"*In addition to the taxes, if any, levied pursuant to KRS 136.340, 136.350, 136.370, and 136.390, each company, attorney, firm or association named therein shall be responsible for collecting, reporting and transmitting a surcharge of one dollar fifty cents ($1.50) upon each one hundred dollars ($100) of premium or other charges made by it for coverage provided its policyholders whether designated as premiums or otherwise. Said one dollar fifty cents ($1.50) shall be collected from policyholders as a premium surcharge at the same time and in the same manner that the premium or other charge for insurance coverage is collected and no company, attorney, firm or association shall be entitled to any portion thereof as a fee for the collection of same.*"

page 5, line 23, 24, 25 and 26, amend by deleting the words "one dollar fifty cents ($1.50) of every three dollars fifty cents ($3.50) in taxes collected by the state pursuant to KRS 136.340, 136.350, 136.370 and 136.390" and insert in lieu thereof the following words: "*the funds derived from such premium surcharge*".

page 6, lines 5 and 6, amend by deleting the words "One dollar and fifty cents ($1.50) out of every three dollars and fifty cents ($3.50) in taxes" and inserting in lieu thereof the following words: "*the premium surcharge*".

page 6, line 7, insert after the word "from" the words "*the policyholders of*".

page 6, lines 8 and 9, delete the words "as provided in subsection (4) of Section 2 of this Act,".

page 6, line 12, amend "Section 16" to read "Section 11".

page 6, line 14, delete the word "tax" and replace with the word "*premium surcharge*".

page 6, line 21, amend "Section 7" to read "Section 2".

page 6, line 22, amend "Section 7" to read "Section 2".

page 7, line 8, amend "Section 6" to read "Section 1".

page 7, line 17, amend "Section 6" to read "Section 1".

page 8, line 8, amend "Section 8" to read "Section 3".

page 8, line 12, amend "Section 7" to read "Section 2".

page 8, line 16, amend "Section 9" to read "Section 4".

page 8, line 21, amend "Section 7" to read "Section 2".

page 8, line 24, amend "Section 10" to read "Section 5".

page 9, line 5, amend "Sections 6 and 7" to read "Sections 1 and 2".

page 9, line 20, amend "Section 11" to read "Section 6".

page 10, line 10, amend "Section 12" to read "Section 7".

page 10, line 21, amend "6" to read "1", "7" to read "2", and "10" to read "5".

page 10, line 23, amend "Section 13" to read "Section 8".

page 11, line 3, amend "6" to read "1".

page 11, line 4, amend "7" to read "2".

page 11, line 18, amend "Section 14" to read "Section 9".

page 13, line 1, amend "Section 15" to read "Section 10".

page 13, line 15, amend "6" to read "1", "7" to read "2" and "13" to read "8".

page 13, line 18, amend "Section 16" to read "Section 11".

page 13, line 22, delete the word "tax" and replace with the words "*premium surcharge*".

page 13, line 23, amend "Section 6" to read "Section 1".

page 14, line 2, amend "Section 17" to read "Section 12".

page 14, line 5, amend "Section 17" to read "Section 12".

page 16, line 18, amend "Section 17" to read "Section 12".

page 17, delete lines 10 through 21.

page 17, line 22, amend "Section 19" to read "Section 13".

page 17, line 24, delete the word "tax" and replace with the words "*premium surcharge*".

page 17, line 25, amend "Section 6" to read "Section 1".

page 18, line 1, amend "Section 6" to read "Section 1".

page 18, line 5, amend "Section 20" to read "Section 14".

page 18, line 11 and 12, delete the words "Sections 1 through 5 of this Act" and replace with the following words: "*KRS 136.340, 136.350, 136.370*".

page 18, line 14, amend "11" to read "6" and "14" to read "9".

Floor Amendment No. 1 to **HB 555,** by Representative Burch:

Amend printed copy of **HB 555,** page 2, line 2, after the word "year" by deleting the words "*ending June 30, 1983*" and inserting in lieu thereof the words "*beginning July 1, 1985*".

Floor Amendment No. 1 to **HB 559,** by Representatives Mann and Schmidt:

Amend printed copy of **HB 559,** on page 3, line 1, by deleting: "*as*"; and on page 3, line 2, by deleting all of line 2, and on page 3, line 1, by inserting after "*dissolved*" the following:

"*in one of the following ways:*

(1) By the fiscal court, as provided in this section.

(a) Upon receipt of a petition and following a public hearing as provided in this section, the fiscal court may alter the boundaries of an area planning commission by reducing its area, or may dissolve an area planning commission if that commission has for a period of two (2) consecutive years failed to provide the services for which it was established, or if all or a portion of such services have been provided by some other entity. The fiscal court of each member county of an area planning commission must vote to dissolve the commission before such dissolution may take effect.

(b) Upon receipt of a petition signed by at least thirty percent (30%) of the number of registered voters who voted in the last presidential election, the fiscal court shall schedule a public hearing on the matter of alteration or dissolution and advertise such hearing as provided in KRS 424.130.

(c) The petition shall be in substantially the following form:

"The undersigned registered voters as determined by subsection (1)(b) of this section living within the area planning commission territory and containing a description of the territory, hereby request that the fiscal court consider the alteration or dissolution of the area planning commission pursuant to this section." The petition shall conspicuously state in laymen's terms that any legal obligations of the commission must be satisfied before the commission can be dissolved and that the citizens residing within the area planning commission territory shall be responsible for the satisfaction of any obligations. Signatures on the petition shall be dated, the last no later than ninety (90) days after the first.

(d) At the hearing, the burden of proving that the commission is providing or taking substantial steps toward providing the services for which it was created, or that no other entity is providing the service, shall be upon the commission. In determining whether to alter, dissolve or to take no action in regard to the commission, the fiscal court shall consider testimony offered at the hearing and any other relevant information including but not limited to the following.

(1) Present and projected need for the service provided by the commission;

(2) Population density of the commission;

(3) Existence of alternate providers of services;

(4) Revenue base of the commission such as assessed valuation and bonding capacity; and

(5) Consequences of alteration of the commission's boundaries on the effectiveness and efficiency of the commission.

(e) Within sixty (60) days following the hearing, the fiscal court shall set forth its written findings of fact in approving or disapproving the alteration or dissolution of the commission.

(1) If the fiscal court determines to dissolve the commission, it shall determine a method to satisfy any legal obligations of the commission which might be effected thereby. Upon satisfaction of its legal obligations, the commission shall be legally dissolved; any special ad valorem tax imposed by the commission shall be removed from the tax rolls by the county clerk; and any assets of the commission shall be assumed by the county(s).

(2) If the fiscal court determines to alter the boundaries of the commission, it shall draw the new boundaries of the commission and determine the proportional amount of existing legal obligations of the area which is to be excluded from the commission. Upon the satisfaction of such obligations, the new boundaries of the commission shall be legally effected and any affected taxpayer shall be removed from the tax rolls of the commission.

(f) If the final decision of the fiscal court or the circuit court, in the case of an appeal as provided for herein, is against the alteration or dissolution of the commission, no attempt to alter or dissolve the commission pursuant to this section shall be made within three (3) years of the decision.

(g) Any petitioner or member of the commission may, within thirty (30) days of the fiscal court's decision, appeal an adverse finding of the fiscal court to the circuit court in the county containing the greater part of the commission. The circuit court shall review the decision of the fiscal court but shall reverse the decision only if such decision is found to be arbitrary or capricious. If the circuit court reverses the decision of the fiscal court by ordering the alteration or dissolution of the commission, it shall direct the fiscal court to determine, as provided in subsection (1)(e) of this section, a method for satisfying any legal obligations of the commission which might be affected thereby.

(2) By a referendum as provided in this section.

(a) Persons seeking dissolution of the commission shall submit a petition to the county clerk signed by at least fifty percent (50%) of the number of registered voters who voted in the last presidential election.

(b) The petition shall be in substantially the following form: "The undersigned registered voters as determined by subsection (2)(a) of this section, living within the area planning commission territory and containing a description of the territory, hereby request that the question of the dissolution of the commission be put to a referendum." The petition shall conspicuously state in laymen's terms that any legal obligations of the commission must be satisfied before the commission can be dissolved and that citizens residing within the area planning commission territory shall be responsible for the satisfaction of any such obligations. Signatures on the petition shall be dated, the last no later than ninety (90) days after the first.

(c) If the county clerk determines that the petition is in proper order, he shall certify the petition to the fiscal court. The fiscal court shall direct that the question be placed on the ballot at the next regular election held more than sixty (60) days from the certification of the petition. The fiscal court shall bear the costs of advertising and placing the question on the ballot.

(d) The county clerk shall advertise the question as provided in KRS Chapter 424 and shall prepare the question for the ballot. The ballot shall contain the following admonition to the voter: "The (name of the area planning commission) may have existing legal obligations which must be satisfied before the commission can be dissolved. The citizens residing within the area planning commission territory shall be responsible for the satisfaction of any obligations." The question of the dissolution of the commission shall be placed on the ballot in substantially the following form: "The (name of the area planning commission and containing a description of the commission's territory) should be dissolved." The voter shall vote "yes" or "no".

(e) All registered voters shall be eligible to vote on the question of dissolution.

(f) In referendums under this section, provision shall be made for those opposing the dissolution of the commission to have equal representation with the proponents of the measure in the determination of eligibility of voters, and in the observance of canvassing and certifying of the returns.

(g) If a majority of those voting in the referendum as provided for herein, favor the dissolution of the commission, the commission shall, upon satisfaction of its legal obligations, be dissolved by the order of the fiscal court, any special ad valorem tax imposed by the commission shall be removed from the tax rolls by the county clerk and any assets of the commission shall be assumed by the county(s).

(h) If a majority of those voting in the referendum oppose the dissolution of the commission, no attempt to dissolve the commission pursuant to this section shall be made within five (5) years of the election.

(i) Each member county of an area planning commission must follow the procedures defined herein, before such dissolution may take effect.

(j) Any member county of an area planning commission may withdraw its membership after following the procedures defined herein. The commission shall continue to function after such withdrawals, with its boundaries consisting of the remaining county members. No county may withdraw from any commission unless it satisfies its part of all contractual obligations assumed by the commission prior to the passage of its resolution.

Floor Amendment No. 2 to **HB 559,** by Representatives Mann and Schmidt:

Amend printed copy of **HB 559,** on page 11, line 15, by inserting after the word "only." the following: "*However, where a city and county or any combination of cities and counties have contracted to perform zoning administration or building inspection services on a uniform basis throughout their combined areas of jurisdiction, and area planning commission is authorized to act in the capacity of zoning administrator and building inspector by contract to any such joint governmental operation requesting such assistance. The area planning commission may appoint a chief building inspector and zoning administrator who shall be qualified by training and experience to perform in that capacity, and said chief building inspector and zoning administrator shall report to the area planning commission.*"; and

on page 11, line 15, by bracketing and striking through the word "Cooperation" on line 15 and by bracketing and striking through lines 16 through 26 in their entirety.

Floor Amendment No. 1 to Committee Substitute to **HB 565,** by Representative Kenton:

Amend printed copy of **HB 565**, page 6, line 3, by ending the sentence on line 3 immediately following the word "*property*" and by deleting the phrase "*with the approval of the administering agency provided that the moratorium certificate for the property has not expired*";

Floor Amendment No. 1 to **HB 582**, by Representative Harper:

Amend printed copy of **HB 582**, on page 2, line 2, by inserting after "*KRS Chapter 75,*" the following: "*tourist and convention commissions created pursuant to KRS 91A.350 to 91A.390,*"; and

on page 2, line 9, by deleting "*, except that tourist and*"; and

on page 2, line 10, by deleting all of line 10; and

on page 2, line 11, by deleting everything except the period at the end of the sentence.

Floor Title Amendment No. 1 to **HB 594**, by Representative Clarke:

Amend printed copy of **HB 594**, Title, by deleting the title in its entirety and inserting in its place the following: "AN ACT relating to revenue and taxation."

Floor Amendment No. 2 to Committee Substitute to **HB 194**, by Representative Bruce:

Amend printed copy of Committee Substitute to **HB 194**, page 8, after line 21, by adding the following:

"Section 4. This Act shall become effective July 1, 1983.

Section 5. This Act shall become effective July 1, 1983, or on such earlier date as interstate banking shall expressly be permitted by federal statutory law."

Representative LeMaster moved that the rules be suspended for Report of Committees. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **HB 699.**

Business Organizations and Professions: **HB 821.**

Health and Welfare: **HB 819, HB 771, HB 779, HB 814, HCR 73, SB 216.**

Judiciary-Criminal: **HB 33.**

Agriculture and Small Business: **HCR 82.**

State Government: **HB 682, HB 805, SB 233, HR 44.**

Labor and Industry: **HB 344.**

Banking and Insurance: **SB 250.**

Appropriations and Revenue: **HB 769, HB 825.**

Report of Committees

The Committee on State Government reported **HB 90, HB 144, HB 277, HB 289, HB 756** with Committee Substitute attached thereto, **SB 180**, and **SB 278** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 90, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 120 IS CREATED TO READ AS FOLLOWS:

(1) It shall be the duty of precinct election officers at all primary, regular, or special elections to immediately report to the county clerk any administrative or clerical error discovered in the process of conducting the polling or tabulation of votes at any such election.

(2) Upon receipt by the county clerk of notice of error in conducting the polling or tabulation of votes pursuant to subsection (1) of this section, the county clerk shall file an action in the circuit court, within fifteen (15) days of the election, requesting a recount of ballots for the precinct reporting the administrative or clerical error. Simultaneously with the filing of such action, the county clerk shall make written notice by regular mail to all candidates appearing on the ballot of the precinct at issue that such action is being filed. In the case of an election for candidates for offices for the state at large or an election on a statewide public question, the action shall be filed in the Franklin Circuit Court; in the case of other elections, the action shall be filed in the circuit court of the county in which the precinct reporting the error is located.

(3) An action filed in the circuit court of proper jurisdiction pursuant to this section shall be heard summarily and without delay. Upon filing of the action, the circuit clerk shall immediately notify the circuit judge, and the judge shall at once enter an order directing custody of the voting machine, the ballots, boxes and all papers pertaining to the election from that precinct claiming error, to be transferred to the circuit court, and fix a day for the recount proceeding to begin.

(4) Candidates notified pursuant to subsection (3) of this section shall, upon proper motion, be made parties to the action.

(5) On the day fixed for the recount, the court shall proceed to recount the ballots if their integrity is satisfactorily shown and shall complete the recount as soon as practicable, and shall file and enter of record the results thereof.

(6) Any person made party to the action pursuant to subsection (4) of this section may appeal from the judgment to the Court of Appeals, in the same manner as provided in KRS 120.075.

(7) The county clerk shall certify the final recount results entered of record in any action filed pursuant to this section to the county board of elections and to the local governing body of each of two (2) dominant political parties. Final certification of election results shall then proceed according to KRS Chapters 117, 118, and 118A.

Section 2. KRS 118.015 is amended to read as follows:

(1) A "political party" within the meaning of this chapter, is an affiliation or organization of electors representing a political policy and having a constituted authority for its government and regulation, and which cast at least twenty percent (20%) of the total vote cast at the last preceding election at which presidential electors were voted for.

(2) The word "election" used in reference to a state, district, county or city election, includes the decisions of questions submitted to the qualified voters as well as the choice of officers by them.

(3) An "official ballot" means the voting machine ballot label, an absentee ballot, a special ballot or a supplemental paper ballot which has been authorized for the use of the voters in any primary, general or special election by the secretary of state or the county clerk.

(4) The word "Resident" used in reference to a candidate in a state, district, county or city election shall mean actual resident, without regard to the residence of the spouse of the candidate.

HB 144, AN ACT relating to the department of library and archives and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.201 is amended to read as follows:

(1) For grants to public libraries for promoting, aiding and equalizing public library service in Kentucky there may be funds appropriated out of the General Expenditure Fund of the State Treasury.

(2) In addition to any other funds appropriated to the department of library and archives, there shall be appropriated annually to the department out of the general expenditure fund of the state treasury

monies which the department shall distribute to public libraries on the basis of fifty cent (50¢) per capita to be used for any or all of the following:

(a) Purchase of library materials and equipment;

(b) Maintenance and operation of bookmobiles and extension programs;

(c) Staff training and compensation;

(d) Building maintenance; and

(e) Resource-sharing.

Section 2. In order to implement the provisions of subsection (2) of Section 1 of this Act, there is hereby appropriated out of the General Fund for the fiscal year 1982-1983 the sum of $1,830,716.50 and for the fiscal year 1983-1984 the sum of $1,830,716.50.

HB 277, AN ACT relating to campaign finance regulation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.015 is amended to read as follows:

As used in KRS 121.100 to 121.200, and 121.990:

(1) "Registry," means the Kentucky registry of election finance.

(2) "Election," means any primary, regular or special election to fill vacancies.

(3) "Committee," means one of the following:

(a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates for nomination or election to any state, county, city or district office;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question if that committee receives or expends money in excess of $1,000;

(c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose political activity which may include support of or opposition to selected candidates, political parties, or issues of public importance, and which functions on a regular basis throughout the year; or

(d) An executive committee of a political party.

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by such groups in excess of *two* [~~one~~] hundred dollars *($200)* [~~($100)~~] shall be reported to the registry.

(5) "Testimonial affair," means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to, a political office in this state, designed to raise funds for any purpose not charitable, religious or educational.

(6) "Contribution," means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, or political committee. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a political committee, candidate, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in excess of the contribution limit provided in KRS 121.150(5); or

(b) Payment by any person other than the candidate, his authorized treasurer, or political committees, or compensation for the personal services of another person which are rendered to a candidate's campaign; or

(c) Goods, advertising, or services furnished to a candidate's campaign without charge, or at a rate which is less than the rate normally charged for such goods or services; or

(d) Payment by any person other than the candidate, his authorized treasurer, or political committees for any goods, or services utilized in a candidate's campaign; or

(e) [~~Expenditure in connection with any other activity undertaken independently of the candidate's campaign made or furnished for the purpose of influencing the results of an election; or~~

~~(f)~~] Notwithstanding foregoing meanings of "contributions," the word shall not be construed to include

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate;

2. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business.

(7) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office.

Section 2. KRS 121.100 is amended to read as follows:

The provisions of KRS 121.015, 121.100 to *121.220* [~~121.200~~], and 121.990 shall apply to all candidates running for public office, including urban-county governments and boards of education that have jurisdiction over annual budgets exceeding $50,000,000, in any primary or general election, or in any special election to fill a vacancy, except those candidates running for federal office, boards of education that have jurisdiction over annual budgets of $50,000,000 or less, county and local district offices filled by less than a countywide constituency, including conservation district offices, and offices in cities of the third, fourth, fifth and sixth classes. However, the provisions of KRS 121.190 shall apply to all candidates for public office.

Section 3. KRS 121.120 is amended to read as follows:

(1) The registry shall appoint a full-time executive director, legal counsel and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry shall also appoint such other employes as are necessary to carry out the purposes of this chapter.

(2) It shall be the duty of the registry to conduct hearings with regard to possible violations and for the effectual carrying out of its responsibilities the registry shall have the authority to initiate a civil action in any court of competent jurisdiction for the purpose of enforcing compliance with the provisions of this chapter or enjoining violations thereof or recovering any penalty prescribed by this chapter.

(3) The registry shall adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 121.015 and 121.100 to *121.220* [~~121.200~~]. Without limiting the generality of the foregoing the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting and requirements as to reporting dates and the length of time that candidates and committees are required to keep any records pursuant to the provisions of this chapter;

(c) Develop a filing, coding and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of the same;

(e) Preserve all reports for at least four (4) years from the date of receipt;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates and parties, containing the total receipts and expenditures, and the date, name, address and occupation, and amount contributed by each contributor, listed alphabetically, shown to have contributed in excess of *two* [~~one~~] hundred dollars *($200)* [~~($100)~~];

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) above;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140(2); make public the fact that a violation has occurred and the nature thereof;

(j) Hold public hearings, investigate any violations in reporting, and issue subpoenas for the production of any books, papers, correspondence, memorandums or other records and the attendance of witnesses which the registry deems relevant or material for the purpose of any investigation;

(k) Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, or district office;

(l) Conduct audits of receipts and expenditures of all candidates running for statewide office;

(m) Candidates shall maintain their records for a period of four (4) years from the date of the general election in their respective political races;

(n) Make investigations with respect to reports upon complaint by any registered voter and to initiate proceedings on its own motion;

(o) [~~Adopt and promulgate in accordance with this subsection a "code of fair campaign practices";~~

~~(p)~~] Forward to the attorney general or to the appropriate commonwealth's attorney any violations of this chapter which may become the subject of civil prosecution.

Section 4. KRS 121.140 is amended to read as follows:

(1) Upon the sworn complaint of any person, or on its own initiative, the registry shall investigate alleged violations of this law. Not later than five (5) days after the registry receives a sworn complaint, or

after it decides to investigate on its own initiative, it shall give notice of the investigation to the person complained against. The person complained against shall be given five (5) days from receipt of notice of the investigation in which to respond to the complaint of alleged violations of this law. Not later than five (5) days after receipt of a response from the person complained against, the registry shall:

(a) Acknowledge receipt of the complaint to the complainant, where appropriate;

(b) Acknowledge receipts of the response from the person complained against; and

(c) Notify, in writing, the person who made the complaint and the person complained against of what action, if any, the registry has taken or plans to take on the complaint together with the reasons for such action or non-action. If the registry does not decide within five (5) days of receipt of the response what action to take, it shall notify the person who made the complaint of the reasons for the delay and shall subsequently give him the appropriate notification.

(2) When the registry concludes that there is probable cause to believe that the law has been violated, it may hold a hearing to determine if such violation has occurred. If a hearing is held, the person complained against may choose whether the hearing shall be open or closed. At the hearing, the person complained against shall have all of the protections of due process, including but not limited to the right to be represented by counsel, the right to call and examine witnesses, the right to the production of evidence by subpoena, the right to introduce exhibits and the right to cross-examine opposing witnesses. When the registry determines that the preponderance of the evidence shows a violation has occurred, it shall issue an order to the violator to comply with any one or more of the following requirements:

(a) To cease and desist violation of this law;

(b) To file any reports or other documents or information required by this law; or

(c) To pay a penalty not to exceed one hundred dollars ($100) a day for failure to file any report or other document or information required by law until such report, document or information is filed; *provided, however, that civil penalties against any single candidate shall not exceed, in the aggregate, the sum of one thousand dollars ($1,000) for delinquencies in any single election;*

(d) To pay a penalty not to exceed one thousand dollars ($1,000) for the non-willful violation of any other provision of this chapter.

(3) If the registry concludes that there is probable cause to believe that the law has been violated wilfully, it may refer such violation to the attorney general or to the appropriate local prosecutor for investigation and prosecution. The attorney general or the appropriate local prosecutor shall have responsibility for prosecutions under the law and may request from the registry all evidence collected in its investigation.

(4) Any person directly involved or affected by an action of the registry which is final, other than of a determination to refer a violation to the attorney general or to the appropriate local prosecutor for prosecution, may seek judicial review of such action.

(5) If judicial review is sought of any action of the registry relating to a pending election, the matter shall be advanced on the docket of the court. The court may take any steps authorized by law to accelerate its procedures so as to permit a timely decision.

Section 5. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value, shall be made or incurred, directly or indirectly, other than an "independent expenditure," to support or defeat a candidate in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate or registered committee. As used in this section, "independent expenditure" means one (1) made for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is not made with any direct or indirect cooperation, consent, request or suggestion or consultation involving a candidate or his authorized committee or agent. Any person making an "independent expenditure" as defined herein must report these expenditures, when he exceeds *two* [~~one~~] hundred dollars *($200)* [~~($100)~~] per calendar year, on forms provided by the registry.

(2) The solicitation from and contributions by candidates and party executive committees to any religious, charitable, civic, eleemosynary or other causes or organizations established primarily for the public good is expressly prohibited; provided that it shall not be construed as a violation of this section for a candidate to continue regular personal contributions to religious, civic or charitable groups, of which he is a member or to which he has been a regular contributor for more than six (6) months.

(3) Any anonymous contribution in excess of fifty dollars ($50) received by a campaign treasurer or committee shall not be used or expended, but shall be returned to the donor, if his identity is known, and if no donor is found, the contribution shall escheat to the state.

(4) No candidate nor committee, nor anyone on their behalf, shall accept a cash contribution in excess of one hundred dollars ($100).

(5) No person may contribute more than three thousand dollars ($3,000) to any one candidate in any one election.

(6) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

Section 6. KRS 121.160 is amended to read as follows:

(1) Each candidate shall designate a campaign treasurer at the time and with the office he files as a candidate on a duplicate form prescribed and furnished by the registry and until this requirement is met the candidate shall be listed as his own treasurer and accountable as such. The candidate may appoint himself or any registered voter in Kentucky as his campaign treasurer. The office with which the candidate is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's campaign treasurer and shall attach the original to the candidate's filing papers. The office with which the candidate files shall promptly notify the registry when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

(a) Designate a depository bank for all campaign funds;

(b) Keep detailed and exact accounts of contributions in general and by name, address and occupation where the contribution exceeds *two* [~~one~~] hundred dollars *($200)* [~~($100)~~];

(c) Make or authorize all expenditures on behalf of a candidate. Any expenditure in excess of fifty dollars ($50) shall disclose the name, address and occupation of every person or firm to whom made, and shall list the date and amount of such expenditure and keep a receipted bill for each;

(d) Maintain all receipted bills and accounts required by this section for a period of four (4) years from the date he files his last report under KRS 121.180(2)(a).

(3) A candidate may remove a campaign treasurer at any time.

(4) In case of the death, resignation or removal of a campaign treasurer the candidate shall within three (3) days after receiving notice thereof by certified mail, return receipt requested, appoint a successor and shall file his name and address with the registry. The candidate shall be accountable as his own campaign treasurer if he fails to meet this filing requirement.

(5) A person may serve as campaign treasurer for more than one (1) candidate, but all reports must be made separately for each individual candidate.

(6) The candidate may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and must comply with the reporting provisions of KRS 121.015 and 121.100 to *121.220* [~~121.200~~] and those adopted by the registry.

Section 7. KRS 121.170 is amended to read as follows:

(1) Any committee organized, under any provisions of this chapter, shall register with the registry, by filing official notice of intention at the time of organization, giving names and addresses and positions of the officers of the organization and designating the candidate or candidates or question it is organized to support or oppose on forms prescribed by the registry.

(2) All provisions of KRS 121.015 and 121.100 to *121.220* [~~121.200~~] governing the duties and responsibilities of a candidate or campaign treasurer shall apply to a registered committee.

(3) The chairman of a committee and the campaign treasurer shall be separate persons.

Section 8. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of *two* [~~one~~] hundred dollars *($200)* [~~($100)~~], the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of fifty dollars ($50.00) and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. Such separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.

(2) Each campaign treasurer of a candidate, campaign committee or political issues committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of *two* [~~one~~] hundred dollars *($200)* [~~($100)~~], the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made, other than "independent expenditures," as defined in KRS 121.150(1). The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of fifty dollars ($50.00), and the amount, date and purpose of each expenditure. Reports of all candidates and their campaign committee shall be made as follows:

(a) Persons becoming candidates as defined in KRS 121.015(7) and campaign committees which register in the year before the year an election in which the person or persons supported are to be candidates occurs, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee, and each calendar quarter thereafter, ending with the calendar quarter just prior to the due date of the first thirty-two (32) day, pre-primary reports.

(b) All candidates and their campaign committee shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures.

(c) All candidates and their campaign committee shall make reports on the twelfth day preceding the date of the election.

(d) All candidates and their campaign committee shall make reports within thirty (30) days after the election.

(e) Candidates shall have five (5) days from each filing deadline in which to get their reports into the hands of the registry.

(3) In making the preceding reports, proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials, the total gross receipts from each category shall be listed. When any individual purchase or the aggregate purchases of any item enumerated above exceeds *two* [~~one~~] hundred dollars *($200)* [~~($100)~~], the purchaser shall be identified by name, address and occupation and the amount purchased shall be reported to the registry. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(4) Each permanent committee shall make a full report, upon a prescribed form, to the registry of all money, loans or other things of value, received by it from any source, since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of *two* [~~one~~] hundred dollars *($200)* [~~($100)~~], the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, other than "independent expenditures," as defined in KRS 121.150(1). This report shall be made to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates.

(5) If the final statement shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed semi-annually thereafter on June 30 and December 31 until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. A candidate does not have to file supplemental reports if the debt is the candidate's personal note.

(6) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county clerk in the county in which the candidate resides at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(7) If a candidate is unopposed in a primary or general election after the time prescribed by law for qualifying for nomination or election to the office, and has received no contributions nor made any expenditures, then his obligation to file the reports required by KRS 121.015 and 121.100 to *121.220* [~~121.200~~] shall cease. A candidate who is opposed but receives no contribution or makes no expenditures shall so report on the dates designated in this section, and file all reports required by KRS 121.015 and 121.100 to *121.220* [~~121.200~~].

(8) A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states in writing or on forms provided by the registry that:

(a) Within five (5) days after personally receiving any contributions, the candidate shall surrender possession of the entire contribution or contributions to the treasurer of his principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the political committee and shall not be cashed or redeemed by the candidate.

(b) The candidate shall not make any unreimbursed expenditure for his campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to his designated principal campaign committee, which expenditure shall be reported by the committee as a contribution received.

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

(9) No candidate as defined in this section, nor any committee as defined in this section shall use or permit the use of contributions or funds solicited or received for such person to further the candidacy of such person for a different public office. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy

for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days (30) thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further the candidacy of such person shall, at the election of the candidate or committee, be returned pro rata to all contributors or be transferred to the executive committee of the political party of which the candidate is a member except that a candidate, committee or an official may retain such funds to seek election to the same office.

Section 9. KRS 121.200 is amended to read as follows:

The registry is required by KRS 121.015 and 121.100 to *121.220* [~~121.200~~] to securely keep all reports filed for four (4) years. Duly certified reports shall be admissible as evidence in any state court.

Section 10. KRS 121.220 is amended to read as follows:

(1) Each candidate and each committee shall, before receiving any contributions or expending any money, designate one (1) primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate or committee. The candidate or committee may also designate one (1) secondary depository in each county in which an election is held and in which the candidate or committee participates. Deputy campaign treasurers may make deposits in and make expenditures from secondary depositories. Only a bank authorized to transact business in Kentucky may be designated as a campaign depository. The candidate or committee shall file the name and address of each primary and secondary depository so designated at the same time the candidate or committee files the name of his or its campaign treasurer.

(2) All funds received by the campaign treasurer or any deputy campaign treasurer of any candidate or committee shall be deposited prior to the end of the fifth business day following their receipt in a campaign depository in an account designated "Campaign Fund of (name of candidate or committee)." A statement showing the full name, address and occupation of each contributor of more than *two* [~~one~~] hundred dollars *($200)* [~~($100)~~] shall be deposited together with a statement of the amount received. Cash contributions shall be accompanied by the same receipt form.

Section 11. KRS 121.990 is amended to read as follows:

(1) Any public service corporation engaged in business in this state, or any officer or agent of such corporation, or attorney or other person employed by such corporation, who wilfully violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(2) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who wilfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any state, county, city or district officer who, in his official capacity, is required by law to perform any duties peculiar to such corporation not common to the general public, or to supervise, regulate or control in any manner the affairs of such corporation, or to perform any duty in assessing the property of such corporation for taxes, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(3) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who wilfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any candidate other than those mentioned in subsection (2) of this section, shall be fined not more than one thousand dollars ($1,000), and, in the case of individuals, be imprisoned in the county jail for not more than one (1) year.

(4) Any attorney who wilfully violates any of the provisions of KRS 121.025 or 121.045 shall, in addition to the penalties prescribed in subsections (1), (2), (3) and (7) of this section, be disbarred from the practice of law in this state, and the judgment of conviction shall so declare.

(5) Any corporation that wilfully violates any of the provisions of subsection (1) of KRS 121.035 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(6) Any person who wilfully violates any of the provisions of subsection (2) of KRS 121.035 shall, for each offense, be fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not less than three (3) months nor more than one (1) year.

(7) Any person who wilfully violates any of the provisions of KRS 121.045 shall be fined not more than ten thousand dollars ($10,000), and imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(8) Any person who wilfully violates any of the provisions of KRS 121.055 shall be fined not more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(9) Any person who wilfully violates any provision of KRS 121.100 to *121.220* [~~121.200~~] shall be punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both. Violations shall include but shall not be limited to any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name;

(d) Making any communication to support or defeat a candidate without identification of sponsorship.

(10) The nomination for, or election to, an office of any candidate who wilfully violates any provision of KRS 121.100 to *121.220* [~~121.200~~], or whose campaign treasurer wilfully violates any provision of KRS 121.100 to *121.220* [~~121.200~~], with such candidate's knowledge, shall be void, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the attorney general, or any candidate for the office sought to be declared vacant, or any qualified voter.

(11) The attorney general, commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.100 to *121.220* [~~121.200~~].

(12) The commonwealth attorney for the county in which the candidate resides shall be the chief prosecutor upon receipt of a written request from the registry, prosecute any violator under this chapter, and in the event he fails or refuses to prosecute a violator, upon written request from the registry, the attorney general shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(13) Prosecution for violation of any provision of KRS 121.100 to *121.220* [~~121.200~~], shall not be commenced after four (4) years have elapsed from the date of the violation. In the event the violator is an officeholder, the statute of limitations shall not run until one (1) year following expiration of his current term of office.

(14) Any person who wilfully violates any of the provisions of subsection (1) of KRS 121.310 shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(15) Any corporation that wilfully violates any of the provisions of subsection (2) of KRS 121.310 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(16) Any person who wilfully violates any of the provisions of KRS 121.320 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) days nor more than thirty (30) days, or both.

HB 289, AN ACT providing for an inventory of the Commonwealth's fixed assets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.190 is amended to read as follows:

(1) No head of a budget unit or assistant designated by him shall approve any advice of employment, purchase order, contract, requisition for reservation of funds or letter of travel authorization for travel outside of Kentucky that will involve an expenditure of any sum in excess of the unencumbered balance of the allotment to which the resulting expenditure will be chargeable.

(2) Except as expressly authorized in this chapter, no person shall incur, or order or vote to incur, any obligation against the state in excess of, or any expenditure not authorized by, appropriation of the general assembly and an allotment of funds by the department of finance. Any such obligation so incurred shall not be binding against the state, and shall be void and incapable of ratification by any administrative authority of the state.

(3) Each department or budget unit shall maintain [~~a~~] current *inventories* [~~inventory~~] of all supplies, [~~and~~] equipment *and fixed assets.* Such *inventories* [~~inventory of supplies and equipment~~] shall be available for examination by the department of finance at all times. A copy of the *inventories* [~~inventory~~] of each department or budget unit shall be filed with the department of finance as of June 30 of each year.

Section 2. KRS 45.360 is amended to read as follows:

(1) The department of finance shall purchase, or shall delegate and control the purchase of, the combined requirements of all spending agencies of the state including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services, except that competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) When in the judgment of the department of finance food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies can be purchased otherwise to the best advantage of the state; and instructional materials available from only one (1) source;

(c) Where rates are fixed by law or ordinance;

(d) For library books;

(e) For commercial items that are purchased for resale;

(f) For professional, technical, scientific, or artistic services (Contracts exempted by this provision shall be reviewed and approved in accordance with KRS 45.535);

(g) For all other commodities, equipment and services which, in the reasonable discretion of the department of finance, are available from only one (1) source; and

(h) Interests in real property.

(2) Nothing in this section shall deprive the department of finance from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between the general service administration and the vendor affected.

(3) The department of finance shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and shall prescribe rules and regulations to govern purchasing by or for all such agencies, subject to the approval of the secretary of the department of finance, and shall publish a manual of procedures to be distributed to agencies and to be revised upon issuance of amendments to such procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the department or made under general regulations which the department of finance may prescribe.

(4) The department of finance shall adopt regulations to require agencies to take and maintain inventories of plant *property, buildings, structures, other fixed assets,* and equipment. The department of finance shall conduct periodic physical audits of inventories.

(5) The department of finance shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. It shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, all agencies shall submit to the department of finance prior to the beginning of each fiscal year an estimate of all needs for supplies, materials, and equipment during that year which will have to be acquired through competitive bidding.

(6) The department of finance shall have power, with the approval of the secretary of the department of finance, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(7) The department of finance shall sell or otherwise dispose of all property (including any interest in real property) of the state which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the secretary of the department of finance. The determination of the secretary of the department of finance shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. Such request shall describe the property and state the reasons why the agency believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the secretary of the department of finance and approved by the governor. Unless the secretary of the department of finance deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction, provided however that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the department, or the department of transportation for such requirements of that department.

(8) Except as provided in KRS Chapters 175, 176, 177 and 180, and subject to the provisions of KRS Chapter 45A, the department of finance shall purchase or otherwise acquire all real property determined to be needed for state use, upon the approval of the secretary of the department of finance as to the determination of need and as to the action of purchase or other acquisition, provided that the amount paid shall not exceed the appraised value as determined by the department, or the department of transportation (for such requirements of that department), or value set by eminent domain procedure.

(9) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employe of any agency of the state upon a finding by the department of finance, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the department of finance and the governor, that the employe has not either himself or through any other person influenced or attempted to influence either the agency requesting the purchase of the property or the department of finance in connection with such acquisition. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the secretary of state along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10) The department of finance shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the department of finance, the governor, and the general assembly. The department of finance shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities.

(11) For capital construction projects, subject to the provisions of KRS Chapter 45A, the bidding may be on a total design-bid basis; a package system commonly referred to as "turnkey"; phase bidding commonly referred to as "fast track"; or construction management, whichever in the judgment of the secretary of the department of finance offers the lowest real cost to the taxpayer. Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12) The department of finance shall attempt in every practicable way to insure the state's supplying its real needs at the lowest possible cost.

(13) The department of finance shall have control and supervision over all purchases of energy consuming equipment, supplies and related equipment purchased or acquired by any agency of the state as provided in KRS 45.360 to 45.990, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

Section 3. KRS 149.020 is amended to read as follows:

(1) The department for natural resources and environmental protection may receive by donation, purchase, or lease lands for forestry purposes, and may convey, exchange or lease said lands and may sell timber or other forest products thereon. In exercising this function the department shall be exempted from any provision of KRS 42.030 or 45.360, except with respect to the purchase, conveyance, [~~or~~] exchange *or inventory* of lands.

(2) No land shall be purchased, leased or received as a donation unless the title thereto is merchantable and has been approved by the attorney general.

HB 756, AN ACT relating to the state board of elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.015 is amended to read as follows:

(1) There shall be a state board of elections which shall administer the election laws of the state and supervise registration and purgation of voters within the state. The board may adopt rules and regulations necessary to properly carry out its duties.

(2) The board shall consist of *five (5)* [~~the secretary of state and two (2)~~] members *to be* appointed by the governor [~~no later than April 15~~] in the year following *the* [~~his~~] inauguration *of the governor as provided in this section and shall serve* for a term of four (4) years *or* [~~and~~] until their successors are appointed[~~; provided, that the first board shall be appointed within one (1) month following June 16, 1972 and serve until successors are appointed in April, 1976~~]. *The secretary of state shall serve as an ex officio, nonvoting member. Other members shall be appointed in the following manner: two (2) members* [~~Members shall be at least twenty-five (25) years of age and qualified voters of this state. One (1) member~~] shall be appointed from [~~a list of five (5) names submitted by the state central executive committee of~~] each of the two (2) political parties that polled the largest vote in the last preceding election for state officials. *The state central committees of the two (2) parties shall each submit a list of at least five (5) names to the governor and the appointments shall be made from these lists. These four (4) appointed members shall take office by March 15 and shall within thirty (30) days submit a list of two (2) persons to the governor, from which the governor shall, within thirty (30) days of receipt of the list, appoint a fifth member, who shall serve as chairman. The terms of office of all members shall end on the same day. The chairman shall preside at all meetings and shall have the same powers and privileges as the other members.* Vacancies shall be filled in the same manner as provided for original appointments, and the person appointed to fill the vacancy shall be of the same political party as his predecessor. *No member shall be a candidate for office. Members shall be twenty-five (25) years of age and voters of this state.*

(3) *The provisions of subsection (2) of this section shall be implemented immediately upon its becoming law by the appointment of a chairman in the following manner: The two (2) newly appointed members and the two (2) appointed members currently serving shall submit a list of two (2) names to the governor within thirty (30) days of the qualification of the new members. The governor shall, within thirty (30) days of receipt of the list, appoint a chairman from the list, who shall have all the powers and privileges of the other members.*

(4) The board shall meet as often as necessary to carry out its duties and shall keep a record of its acts, orders, findings and proceedings. A majority of the board shall constitute a quorum. [~~The secretary of state shall preside at the meetings and may vote.~~]

(5)[~~(4)~~] The members of the board shall be paid a reasonable sum to be fixed by the commissioner of personnel, with the approval of the secretary of the department of finance, and in addition, their expenses in attending board meetings. The compensation shall be paid out of the state treasury upon requisition signed by the chairman of the board and approved by the secretary of the department of finance.

Section 2. KRS 117.025 is amended to read as follows:

(1) The state board of elections shall appoint an executive director, who shall be the chief administrative officer for the board. The board *shall* [~~may~~] also appoint an assistant to the director, who shall be of a different political party than the director. The salaries of the director and his assistant shall be set by the board.

(2) The state board of elections shall employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board, including such legal counsel as is deemed necessary by the board.

(3) The state board shall:

(a) Maintain a complete roster of all qualified registered voters within the state by county and precinct;

(b) Delete the name of any voter who is deceased or who is no longer qualified to vote in the precinct where currently registered as may be provided by law, or who has failed to vote at any primary or regular election for four (4) consecutive years, and notify the local boards of election and the voter of such action and the reason therefor, by the tenth (10th) of the month following such action;

(c) Enter names on the various registration rosters as they are reported by the county boards of election;

(d) Furnish each county clerk with a master list of all registered voters in the county, together with three (3) lists of all registered voters in each precinct of the county, at least five (5) days prior to each election;

(e) Maintain all information furnished to the state board relating to the inclusion or deletion of names from the rosters for four (4) years;

(f) Furnish the state central executive committee of each political party at a reasonable cost qualifying under KRS 118.015 monthly data of all additions, deletions and changes of registration in each precinct of each county and the state central executive committee shall furnish a county listing to each of the county executive committees of each political party;

(g) Purchase, lease or contract for the use of such equipment as may be necessary to properly carry out its duties under the provisions of this chapter and KRS chapters 116 and 118;

(h) Secure information from any source which may assist the board in carrying out the purposes of this section;

(i) Furnish at a reasonable price any and all precinct lists to duly qualified candidates, political party committees or officials thereof, or any committee that advocates or opposes an amendment or public question. The state board of elections may also furnish the precinct lists to other persons at the board's discretion, at a reasonable cost, provided, however the board shall not furnish precinct lists to persons who intend to use such lists for commercial use.

Committee Substitute to **HB 756:**

HB 756, AN ACT relating to the state board of elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.015 is amended to read as follows:

(1) There shall be a state board of elections which shall administer the election laws of the state and supervise registration and purgation of voters within the state. The board may adopt rules and regulations necessary to properly carry out its duties.

(2) The board shall consist of the secretary of state and *six (6)* [~~two (2)~~] members *to be* appointed *as provided in this subsection. The members shall serve* [~~by the governor no later than April 15 in the year following his inauguration~~] for a term of four (4) years *or* [~~and~~] until their successors are appointed[~~; provided, that the first board shall be appointed within one (1) month following June 16, 1972 and serve until successors are appointed in April, 1976~~]. Members shall be at least twenty-five (25) years of age and qualified voters of this state. *No appointed member shall be a candidate for public office or have been a candidate for public office for two (2) years prior to his appointment. Two (2) members* [~~One (1) member~~] shall be appointed *by each of the following officers: the governor, the president pro tem of the senate, and the speaker of the house. Such appointments shall be made by each officer* from a *separate* list of *at least* five (5) names submitted by the state central executive committee of each of the two (2) political parties that polled the

largest vote in the last preceding election for state officials. *The list shall be submitted to the governor by February 15 in the year following the inauguration of the governor, and the appointments of the governor shall be made by April 15 of the same year. The separate lists shall be submitted to the president pro tem of the senate and the speaker of the house by August 15 of 1982 and every four (4) years thereafter, and appointments shall be made from these lists by September 15 of each year in which the lists are received.* Vacancies shall be filled in the same manner as provided for original appointments, and the person appointed to fill the vacancy shall be of the same political party as his predecessor.

(3) The board shall meet as often as necessary to carry out its duties and shall keep a record of its acts, orders, findings and proceedings. A majority of the board shall constitute a quorum. The secretary of state shall preside at the meetings and may vote.

(4) The members of the board shall be paid a reasonable sum to be fixed by the commissioner of personnel, with the approval of the secretary of the department of finance, and in addition, their expenses in attending board meetings. The compensation shall be paid out of the state treasury upon requisition signed by the chairman of the board and approved by the secretary of the department of finance.

Section 2. KRS 117.025 is amended to read as follows:

(1) The state board of elections shall appoint an executive director, who shall be the chief administrative officer for the board. The board *shall* [~~may~~] also appoint an assistant to the director, who shall be of a different political party than the director. The salaries of the director and his assistant shall be set by the board.

(2) The state board of elections shall employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board, including such legal counsel as is deemed necessary by the board.

(3) The state board shall:

(a) Maintain a complete roster of all qualified registered voters within the state by county and precinct;

(b) Delete the name of any voter who is deceased or who is no longer qualified to vote in the precinct where currently registered as may be provided by law, or who has failed to vote at any primary or regular election for four (4) consecutive years, and notify the local boards of election and the voter of such action and the reason therefor, by the tenth (10th) of the month following such action;

(c) Enter names on the various registration rosters as they are reported by the county boards of election;

(d) Furnish each county clerk with a master list of all registered voters in the county, together with three (3) lists of all registered voters in each precinct of the county, at least five (5) days prior to each election;

(e) Maintain all information furnished to the state board relating to the inclusion or deletion of names from the rosters for four (4) years;

(f) Furnish the state central executive committee of each political party at a reasonable cost qualifying under KRS 118.015 monthly data of all additions, deletions and changes of registration in each precinct of each county and the state central executive committee shall furnish a county listing to each of the county executive committees of each political party;

(g) Purchase, lease or contract for the use of such equipment as may be necessary to properly carry out its duties under the provisions of this chapter and KRS chapters 116 and 118;

(h) Secure information from any source which may assist the board in carrying out the purposes of this section;

(i) Furnish at a reasonable price any and all precinct lists to duly qualified candidates, political party committees or officials thereof, or any committee that advocates or opposes an amendment or public question. The state board of elections may also furnish the precinct lists to other persons at the board's discretion, at a reasonable cost, provided, however the board shall not furnish precinct lists to persons who intend to use such lists for commercial use.

SB 180, AN ACT relating to the designation of the state opera of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

The Kentucky opera association of Louisville is hereby designated and declared to be the state opera of Kentucky, with the right to adopt for itself or for any wholly owned subsidiary the title "Kentucky state opera". The state opera, so designated and declared, may create an educational department to increase knowledge and understanding of opera among people throughout the Commonwealth, present public performances throughout the Commonwealth, help in tourist promotion, be available to work with Kentucky *colleges and universities in conjunction with accredited programs, and expand its activities through touring and other means to enhance the reputation of the Commonwealth as a major area of arts activity in the United States and throughout the world.*

SB 278, AN ACT to correct a clerical error in KRS 6.041.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.041 is amended to read as follows:

Any reference in KRS 6.011 *and 6.031* to a *census unit,* city, *county, road, highway or stream means that census unit, city, county, road, highway or stream as its boundaries or location existed on January 1, 1980. Any reference to a* ward, *commissioner's* district *or precinct means that ward, commissioner's district or precinct as its boundaries existed on July 15, 1980* [~~, boundary, precinct, road, highway, street, stream, or other line means as they existed on January 4, 1972, except that the following references to precincts in KRS 6.031 shall mean such precincts as they existed on January 1, 1978: In Trigg County, precincts Canton, West Cadiz, South Cadiz 1, South Cadiz 2, North Cadiz 1, North Cadiz 2, Wallonia, Cerulean, Bethesda, Maggie and Caledonia-Roaring Spring; in Jefferson County, precincts A35, A38, A50, A74, A80, A81, A123, A136 and A149 of A District of the county~~].

The Committee on Judiciary-Civil reported **SB 191,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 191, AN ACT relating to fees of public officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.200 is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70); however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202A, 202B and 203. The filing fee shall be paid to the clerk at the time the case is filed.

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	1.00
(c) Providing a copy of a document (per page)	.25
(d) Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e) Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk at the disposition of the action by the party against whom the costs have been assessed as follows:

(a) For a jury of more than six (6) persons	$25.00
(b) For a jury of six (6) persons	12.50

(5) The following *fee* [~~fees~~] shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

[~~(a)~~] Service of process (per process) $*10.00*[~~3.00~~]

[~~(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes~~]

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

Section 2. KRS 23A.200, 1980 Acts Chapter 396, Section 30, effective July 1, 1982, is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70); however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202A, 202B and 387. The filing fee shall be paid to the clerk at the time the case is filed.

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	1.00
(c) Providing a copy of a document (per page)	.25
(d) Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e) Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk at the disposition of the action by the party against whom the costs have been assessed as follows:

(a) For a jury of more than six (6) persons	$25.00
(b) For a jury of six (6) persons	12.50

(5) The following *fee* [~~fees~~] shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

[~~(a)~~] Service of process (per process)	$*10.00*[~~3.00~~]

[~~(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes~~]

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

Section 3. KRS 24A.170 is amended to read as follows:

(1) The filing fee for a civil case in district court shall be paid to the clerk at the time the case is filed and shall be twenty-five dollars ($25), except as provided below:

(a) Where the amount in controversy is five hundred dollars ($500) or less, the fee shall be ten dollars ($10).

(b) Where the case involves the probate of an estate, the fee shall be ten dollars ($10).

(c) Where the case involves the appointment of guardians, committees, and curators and is not related to a pending probate proceeding, the fee shall be ten dollars ($10) for each appointment.

(d) Where the matter involves a name change for a natural person, the fee shall be ten dollars ($10).

(e) Where the case involves a paternity determination under KRS Chapter 406, the fee shall be ten dollars ($10).

(f) Filing forcible detainer actions - - $10.00.

(2) Additional fees shall be charged in district court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	1.00
(c) Providing a copy of a document (per page)	.15
(d) Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e) Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) The jury fee shall be assessed as costs and shall be paid to the clerk by the party against whom the costs have been assessed as follows:

For a jury of six (6) persons	12.50

(5) The following *fee* [~~fees~~] shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request:

[~~(a)~~] Service of process (per process)	*10.00*[~~3.00~~]

[~~(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes.~~]

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

(8) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

Section 4. KRS 64.090 is amended to read as follows:

Sheriffs may charge and collect for the following services the following fees:

Executing and returning process	*$10.00*[~~3.00~~]
Serving an order of court and return	3.00
Summoning each witness	2.00
Summoning an appraiser or reviewer	2.00
Attending a surveyor, when ordered by a court, per deputy or sheriff assigned	20.00
Taking any bond that he is authorized or required to take in any action	5.00

Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond given and not complied with, six per cent (6%) on the first three hundred dollars ($300) and three per cent (3%) on the residue; when he levies an execution or distress warrant, and the defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the plaintiff and collected as costs in the case.

Taking a recognizance of a witness	$3.00
Levying an attachment	5.00

When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of attached property shall be allowed by order of court.

Summoning a garnishee	3.00
Summoning a jury in a misdemeanor case, attending the trial, and conducting the defendant to jail to be paid by the party convicted	8.00
Serving process or arresting the party in misdemeanor cases, to be paid by the plaintiff	10.00
Serving an order or process of revivor	3.00
Executing a writ of possession against each tenant or defendant	7.00

Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission.

Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses	8.00

Collecting militia fines and fee-bills, ten per cent (10%), to be deducted out of the fee-bill or fine.

Levying for a fee-bill	3.00
Serving a notice	2.00
Serving summons, warrants or process of arrest in bastardy cases	6.00
Serving each order appointing surveyors of roads, to be paid out of the county levy	5.00
Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant	5.00
Like services in cases of private passways to be paid by the applicant	5.00
Executing each writ of habeas corpus, to be paid by the petitioner	3.00
All services under a writ issued under KRS 381.460 to 381.570	10.00

Performing the duties of jailer, the same fees and allowances that are prescribed for jailers.

For services in summoning grand and petit jurors and performing his duties under KRS Chapter 29A the sheriff shall be allowed, for each person so summoned, and paid out of the state treasury for constructive service the sum of $1.50 and for personal service the sum of $3.00.

Section 5. KRS 64.095, Mileage allowance to officers serving papers, is repealed.

Committee Substitute to **SB 191:**

SB 191, AN ACT relating to fees of public officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.200 is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70); however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health

proceedings under KRS Chapters 202A, 202B and 203. The filing fee shall be paid to the clerk at the time the case is filed.

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a)	Filing a third-party complaint	$10.00
(b)	Preparing a certification	1.00
(c)	Providing a copy of a document (per page)	.25
(d)	Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e)	Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk at the disposition of the action by the party against whom the costs have been assessed as follows:

(a)	For a jury of more than six (6) persons	$25.00
(b)	For a jury of six (6) persons	12.50

(5) The following *fee* [~~fees~~] shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

[~~(a)~~] Service of process (per process) *$10.00*[~~3.00~~]

[~~(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes~~]

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

Section 2. KRS 23A.200, 1980 Acts Chapter 396, Section 30, effective July 1, 1982, is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70); however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202A, 202B and 387. The filing fee shall be paid to the clerk at the time the case is filed.

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(a)	Filing a third-party complaint	$10.00
(b)	Preparing a certification	1.00
(c)	Providing a copy of a document (per page)	.25
(d)	Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e)	Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

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(b)	For a jury of six (6) persons	12.50

(5) The following *fee* [~~fees~~] shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

[~~(a)~~] Service of process (per process) *$10.00*[~~3.00~~]

[~~(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes~~]

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

Section 3. KRS 24A.170 is amended to read as follows:

(1) The filing fee for a civil case in district court shall be paid to the clerk at the time the case is filed and shall be twenty-five dollars ($25), except as provided below:

(a) Where the amount in controversy is five hundred dollars ($500) or less, the fee shall be ten dollars ($10).

(b) Where the case involves the probate of an estate, the fee shall be ten dollars ($10).

(c) Where the case involves the appointment of guardians, committees, and curators and is not related to a pending probate proceeding, the fee shall be ten dollars ($10) for each appointment.

(d) Where the matter involves a name change for a natural person, the fee shall be ten dollars ($10).

(e) Where the case involves a paternity determination under KRS Chapter 406, the fee shall be ten dollars ($10).

(f) Filing forcible detainer actions - - $10.00.

(2) Additional fees shall be charged in district court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	1.00
(c) Providing a copy of a document (per page)	.15
(d) Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e) Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) The jury fee shall be assessed as costs and shall be paid to the clerk by the party against whom the costs have been assessed as follows:

For a jury of six (6) persons	12.50

(5) The following *fee* [~~fees~~] shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request:

[~~(a)~~] Service of process (per process)	*10.00*[~~3.00~~]

[~~(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes.~~]

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

(8) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

Section 4. KRS 64.090 is amended to read as follows:

Sheriffs may charge and collect for the following services the following fees:

Executing and returning process	$*10.00*[~~3.00~~]
Serving an order of court and return	3.00
Summoning each witness	2.00
Summoning an appraiser or reviewer	2.00
Attending a surveyor, when ordered by a court, per deputy or sheriff assigned	20.00
Taking any bond that he is authorized or required to take in any action	5.00

Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond given and not complied with, six per cent (6%) on the first three hundred dollars ($300) and three per cent (3%) on the residue; when he levies an execution or distress warrant, and the defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the plaintiff and collected as costs in the case.

Taking a recognizance of a witness	$3.00
Levying an attachment	5.00

When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of attached property shall be allowed by order of court.

Summoning a garnishee	3.00
Summoning a jury in a misdemeanor case, attending the trial, and conducting the defendant to jail to be paid by the party convicted	8.00
Serving process or arresting the party in misdemeanor cases, to be paid by the plaintiff	10.00
Serving an order or process of revivor	3.00
Executing a writ of possession against each tenant or defendant	7.00

Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission.

Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses	8.00

Collecting militia fines and fee-bills, ten per cent (10%), to be deducted out of the fee-bill or fine.

Levying for a fee-bill	3.00
Serving a notice	2.00

Serving summons, warrants or process of arrest in bastardy cases	6.00
Serving each order appointing surveyors of roads, to be paid out of the county levy	5.00
Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant	5.00
Like services in cases of private passways to be paid by the applicant	5.00
Executing each writ of habeas corpus, to be paid by the petitioner	3.00
All services under a writ issued under KRS 381.460 to 381.570	10.00

Performing the duties of jailer, the same fees and allowances that are prescribed for jailers.

For services in summoning grand and petit jurors and performing his duties under KRS Chapter 29A the sheriff shall be allowed, for each person so summoned, and paid out of the state treasury for constructive service the sum of $1.50 and for personal service the sum of $3.00.

Section 5. KRS 454.210 is amended to read as follows:

(1) As used in this section, "person" includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth.

(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person's:

1. Transacting any business in this Commonwealth;
2. Contracting to supply services or goods in this Commonwealth;
3. Causing tortious injury by an act or omission in this Commonwealth;
4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth, provided that the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth;
5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when the seller knew such person would use, consume, or be affected by, the goods in this Commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;
6. Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;
7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting.
8. Committing sexual intercourse in this state which intercourse causes the birth of a child when:
   a. The father or mother or both are domiciled in this state, or
   b. There is a repeated pattern of intercourse between the father and mother in this state, or
   c. Said intercourse is a tort or a crime in this state.

(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made on such person, or any agent of such person, in any county in this Commonwealth, where he may be found, or on the secretary of state who, for this purpose, shall be deemed to be the statutory agent of such person.

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint [~~and direct it to the sheriff of Franklin County~~]. The *clerk* [~~sheriff~~] shall execute the summons by *sending by certified mail* [~~delivering~~] a true copy to the secretary of state and shall also *mail* [~~deliver~~] with the summons an attested copy of plaintiff's complaint. The secretary of state shall immediately mail the copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by certified mail, return receipt requested and shall bear the return address of the secretary of state. The sheriff shall make the usual return to the court, and in addition the secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the secretary of state and the action shall proceed as provided in the Rules of Civil Procedure.

(c) The sheriff *mailing* [~~serving~~] the summons *to* [~~upon~~] the secretary of state shall *mail* [~~pay~~] to him, at the *same* time [~~of service~~] a fee of four dollars ($4.00), which shall be taxed as costs in the action.

(4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose.

(5) A court of this Commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding this section.

Section 6. KRS 64.095, Mileage allowance to officers serving papers, is repealed.

The Committee on State Government reported **HB 279** with Committee Amendment attached thereto, and **HB 677** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 279, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.541 is amended to read as follows:

(1) Any person who prior to July 1, 1976, left the state police or its predecessor in order to enter the armed forces of the United States and who is reemployed by the state police after the effective date of the system is entitled to have credited as current service his period of service in such armed forces, not to exceed six (6) years, provided he applies for reinstatement within two (2) years of discharge, which must be honorable, or within two (2) years of a subsequent termination of any total disability, and, subject to the approval of the state police personnel board, is reemployed.

(2) Any person who prior to the effective date of the system left the state police or its predecessor in order to enter the armed forces of the United States and who was reemployed within two (2) years after his honorable discharge therefrom prior to the effective date of the system shall be entitled to have credited as service his period of service in the armed forces, not to exceed six (6) years.

(3) Any member *employed on or before July 15, 1982 shall,* upon completion of five (5) years of service [~~shall~~] receive current service for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) and (2) of this section provided he pays thirty-five percent (35%) of the cost of such service based on the formula adopted by the board; however, members who were taken prisoner by a hostile power at any time during their active military service shall receive current service credit without payment of the thirty-five percent (35%). The payment by the member shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for such purpose and these payments shall be deposited to the retirement allowance account. *Funds necessary to meet the state's share of the cost of the current service credit shall be deemed a necessary governmental expense and shall be paid by the state treasurer upon request by the board and approval by the department of finance* [~~If no funds are available in the special appropriation account the board shall not accept employe payments until such time funds are available in the account~~].

(4) *Employe payments toward the purchase of military service credit may be made in installments over a period of time not to exceed in length the length of time of the military service being purchased. Employers shall deduct such payments from the pay of any employe so requesting. The board shall determine the frequency and amounts of such payments or payroll deductions.*

(5) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future. Nothing in this section shall prohibit such purchase of credit where the military pension results from service primarily on inactive duty in a reserve component of the armed forces, or where the military pension is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled.

(6) Notwithstanding the provisions of subsection (3) of this section, after July 15, 1987, no employe shall be eligible to purchase military service credit, and after such date the board shall not accept employe payments and the state shall not make payments for the purchase of military service credit.

Section 2. KRS 61.555 is amended to read as follows:

(1) Prior to July 1, 1976, any employe entering the armed forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of service in the armed forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he is reemployed within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the armed forces of the United States and who was or is reemployed within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of service in the armed forces, not to exceed six (6) years.

(3) Any national guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his service, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employe *employed on or before July 15, 1982 who is* eligible for retirement as prescribed in KRS 61.559 or *who has completed* [~~any employe upon completion of~~] five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) to (3) of this section provided he pays thirty-five percent (35%) of the cost of such service based on the formula adopted by the board. The payment by the member shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state, [~~from funds appropriated specifically for such purpose~~] and these payments shall be deposited to the respective retirement allowance accounts. *Funds necessary to meet the state's share of the cost of the current service credit shall be deemed a necessary governmental expense and shall be paid by the state treasurer upon request by the board and approval by the department of finance, except that payments pursuant to this subsection and KRS 16.541(3) shall not exceed one hundred fifty thousand dollars ($150,000) in either fiscal year 1982-83 or fiscal year 1983-84* [~~If no funds are available in the special appropriation account the board shall not accept employe payments until such time as funds are available in the account~~].

(5) *Employe payments toward the purchase of military service credit may be made in installments over a period of time not to exceed in length the length of time of the military service being purchased. Employers shall deduct such payments from the pay of any employe so requesting. The board shall determine the frequency and amounts of such payments or payroll deductions.*

(6) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for military service as provided under subsection (4) of this section without payment of the current employe contribution ratio if such member was taken prisoner by a hostile power at any time during active military service.

(7)[~~(6)~~] Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future. Provided, that nothing in this section shall prohibit such purchase of credit where the military pension results from service primarily on inactive duty in a reserve component of the armed forces, or where the military pension is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled.

(8) Notwithstanding the provisions of subsection (4) of this section, after July 15, 1987, no employe shall be eligible to purchase military service credit, and after such date the board shall not accept employe payments and the state shall not make payments for the purchase of military service credit.

Amend printed copy of **HB 279**, page 3, line 3, by deleting "*Employers shall*"; and by deleting lines 4, 5 and 6 in their entirety; and

on page 6, line 6, by deleting "*Employers shall*"; and by deleting lines 7, 8 and 9 in their entirety.

HB 677, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.180 is amended to read as follows:

(1) Except when dispensed directly by a practitioner to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner. No controlled substance in schedule II shall be refilled. All prescriptions for controlled substances classified in schedule II shall be maintained in a separate prescription file.

(2) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance included in schedules III, IV, and V, which is a prescription drug, shall not be dispensed without a written or oral prescription by a practitioner. All oral prescriptions shall be dated and signed by the pharmacist. A pharmacist refilling any prescription shall record on the prescription the date, the quantity and his initials. *The maintenance of prescription records under the federal controlled substances laws and regulations, containing substantially the same information as specified herein, shall constitute compliance with this subsection.* The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner and a new prescription, written or oral shall be required.

(3) All written prescriptions for controlled substances shall be dated as of and signed by the practitioner on the date when issued and shall bear the full name and address of the patient and the name, address

and registration number of the practitioner. All prescriptions for controlled substances shall be retained for a period of two (2) years.

(4) The pharmacist filling a written or oral prescription for a controlled substance shall affix to the package a label showing the date of filling, the pharmacy name and address, the serial number of the prescription, the name of the patient, the name of the prescribing practitioner and directions for use and cautionary statements, if any, contained in such prescription or required by law.

The Committee on State Government reported **HB 267,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 267, AN ACT relating to absentee voting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.075 (effective until July 1, 1982) is amended to read as follows:

(1) Any qualified voter who has not been declared incompetent by a court of competent jurisdiction, and who, on account of age, infirmity or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election, he shall present to the clerk by mail his verified statement that his inability to appear is due to age, infirmity, or illness, and a [~~verified~~] statement [~~of a physician corroborating the voter's statement and~~] indicating whether or not the condition is temporary, applying to the instant election only, or is expected to be a continuing one. If the condition is indicated as being continuing the voter need not file further statements of disability. For ensuing elections the voter may make reference to the statement previously filed when applying for a special ballot. The county clerk shall maintain a file of all such statements. Upon receipt of the verified statement, the clerk shall immediately mail to the voter a special ballot, and envelopes, and the voter shall cast his vote in the same manner as provided for the absent voter in KRS 117.335.

(2) Special ballots cast by disabled persons shall be tabulated in the same manner as are special ballots cast by absent voters.

Section 2. KRS 117.075, 1980 Acts Chapter 396, Section 61, (effective July 1, 1982) is amended to read as follows:

(1) Any qualified voter who has not been declared mentally disabled by a court of competent jurisdiction, and who, on account of age, infirmity or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election, he shall present to the clerk by mail his verified statement that his inability to appear is due to age, infirmity, or illness, and a [~~verified~~] statement [~~of a physician corroborating the voter's statement and~~] indicating whether or not the condition is temporary, applying to the instant election only, or is expected to be a continuing one. If the condition is indicated as being continuing the voter need not file further statements of disability. For ensuing elections the voter may make reference to the statement previously filed when applying for a special ballot. The county clerk shall maintain a file of all such statements. Upon receipt of the verified statement, the clerk shall immediately mail to the voter a special ballot, and envelopes, and the voter shall cast his vote in the same manner as provided for the absent voter in KRS 117.087.

(2) Special ballots cast by disabled persons shall be tabulated in the same manner as are special ballots cast by absent voters.

Committee Substitute to **HB 267:**

HB 267, AN ACT relating to absentee voting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.075 (effective until July 1, 1982) is amended to read as follows:

(1) Any qualified voter who has not been declared incompetent by a court of competent jurisdiction, and who, on account of age, infirmity or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election, he shall present to the clerk by mail his verified statement that his inability to appear is due to *an* [~~age, infirmity, or~~] illness *from which the voter is bedridden and he is unable to vote at the polls*, and a verified statement of a physician

corroborating the voter's statement and indicating whether or not the condition is temporary, applying to the instant election only, or is expected to be a continuing one. If the condition is indicated as being *permanent*, [~~continuing~~] the voter need not file *a* further *physician's statement* [~~statements~~] of *permanent* disability. For ensuing elections the voter may make reference to the statement previously filed when applying for a special ballot. The county clerk shall maintain a file of all such statements. Upon receipt of the verified statement, the clerk shall immediately mail to the voter a special ballot, and envelopes, and the voter shall cast his vote in the same manner as provided for the absent voter in KRS 117.335.

(2) Special ballots cast by disabled persons shall be tabulated in the same manner as are special ballots cast by absent voters.

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(2) Special ballots cast by disabled persons shall be tabulated in the same manner as are special ballots cast by absent voters.

The Committee on Appropriations and Revenue reported **HB 513**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 513, AN ACT relating to the department of revenue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 62.055 is amended to read as follows:

(1) Every county clerk, before entering on the duties of his office, shall execute bond to the Commonwealth, with corporate surety authorized and qualified to become surety on bonds in this state. Any county clerk holding office as of January 1, 1978 who has not executed bond as provided herein shall do so within thirty (30) days from February 9, 1978.

(2) In counties containing a city of the first class, the amount of the county clerk's bond shall be at least *five hundred thousand dollars ($500,000)* [~~two hundred thousand dollars ($200,000)~~]. In counties containing a city of the second class and counties containing urban-county form of government, the amount of county clerk's bond shall be at least *four hundred thousand dollars ($400,000)* [~~one hundred thousand dollars ($100,000)~~]. In all other counties the amount of the county clerk's bond shall be at least *one hundred thousand dollars ($100,000)* [~~fifty thousand dollars ($50,000)~~].

(3) The bond of the county clerk shall be examined and approved by the county judge/executive. The clerk shall record the bond in his records and a copy of the bond shall be transmitted within one (1) month to the department of revenue, where it shall be recorded and preserved. Except in those counties where the fees of the county clerk are paid into the state treasury, the premium on the county clerk's bond shall be paid by the county.

(4) Where circumstances in a particular county indicate that the amount of the bond may not be sufficient, the department of revenue may request the county judge/executive to increase the bond as provided in KRS 62.060. The county judge/executive will then require a bond of sufficient amount to safeguard the Commonwealth.

Section 2. KRS 138.450 is amended to read as follows:

As used in KRS 138.460 and 138.470, unless the context requires otherwise:

(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers,

mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(3) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(4) Except as provided in *subsections* [~~subsection~~] (5) *and (6)* of this section, "retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be 90% of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual;

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

(5) Notwithstanding the provisions of subsection (4) of this section, provided the tax on gasoline, diesel, other special motor fuels and liquefied petroleum gas is increased as provided for in KRS 138.220(2), 138.565(3), 138.660(2) and 234.320(2), "retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, and new motor vehicles sold by Kentucky licensed dealers, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

(6) "Wrecked motor vehicle" means any motor vehicle damaged by any cause except wear and tear or rust including but not limited to damage caused by collision, fire, flood, wind or vandalism. Any other provision of subsections (4) and (5) notwithstanding, the retail price of a wrecked motor vehicle shall be the greater of fifty percent (50%) of the retail price as determined without reference to this subsection, or such retail price minus the average of the repair estimates submitted to the county clerk. The owner of the wrecked motor vehicle shall obtain a minimum of two (2) repair estimates from disinterested persons regularly engaged in the repair of motor vehicles and submit them to the county clerk.

Section 3. KRS 138.463 is amended to read as follows:

(1) On and after January 1, 1973, a holder of a certificate as required under KRS 281.615 to operate as a U-Drive-It as defined in KRS 281.014 may pay the usage tax as provided in KRS 138.460 or may pay a usage tax of five per cent (5%) levied upon the amount of the gross rental or lease charges paid by a customer or lessee renting or leasing a motor vehicle from such holder of the certificate.

(2) In the event the holder of such certificate elects to pay the usage tax by the alternate method as provided in subsection (1), he shall *be required to obtain a certificate of U-Drive-It tax registration from the department of revenue before such election may be exercised. To exercise the usage tax alternate payment method as provided in subsection (1) of this section, he shall* present *a copy of* his *department of revenue* certificate *of U-Drive-It tax registration together with a copy of the certificate as required under KRS 281.615* to the county clerk at the time the motor vehicle is offered for registration in Kentucky and the following provisions shall be applicable.

(3) The tax shall be the direct obligation of the holder of the *department of revenue* certificate *of U-Drive-It tax registration* but it may be charged to and collected from the customer in addition to the rental or lease charges. The tax due shall be *reported and paid* [~~remitted~~] to the Department of Revenue *on a monthly basis on or before the twentieth day of the next succeeding calendar month* [~~each month on forms and pursuant to regulations promulgated by the department~~].*The payment shall be accompanied by a report or return in such form as the department of revenue may prescribe.*

(4) *(a) As soon as practicable after each return is received, the department shall examine and audit it. If the amount of tax computed by the department is greater than the amount returned by the taxpayer, the excess shall be assessed by the department within four (4) years from the date the return was filed, except as provided in paragraph (c) of this subsection, and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the department.*

(b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(c) Notwithstanding the four (4) year time limitation of paragraph (a) of this subsection, in the case of a return where the tax computed by the department is greater by twenty-five percent (25%) or more than the amount returned by the taxpayer, the excess shall be assessed by the department within six (6) years from the date the return was filed.

(5) Failure of the holder of *a department of revenue* [~~the~~] certificate *of U-Drive-It tax registration* to *report and pay* [~~remit~~] the taxes applicable to the rental and leasing charges as provided herein shall be sufficient cause for the *department of revenue* [~~bureau of vehicle regulation~~] to *revoke or suspend such* [~~void the~~] certificate [~~issued to such holder~~] and the usage tax on each of the motor vehicles which had been registered by the holder under the certificate shall be due and payable on the retail price of each such motor vehicle when it was first purchased by the *certificate* holder. *In such instances, no credit shall be allowed for any U-Drive-It tax paid or due to be paid on any such motor vehicles. Failure to report and pay the taxes applicable to the rental and leasing charges as provided herein shall also be sufficient cause for the department of transportation, bureau of vehicle regulation to void the certificate required under KRS 281.615 to operate as a U-Drive-It as defined in KRS 281.014.*

Section 4. KRS 138.464 is amended to read as follows:

The county clerk shall report [~~and remit~~] each Monday to the department of revenue all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period. *The clerk shall deposit motor vehicle usage tax collections not later than the next business day following receipt in a Commonwealth of Kentucky, department of revenue account in a bank designated as a depository for state funds. Failure to forward duplicates of all receipts issued during the reporting period or failure to file the weekly report of moneys collected shall subject the clerk to a penalty of two and one-half percent (2 ½%) of the amount of moneys collected during the reporting period for each month or fraction thereof until the documents are filed. Failure to deposit collections as required above shall subject the clerk to a penalty of two and one-half percent (2 ½%) of the amount not deposited for each day until the collections are deposited as required above. The penalty for failure to deposit shall not be less than fifty dollars ($50.00) nor more than five hundred dollars ($500) per day. The penalties provided in this section shall not apply if the failure of the clerk is due to reasonable cause.* [~~He shall make all checks payable to the state treasurer. Unless the clerk forwards duplicates of all receipts issued by him during the reporting period with his report and remits the amount shown due by the report within seven days after the report and remittance are due, he shall pay a penalty of one percent per month or fraction thereof on the amount of money shown to be due on the report.~~] The department may in its discretion grant a county clerk a reasonable extension of time to file his report *or make deposits as required above* [~~and remit all moneys not to exceed ten days for any one report~~]. The extension however must be requested prior to the end of the seven-day period and shall begin to run at the end of said period. All penalties collected under this provision shall be paid into the state treasury as a part of the revenue collected under KRS 138.450 to 138.729.

SECTION 5. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) If any holder of a certificate under KRS 138.463(2) fails or refuses to file a return or furnish any information requested in writing, the department of revenue may, from any information in its possession, make an estimate of the certificate holder's gross rental or lease charges and issue an assessment against such certificate holder based on the estimated gross rental or lease charges and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties provided by law.

(2) If any holder of a certificate under KRS 138.463(2) fails to make and file a return required by KRS 138.463 on or before the due date of the return or the due date as extended by the department of revenue, then, unless it is shown to the satisfaction of the department of revenue that the failure is due to a reasonable cause, five percent (5%) of the tax found to be due shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax provided, however, that in no case shall the penalty be less than ten dollars ($10.00).

(3) If the tax imposed by KRS 138.463, whether assessed by the department of revenue or the certificate holder, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the rate of twelve percent (12%) per annum from the date prescribed for its payment until payment is actually made.

Section 6. KRS 140.020 is amended to read as follows:

(1) The terms of this chapter shall apply to any property or interest therein, of which the decedent has made a transfer by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after death, including a transfer under which the transferor has retained for his life or any period not ending before his death (a) the possession or enjoyment of, or the income from the property; or (b) the actual or contingent power to designate the persons who shall possess the property or the income therefrom, except in the case of a bona fide sale for an adequate and full consideration in money or money's worth. It shall further apply to any property conveyed in trust over which the settlor has a power of revocation exercisable by will.

(2) Every transfer made within three (3) years prior to the death of the grantor, vendor or donor of a material part of his estate, or in the nature of a final disposition or distribution thereof, and without an adequate valuable consideration, shall be construed prima facie to have been made in contemplation of death within the meaning of this chapter. If a transfer was made more than three (3) years prior to the death of the decedent it shall be a question of fact, to be determined by the proper tribunal, whether the transfer was made in contemplation of death.

[~~(3) There shall be no presumption of contemplation of death as to certificates of deposit jointly owned and all such certificates of deposit shall be taxed pursuant to KRS 140.050.~~]

Section 7. KRS 140.063 is amended to read as follows:

(1) There shall be excluded from taxation under KRS chapter 140, to the extent attributable to employer's contributions, the value of an annuity or other payment receivable by any beneficiary (other than the executor or equivalent) under:

(a) An employe's trust (or under a contract purchased by an employe's trust) forming a part of a pension, stock bonus, or profit-sharing plan which, at the time of the decedent's separation from employment (whether by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of section 401(a) of the Internal Revenue Code; or

(b) A retirement annuity contract purchased by an employer (and not by an employe's trust) pursuant to a plan which, at the time of decedent's separation from employment (by death or otherwise), or at the time of termination of the plan if earlier, was a plan described in section 403(a) of the Internal Revenue Code; or

(c) A retirement annuity contract purchased for an employe by an employer which is an organization referred to in section 170(b)*(1)*(A)(ii) or (vi) of the Internal Revenue Code, or which is a religious organization (other than a trust), and which is exempt from tax under section 501(a) of the Internal Revenue Code; or

(d) Chapter 73 of title 10 of the United States Code.

(2) If amounts payable after the death of the decedent under *a plan described in paragraph (a) or (b) of subsection (1) of this section, under a contract described in paragraph (c) of subsection (1) of this section, or under chapter 73 of title 10 of the United States Code* [~~subsection (1)~~] are attributable to any extent to payments or contributions made by the decedent, no exclusion shall be allowed for that part of the value of such amounts in the proportion that the total payments or contributions made by the decedent bears to the total payments or contributions made. For purposes of this subsection, contributions or payments made by the decedent's employer or former employer under a trust or plan described in paragraph (a) or (b) of subsection (1) *of this section* shall not be considered to be contributed by the decedent, and contributions

or payments made by the decedent's employer or former employer toward the purchase of an annuity contract described in paragraph (c) of subsection (1) *of this section* shall, to the extent excludable from gross income under section 403(b) of the Internal Revenue Code, not be considered to be contributed by the decedent. *This subsection shall apply to all decedents dying after December 31, 1953.* For purposes of this subsection, contributions or payments on behalf of the decedent while he was an employe within the meaning of section 401(c)(1) of the Internal Revenue Code made under a trust or plan described in paragraph (a) or (b) of subsection *(1) of this section shall, to the extent allowable as a deduction under section 404 of the Internal Revenue Code, be considered to be made by a person other than the decedent and, to the extent not so allowable* [~~(1)~~] shall be considered to be contributions or payments made by the decedent. For purposes of this subsection, amounts payable under chapter 73 of title 10 of the United States Code are attributable to payments or contributions made by the decedent only to the extent of amounts deposited by him pursuant to section 1438 *or 1452 (d)* of such title 10. This subsection shall apply to all decedents dying after January 1, 1972.

(3) *There shall be excluded from taxation under KRS chapter 140 the value of an annuity receivable by any beneficiary (other than the executor) under:*

(a) An individual retirement account described in section 408(a) of the Internal Revenue Code.

(b) An individual retirement annuity described in section 408(b) of the Internal Revenue Code.

(c) A retirement bond described in section 409(a) of the Internal Revenue Code.

(4) If any payment to an account described in paragraph (a) of subsection (3) of this section or for an annuity described in paragraph (b) of subsection (3) of this section or a bond described in paragraph (c) of subsection (3) of this section was not allowable as a deduction under section 219 or 220 of the Internal Revenue Code and was not a rollover contribution described in section 402(a)(5), 403(a)(4), section 403(b)(8) (but only to the extent such contribution is attributable to a distribution from a contract described in subsection (c)(3)), 408(d)(3), or 409(b)(3)(C) of the Internal Revenue Code, the preceding sentence shall not apply to that portion of the value of the amount receivable under such account, annuity, or bond (as the case may be) which bears the same ratio to the total value of the amount so receivable as the total amount which was paid to or for such account, annuity, or bond and which was not allowable as a deduction under section 219 or 220 of the Internal Revenue Code and was not such a rollover contribution bears to the total amount paid to or for such account, annuity, or bond. For purposes of this subsection, the term "annuity" means an annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary (other than the executor) for his life or over a period extending for at least thirty-six (36) months after the date of the decedent's death.

(5) Except to the extent required by differences between KRS chapter 140 and its application and the federal estate tax law and its application, the relevant Internal Revenue Code regulations and the relevant administrative and judicial interpretations of the federal estate tax law shall be as nearly as practicable adopted and followed in the application of this section.

(6)[~~(4)~~] For the purposes of this section the term "Internal Revenue Code" shall mean the Internal Revenue Code [~~of 1954~~] as amended through *December 31, 1980* [~~1973~~].

Section 8. KRS 141.170 is amended to read as follows:

(1) The Department of Revenue may grant *a taxpayer other than a corporation* a reasonable extension of time for filing *his* income *return* [~~returns~~] whenever in its judgment good cause exists, and shall keep a record of every such extension. Except in case of a taxpayer who is abroad, no extension shall be granted for more than six months, and in no case for more than one year.

(2) A corporation may be granted an extension of not more than six (6) months for filing its income return provided it timely requests such extension before the due date of the return and pays ninety percent (90%) of its liability prior to the granting of an extension. The liability shall be reduced by any estimated tax payments, overpayment(s) from prior year(s) or other prepayments which may be properly claimed as a credit.

(3) If the time for filing a return is deferred, the taxpayer shall pay, as part of the tax, an amount equal to *twelve percent (12%)* [~~eight percent (8%)~~] per annum on the tax ultimately assessed from the time the return was due until it is actually filed in the office of the department.

Committee Substitute to **HB 513:**

HB 513, AN ACT relating to the department of revenue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 62.055 is amended to read as follows:

(1) Every county clerk, before entering on the duties of his office, shall execute bond to the Commonwealth, with corporate surety authorized and qualified to become surety on bonds in this state. Any county clerk holding office as of January 1, 1978 who has not executed bond as provided herein shall do so within thirty (30) days from February 9, 1978.

(2) In counties containing a city of the first class, the amount of the county clerk's bond shall be at least *five hundred thousand dollars ($500,000)* [~~two hundred thousand dollars ($200,000)~~]. In counties containing a city of the second class and counties containing urban-county form of government, the amount of county clerk's bond shall be at least *four hundred thousand dollars ($400,000)* [~~one hundred thousand dollars ($100,000)~~]. In all other counties the amount of the county clerk's bond shall be at least *one hundred thousand dollars ($100,000)* [~~fifty thousand dollars ($50,000)~~].

(3) The bond of the county clerk shall be examined and approved by the county judge/executive. The clerk shall record the bond in his records and a copy of the bond shall be transmitted within one (1) month to the department of revenue, where it shall be recorded and preserved. Except in those counties where the fees of the county clerk are paid into the state treasury, the premium on the county clerk's bond shall be paid by the county.

(4) Where circumstances in a particular county indicate that the amount of the bond may not be sufficient, the department of revenue may request the county judge/executive to increase the bond as provided in KRS 62.060. The county judge/executive will then require a bond of sufficient amount to safeguard the Commonwealth.

Section 2. KRS 138.450 is amended to read as follows:

As used in KRS 138.460 and 138.470, unless the context requires otherwise:

(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(3) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(4) Except as provided in *subsections* [~~subsection~~] (5) *and (6)* of this section, "retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be 90% of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual;

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

(5) Notwithstanding the provisions of subsection (4) of this section, provided the tax on gasoline, diesel, other special motor fuels and liquefied petroleum gas is increased as provided for in KRS 138.220(2), 138.565(3), 138.660(2) and 234.320(2), "retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, and new motor vehicles sold by Kentucky licensed dealers, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

(6) "Wrecked motor vehicle" means any motor vehicle damaged by any cause except wear and tear or rust including but not limited to damage caused by collision, fire, flood, wind or vandalism. Any other provision of subsections (4) and (5) notwithstanding, the retail price of a wrecked motor vehicle shall be the greater of fifty percent (50%) of the retail price as determined without reference to this subsection, or such retail price minus the average of the repair estimates submitted to the county clerk. The owner of the wrecked motor vehicle shall obtain a minimum of two (2) repair estimates from disinterested persons regularly engaged in the repair of motor vehicles and submit them to the county clerk.

Section 3. KRS 138.463 is amended to read as follows:

(1) [~~On and after January 1, 1973,~~] A holder of a certificate as required under KRS 281.615 to operate as a U-Drive-It as defined in KRS 281.014 may pay the usage tax as provided in KRS 138.460 or, *subject to the provisions of subsection (2),* may pay a usage tax of five per cent (5%) levied upon the amount of the gross rental or lease charges paid by a customer or lessee renting or leasing a motor vehicle from such holder of the certificate.

(2) A holder of a certificate shall pay the usage tax as provided in KRS 138.460 unless he shows to the satisfaction of the department that he is regularly engaged in the renting or leasing of motor vehicles to retail customers as a part of an established business. Persons first engaging in the renting or leasing of motor vehicles to retail customers shall, in addition to obtaining a certificate required under KRS 281.615, demonstrate to the satisfaction of the department that they are prepared to qualify under the standards set forth in this subsection.

(3)[~~(2)~~] In the event the holder of such certificate *qualifies under subsection (2) and* elects to pay the usage tax by the alternate method as provided in subsection (1), he shall present his certificate to the county clerk at the time the motor vehicle is offered for registration in Kentucky and the following provisions shall be applicable.

(4)[~~(3)~~] The tax shall be the direct obligation of the holder of the certificate but it may be charged to and collected from the customer in addition to the rental or lease charges. The tax due shall be remitted to the Department of Revenue each month on forms and pursuant to regulations promulgated by the department.

(5) (a) As soon as practicable after each return is received, the department shall examine and audit it. If the amount of tax computed by the department is greater than the amount returned by the taxpayer, the excess shall be assessed by the department within four (4) years from the date the return was filed, except as provided in paragraph (c) of this subsection, and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the department.

(b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(c) Notwithstanding the four (4) year time limitation of paragraph (a) of this subsection, in the case of a return where the tax computed by the department is greater by twenty-five percent (25%) or more than the amount returned by the taxpayer, the excess shall be assessed by the department within six (6) years from the date the return was filed.

(6) Failure of the holder of the certificate to remit the taxes applicable to the rental and leasing charges as provided herein shall be sufficient cause for the bureau of vehicle regulation to void the certificate issued to such holder and the usage tax on each of the motor vehicles which had been registered by the holder

under the certificate shall be due and payable on the retail price of each such motor vehicle when it was first purchased by the holder.

Section 4. KRS 138.464 is amended to read as follows:

The county clerk shall report [~~and remit~~] each Monday to the department of revenue all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period. *The clerk shall deposit motor vehicle usage tax collections not later than the next business day following receipt in a Commonwealth of Kentucky, department of revenue account in a bank designated as a depository for state funds. Failure to forward duplicates of all receipts issued during the reporting period or failure to file the weekly report of moneys collected shall subject the clerk to a penalty of two and one-half percent (2 ½%) of the amount of moneys collected during the reporting period for each month or fraction thereof until the documents are filed. Failure to deposit collections as required above shall subject the clerk to a penalty of two and one-half percent (2 ½%) of the amount not deposited for each day until the collections are deposited as required above. The penalty for failure to deposit shall not be less than fifty dollars ($50.00) nor more than five hundred dollars ($500) per day. The penalties provided in this section shall not apply if the failure of the clerk is due to reasonable cause.* [~~He shall make all checks payable to the state treasurer. Unless the clerk forwards duplicates of all receipts issued by him during the reporting period with his report and remits the amount shown due by the report within seven days after the report and remittance are due, he shall pay a penalty of one percent per month or fraction thereof on the amount of money shown to be due on the report.~~] The department may in its discretion grant a county clerk a reasonable extension of time to file his report *or make deposits as required above* [~~and remit all moneys not to exceed ten days for any one report~~]. The extension however must be requested prior to the end of the seven-day period and shall begin to run at the end of said period. All penalties collected under this provision shall be paid into the state treasury as a part of the revenue collected under KRS 138.450 to 138.729.

SECTION 5. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) If any holder of a certificate under KRS 138.463(2) fails or refuses to file a return or furnish any information requested in writing, the department of revenue may, from any information in its possession, make an estimate of the certificate holder's gross rental or lease charges and issue an assessment against such certificate holder based on the estimated gross rental or lease charges and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties provided by law.

(2) If any holder of a certificate under KRS 138.463(2) fails to make and file a return required by KRS 138.463 on or before the due date of the return or the due date as extended by the department of revenue, then, unless it is shown to the satisfaction of the department of revenue that the failure is due to a reasonable cause, five percent (5%) of the tax found to be due shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax provided, however, that in no case shall the penalty be less than ten dollars ($10.00).

(3) If the tax imposed by KRS 138.463, whether assessed by the department of revenue or the certificate holder, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the rate of twelve percent (12%) per annum from the date prescribed for its payment until payment is actually made.

Section 6. KRS 140.020 is amended to read as follows:

(1) The terms of this chapter shall apply to any property or interest therein, of which the decedent has made a transfer by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after death, including a transfer under which the transferor has retained for his life or any period not ending before his death (a) the possession or enjoyment of, or the income from the property; or (b) the actual or contingent power to designate the persons who shall possess the property or the income therefrom, except in the case of a bona fide sale for an adequate and full consideration in money or money's worth. It shall further apply to any property conveyed in trust over which the settlor has a power of revocation exercisable by will.

(2) Every transfer made within three (3) years prior to the death of the grantor, vendor or donor of a material part of his estate, or in the nature of a final disposition or distribution thereof, and without an adequate valuable consideration, shall be construed prima facie to have been made in contemplation of death within the meaning of this chapter. If a transfer was made more than three (3) years prior to the death of the decedent it shall be a question of fact, to be determined by the proper tribunal, whether the transfer was made in contemplation of death.

[~~(3) There shall be no presumption of contemplation of death as to certificates of deposit jointly owned and all such certificates of deposit shall be taxed pursuant to KRS 140.050.~~]

Section 7. KRS 140.063 is amended to read as follows:

(1) There shall be excluded from taxation under KRS chapter 140, to the extent attributable to employer's contributions, the value of an annuity or other payment receivable by any beneficiary (other than the executor or equivalent) under:

(a) An employe's trust (or under a contract purchased by an employe's trust) forming a part of a pension, stock bonus, or profit-sharing plan which, at the time of the decedent's separation from employment (whether by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of section 401(a) of the Internal Revenue Code; or

(b) A retirement annuity contract purchased by an employer (and not by an employe's trust) pursuant to a plan which, at the time of decedent's separation from employment (by death or otherwise), or at the time of termination of the plan if earlier, was a plan described in section 403(a) of the Internal Revenue Code; or

(c) A retirement annuity contract purchased for an employe by an employer which is an organization referred to in section 170(b)*(1)*(A)(ii) or (vi) of the Internal Revenue Code, or which is a religious organization (other than a trust), and which is exempt from tax under section 501(a) of the Internal Revenue Code; or

(d) Chapter 73 of title 10 of the United States Code.

(2) If amounts payable after the death of the decedent under *a plan described in paragraph (a) or (b) of subsection (1) of this section, under a contract described in paragraph (c) of subsection (1) of this section, or under chapter 73 of title 10 of the United States Code* [~~subsection (1)~~] are attributable to any extent to payments or contributions made by the decedent, no exclusion shall be allowed for that part of the value of such amounts in the proportion that the total payments or contributions made by the decedent bears to the total payments or contributions made. For purposes of this subsection, contributions or payments made by the decedent's employer or former employer under a trust or plan described in paragraph (a) or (b) of subsection (1) *of this section* shall not be considered to be contributed by the decedent, and contributions or payments made by the decedent's employer or former employer toward the purchase of an annuity contract described in paragraph (c) of subsection (1) *of this section* shall, to the extent excludable from gross income under section 403(b) of the Internal Revenue Code, not be considered to be contributed by the decedent. *This subsection shall apply to all decedents dying after December 31, 1953.* For purposes of this subsection, contributions or payments on behalf of the decedent while he was an employe within the meaning of section 401(c)(1) of the Internal Revenue Code made under a trust or plan described in paragraph (a) or (b) of subsection *(1) of this section shall, to the extent allowable as a deduction under section 404 of the Internal Revenue Code, be considered to be made by a person other than the decedent and, to the extent not so allowable* [~~(1)~~] shall be considered to be contributions or payments made by the decedent. For purposes of this subsection, amounts payable under chapter 73 of title 10 of the United States Code are attributable to payments or contributions made by the decedent only to the extent of amounts deposited by him pursuant to section 1438 *or 1452 (d)* of such title 10. This subsection shall apply to all decedents dying after January 1, 1972.

(3) There shall be excluded from taxation under KRS chapter 140 the value of an annuity receivable by any beneficiary (other than the executor) under:

(a) An individual retirement account described in section 408(a) of the Internal Revenue Code.

(b) An individual retirement annuity described in section 408(b) of the Internal Revenue Code.

(c) A retirement bond described in section 409(a) of the Internal Revenue Code.

(4) If any payment to an account described in paragraph (a) of subsection (3) of this section or for an annuity described in paragraph (b) of subsection (3) of this section or a bond described in paragraph (c) of subsection (3) of this section was not allowable as a deduction under section 219 or 220 of the Internal Revenue Code and was not a rollover contribution described in section 402(a)(5), 403(a)(4), section 403(b)(8) (but only to the extent such contribution is attributable to a distribution from a contract described in subsection (c)(3)), 408(d)(3), or 409(b)(3)(C) of the Internal Revenue Code, the preceding sentence shall not apply to that portion of the value of the amount receivable under such account, annuity, or bond (as the case may be) which bears the same ratio to the total value of the amount so receivable as the total amount which was paid to or for such account, annuity, or bond and which was not allowable as a deduction under section 219 or 220 of the Internal Revenue Code and was not such a rollover contribution bears to the total amount paid to or for such account, annuity, or bond. For purposes of this subsection, the term "annuity" means an annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary (other than the executor) for his life or over a period extending for at least thirty-six (36) months after the date of the decedent's death.

(5) Except to the extent required by differences between KRS chapter 140 and its application and the federal estate tax law and its application, the relevant Internal Revenue Code regulations and the relevant administrative and judicial interpretations of the federal estate tax law shall be as nearly as practicable adopted and followed in the application of this section.

(6)[~~(4)~~] For the purposes of this section the term "Internal Revenue Code" shall mean the Internal Revenue Code [~~of 1954~~] as amended through *December 31, 1980* [~~1973~~].

Section 8. KRS 141.170 is amended to read as follows:

(1) The Department of Revenue may grant *a taxpayer other than a corporation* a reasonable extension of time for filing *his* income *return* [~~returns~~] whenever in its judgment good cause exists, and shall keep a record of every such extension. Except in case of a taxpayer who is abroad, no extension shall be granted for more than six months, and in no case for more than one year.

(2) A corporation may be granted an extension of not more than six (6) months for filing its income return provided it timely requests such extension before the due date of the return and pays ninety percent (90%) of its liability prior to the granting of an extension. The liability shall be reduced by any estimated tax payments, overpayment(s) from prior year(s) or other prepayments which may be properly claimed as a credit.

(3) If the time for filing a return is deferred, the taxpayer shall pay, as part of the tax, an amount equal to *the tax interest rate as defined in KRS 131.030(6)* [~~eight percent (8%) per annum~~] on the tax ultimately assessed, *but not previously paid,* from the time the return was due until it is actually filed in the office of the department.

The Committee on Cities reported **HB 429,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 429, AN ACT relating to cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.040 is amended to read as follows:

(1) Each city shall, as soon as practicable and in no event later than two hundred seventy (270) days after the close of each fiscal year, cause each fund of the city to be audited by the auditor of public accounts or a certified public accountant.

(2) The city shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:

(a) The auditor be employed to examine the *general purpose financial statements* [~~balance sheets~~] of all governmental proprietary and fiduciary funds of the city;

(b) All audit information be prepared in accordance with generally accepted governmental auditing standards which includes such tests of the accounting records and such auditing procedures as considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;

(c) The auditor prepare a typewritten or printed report embodying *the general purpose* financial statements and his opinion and statements relating thereto;

(d) The auditor express an overall opinion as to whether the *general purpose financial statements* [~~statement of receipts and expenditures~~] presents fairly the financial condition of the city or state the reasons why an overall opinion cannot be expressed;

(e) The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting;

(f) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the auditor of public accounts upon request of the city or the auditor of public accounts, and the auditor of public accounts shall have the right to review the certified public accountant's work papers upon request.

(3) Upon completion of an annual audit, the city shall forward two (2) copies of the audit report to the department for local government for information purposes.

(4) Upon completion of an annual audit, the city shall *cause the auditor's report, the general purpose financial statements of the city, including combined balance sheets, combined statements of revenues, expenditures or expenses, and changes in fund balances, retained earnings, or financial position for each fund of the city, and notes to such general purpose financial statements, to be published in accordance with KRS Chapter 424. Compliance with the provisions of this subsection shall constitute compliance with and be in lieu of the requirements of KRS 424.220* [~~publish a summary of the audit in accordance with KRS Chapter 424~~].

(5) A copy of an annual audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements.

Committee Substitute to **HB 429:**

HB 429, AN ACT relating to cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.040 is amended to read as follows:

(1) Each city shall, as soon as practicable and in no event later than two hundred seventy (270) days after the close of each fiscal year, cause each fund of the city to be audited by the auditor of public accounts or a certified public accountant.

(2) The city shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:

(a) The auditor be employed to examine the *general purpose financial statements* [~~balance sheets~~] of all governmental proprietary and fiduciary funds of the city;

(b) All audit information be prepared in accordance with generally accepted governmental auditing standards which includes such tests of the accounting records and such auditing procedures as considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;

(c) The auditor prepare a typewritten or printed report embodying *the general purpose* financial statements and his opinion and statements relating thereto;

(d) The auditor express an overall opinion as to whether the *general purpose financial statements* [~~statement of receipts and expenditures~~] presents fairly the financial condition of the city or state the reasons why an overall opinion cannot be expressed;

(e) The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting;

(f) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the auditor of public accounts upon request of the city or the auditor of public accounts, and the auditor of public accounts shall have the right to review the certified public accountant's work papers upon request.

(3) Upon completion of an annual audit, the city shall forward two (2) copies of the audit report to the department for local government for information purposes.

(4) Upon completion of an annual audit, the city shall *cause the auditor's report, the general purpose financial statements of the city, including combined balance sheets, combined statements of revenues, expenditures or expenses, and changes in fund balances, retained earnings, or financial position for each fund of the city, and notes to such general purpose financial statements, to be published in accordance with KRS Chapter 424. Compliance with the provisions of this subsection shall constitute compliance with and be in lieu of the requirements of KRS 424.220, or comply with subsection (7) of this section* [~~publish a summary of the audit in accordance with KRS Chapter 424~~].

(5) A copy of an annual audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements.

(6) The city shall, within ninety (90) days after the close of the fiscal year, cause to be published in a newspaper qualified under KRS 424.120 a legal display advertisement of not less than eight (8) column inches that the statement required by KRS 424.220 has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio or television station which has on file with the city a written request to be provided such statement.

(7) A city required to prepare a financial statement required by KRS 424.220 shall:

(a) Publish the financial statement required by KRS 424.220 pursuant to KRS Chapter 424; or

(b) Publish the audit documents in accordance with subsection (4) of this section, including a statement that copies of such financial statement are available to the public at no cost at the business address of the officer responsible for the preparation of the statement required by KRS 424.220.

(8) A city of the fifth or sixth class may utilize alternative publication methods as prescribed by KRS 424.190 to comply with subsection (7) of this section.

(9) Compliance with the provisions of this section shall constitute compliance with and be in lieu of the publication requirements of KRS 424.220.

SECTION 2. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

In lieu of the auditing requirements set forth in KRS 91A.040, any city which for the fiscal year in question receives and expends, from all sources, and for all purposes, less than twenty-five thousand dollars ($25,000), and which has no long-term debt, whether general obligation or revenue debt, may comply fully with the provisions of KRS 424.290; and compliance with the provisions of that section shall constitute compliance with and be in lieu of the requirements of KRS 91A.040.

Section 3. KRS 242.120 is amended to read as follows:

(1) Except as provided in subsection (2), whenever an advertisement for a publication area is required by law to be published in a newspaper, the publication must be made in a newspaper that meets the following requirements:

(a) It must be published in the publication area. A newspaper shall be deemed to be published in the area if it maintains *its principal* [~~a known~~] office in the area for the purpose of gathering news and soliciting advertisements and other general business of newspaper publications, and has a second-class mailing permit issued for that office. A newspaper *published* [~~printed~~] outside of Kentucky shall not be eligible to *carry* [~~publish~~] advertisements for any county or publication area within the county, other than for the city in which its main office is located, if there is a newspaper *published* [~~printed~~] in the county that has a substantial general circulation throughout the county and that otherwise meets the requirements of this section; and

(b) It must be of regular issue and have the largest bona fide circulation in the publication area. A newspaper shall be deemed to be of regular issue if it is published regularly, as frequently as once a week, for at least fifty weeks during the calendar year as prescribed by its mailing permit, and has been so published in the area for the immediately preceding *two*[~~one~~]-year period. A newspaper shall be deemed to be of bona fide circulation in the publication area if it is circulated generally in the area, and maintains a definite price or consideration not less than fifty percent of its published price, and is paid for by not less than fifty percent of those to whom distribution is made; and

(c) It must bear a title or name, consist of not less than four pages without a cover, and be of a type to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements, and other notices. The news content must be at least twenty-five percent of the total column space in more than one-half of its issues during any twelve-month period.

(d) If, in a publication area there is more than one newspaper which meets the above requirements, the newspaper having the largest bona fide circulation as shown by the published statement of ownership for the publication area shall be the newspaper where advertisements required by law to be published shall be carried.

(e) Publishing shall be considered as the total recurring processes of producing the newspaper, embracing all of the included contents of reading matter, illustrations, and advertising enumerated in paragraphs (a) through (d) of this subsection. A newspaper shall not be excluded from qualifying for the purposes of legal publications as provided in this chapter if its printing or reproduction processes take place outside the publication area.

(2) If, in the case of a publication area smaller than the county in which it is located, there is no newspaper published in the area, the publication shall be made in a newspaper published in the county that is qualified under this section to publish advertisements for the county. If, in any county there is no newspaper meeting the requirements of this section for publishing advertisements for such county, any advertisements required to be published for such county or for any publication area within the county shall be published in a newspaper of the largest bona fide circulation in that county, published in and qualified to publish advertisements for an adjoining county in Kentucky. This subsection is intended to supersede any statute that provides or contemplates that newspaper publication may be dispensed with if there is no newspaper printed or published or of general circulation in the particular publication area.

(3) If a publication area consists of a district, other than a city, which extends into more than one county, the part of the district in each county shall be considered to be a separate publication area for the purposes of this section, and an advertisement for each such separate publication area shall be published in a newspaper qualified under this section to publish advertisements for such area.

Section 4. KRS 424.160 is amended to read as follows:

(1) For all newspaper advertising required by law, the publisher is entitled to receive payment for each insertion at a rate per linear inch, single column, computed as solid eight-point measure. The rate shall not exceed *the lowest rate paid by advertisers for comparable matter in the same publication* [~~that paid by general advertisers for comparable matter, but in no case shall it be less than $1.00 per linear inch for weekly newspapers and $1.50 per linear inch for daily newspapers~~].

(2) Whenever by law or by the nature of the matter to be published a display form of advertisement is required, or whenever the person or officer responsible for causing an advertisement to be published determines in his discretion that a display form is practicable or feasible, and so directs the newspaper, the advertisement shall be published in display form and the newspaper shall be entitled to receive therefor its established display rate.

(3) Whenever it is provided by statute that an advertisement shall be published of the filing of a petition or application seeking official action, the filing, if required by other than a governmental official or agency, shall not be deemed complete unless there is deposited with the petition or application an amount sufficient to pay the cost of publication.

(4) The expense of advertisements in judicial proceedings shall be taxed as costs by the clerk of the court.

Section 5. KRS 424.170 is amended to read as follows:

(1) The affidavit of the publisher or proprietor of a newspaper, stating that an advertisement has been published in his newspaper and the times it was published, attached to a copy of the advertisement, constitutes prima facie evidence that the publication was made as stated in the affidavit.

(2) The affidavit of the person responsible for publishing as described in KRS 424.150, stating that an advertisement has been delivered by first class mail to each residence within the publication area, attached to a copy of the advertisement, constitutes prima facie evidence that the publication was made as stated in the affidavit and that the expenditure for the cost of postage, all supplies, and reproduction of the notice did not exceed the cost of newspaper publication of the advertisement.

Section 6. KRS 424.190 is amended to read as follows:

(1) In any case where a statute now gives discretion to a public officer or agency or governmental body as to the method of making an advertisement required by the statute, and in any case where a statute now provides that an advertisement may be made either by posting or by newspaper publication, the advertisement shall be made by newspaper publication in accordance with the provisions of this chapter, *except as provided in subsection (2) of this section.*

(2) Any city of the fifth or sixth class may, when the cost of the newspaper publication exceeds the cost of postage, supplies and reproduction for the alternative method of publication, in lieu of newspaper publication of advertisement, substitute delivery of a copy of the advertisement by first class mail to each residence within the publication area.

Section 7. KRS 424.220 is amended to read as follows:

Excepting officers of a city of the first class, a county containing such a city, a public agency of such a city or county, or a joint agency of such a city and county, or of a school district of such a city or county, and excepting officers of a city of the second class *or an urban county government* [~~that is required by law to publish an annual audit of its financial affairs~~], every public officer of any school district, city, county, or subdivision or district less than a county, whose duty it is to collect, receive, have the custody, control or disbursement of public funds, and every officer of any board or commission of a city, county or district whose duty it is to collect, receive, have the custody, control or disbursement of funds collected from the public in the form of rates, charges or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. The statement shall show *in the aggregate by source, the amount of funds collected and received, and in the aggregate by payee, the amounts disbursed, or* the amount of funds collected and received, from what sources received, the amount disbursed, the date of each disbursement, for what purpose expended, and to whom paid, except that only the totals of amounts paid to each individual as salary or commission and public utility bills need to be shown and except that the amount of salaries paid to all teachers shall be shown as a lump sum instructional expenditure for the school district and not by amount paid to individual teachers and the amount of salaries paid to all other employes of the board shall be shown as lump sum expenditures by category, including, but not limited to, administrative, maintenance, transportation, and food service; however the local board of education must have accessible a factual list of individual salaries for public scrutiny and the local board shall furnish by mail a factual list of individual salaries of its employes to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school employes. The officer shall procure and include in or attach to the statement as a part thereof a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement. The officer shall, within sixty (60) days after the close of the fiscal year, cause the statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county. Within thirty (30) days after publication, the officer shall file with the auditor of public accounts a copy of the newspaper containing the statement.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, March 10, 1982.

The House adjourned by voice vote.

WEDNESDAY, MARCH 10, 1982

FORTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Father Joseph Nicholas Boschert, Sacred Heart Church, Bellevue, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Lile.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of March 9, 1982, be dispensed with and the same approved. Agreed.

Introduction of Resolutions

HR 83, by Representatives Bruce and Morris: A RESOLUTION honoring Fort Campbell and recognizing A.U.S.A. Day in Hopkinsville, Kentucky and Christian County.

Report on Enrolled Bills

HB 245, HB 332, HB 372, HB 373, HB 374, and **HB 439** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following Bills and Resolutions:

Cities: **SB 339.**

Counties and Special Districts: **SB 320, SB 341.**

Health and Welfare: **SB 36, SB 235, SB 198.**

Labor and Industry: **SB 184.**

State Government: **SB 152, SB 172, SB 174, SR 41.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideraton:

Judiciary-Civil: **HB 794.**

Report of Committees

The Committee on Rules reported **HB 240, HB 493, HB 543, HB 551, HB 596, HB 41, HB 484, HB 527, HB 528, HB 594, HB 646, HB 648, HB 720, SB 75,** and **SB 190** have been posted for passage in Orders of the Day, March 11, 1982.

The Committee on Rules reported **HB 369** has been recommitted to the Committee on Business Organizations and Professions.

Senate Message

Announcing passage of **SB 186, SB 220, SB 313,** and **SB 347.**

Report of Committees

The Committee on Business Organizations and Professions reported **HB 394** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Business Organizations and Professions reported **HB 507** with Committee Amendments attached thereto, **HB 587, HB 631, HB 704, HB 711, HB 714, HB 733** with Committee Amendment attached thereto, and **SB 261** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 507, AN ACT relating to wine.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	$1,500.00
(2)	Rectifier's license, per annum	$1,500.00
(3)	Blender's license, per annum	$1,500.00
(4)	Vintner's license, per annum	$ 500.00
(5)	Small winery license, per annum	$ *100.00*[~~250.00~~]
(6)	Wholesaler's license, per annum	$1,500.00
(7)	Retail package license, per annum:	
(a)	In counties containing cities of the first class	$ 600.00
(b)	In counties containing cities of the second class	$ 500.00
(c)	In counties containing cities of the third class	$ 400.00
(d)	In counties containing cities of the fourth class	$ 300.00
(e)	In all other counties	$ 200.00
(8)	Retail drink license, per annum:	
(a)	In counties containing cities of the first class	$ 800.00
(b)	In counties containing cities of the second class	$ 500.00
(c)	In counties containing cities of the third class	$ 400.00
(d)	In counties containing cities of the fourth class	$ 300.00
(9)	Transporter's license, per annum	$ 25.00
(10)	Dining car license, per annum	$ 50.00
(11)	Special nonbeverage alcohol vendor's license, per annum	$ 25.00
(12)	Special industrial alcohol license, per annum	$ 25.00
(13)	Special nonindustrial alcohol license, per annum	$ 25.00

(14)	Special agent's or solicitor's license, per annum	$ 20.00
(15)	Special storage or warehouse license, per annum	$ 100.00
(16)	Special temporary license, per month or part of month, one sixth (1/6) of the fees enumerated in subsection (7).	
(17)	Special private club license, per annum	$ 150.00
(18)	Special Sunday retail drink license	$ 300.00
(19)	Nonresident, special agent or solicitor's license, per annum	$ 20.00
(20)	Transport permit, nonresident license, per annum	$ 25.00
(21)	Through transporter's license, per annum	$ 25.00
(22)	Freight forwarder's license, per annum	$ 25.00
(23)	Supplemental bar license:	
(a)	In counties containing cities of the first class	$ 800.00
(b)	In counties containing cities of the second class	$ 500.00
(c)	In counties containing cities of the third class	$ 400.00
(24)	Restaurant wine license, per annum:	
(a)	New applicants	$ 300.00
(b)	Renewals	$ 200.00

(25) Such other special license as the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

Section 2. KRS 243.155 is amended to read as follows:

(1) A small winery license shall authorize the licensee to perform the following functions, without having to obtain separate licenses:

(a) Manufacture wines and bottle wines produced by that small winery in an amount not to exceed fifty thousand (50,000) gallons in one (1) year;

(b) Serve on the premises complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron, provided the small winery is located in wet territory;

(c) Sell wine produced on the premises of the small winery at retail to non-license holders [~~in an amount not to exceed one quart per person of each variety of wine produced at such winery~~] provided that the small winery is located in wet territory;

(d) Sell wine produced on the premises of the small winery to wholesale, *retail package, or retail drink* license holders.

(2) In accordance with regulations developed by the board the holder of a small winery license, upon affidavit filed with the board that grapes, grape juice, other fruits, other fruit juices or honey produced in Kentucky are not obtainable, may apply for a permit to import such products. The burden of proof shall be upon the applicant to show that the grapes, grape juice, other fruits, other fruit juices or honey are not available from any other source within the Commonwealth of Kentucky.

(3) If a licensed small winery is located in a dry territory KRS 242.230 to 242.430 shall apply.

(4) This section does not exempt the holder of a small winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from the rules of the board as established by administrative regulations, nor from regulation by the board, except as expressly stated in this section.

Section 3. KRS 243.720 is amended to read as follows:

(1) There is levied upon the use, sale or distribution by sale or gift of distilled spirits a tax of one dollar and ninety-two cents ($1.92) on each wine gallon of distilled spirits, and a proportional rate per gallon on all distilled spirits used, sold or distributed in any container of more or less than one (1) gallon, but the rate of the excise tax on spirits in retail containers of one-half (½) pint shall be twelve cents (12¢).

(2) *(a)* There is levied upon the use, sale or distribution by sale or gift of wine, a tax of fifty cents (50¢) on each gallon of wine, and a proportional rate per gallon on the wine used, sold or distributed in any container of more or less than one (1) gallon, but in no event shall the tax be less than four cents (4¢) on the sale or distribution of any retail container of wine.

(b) Each winery producing wine in this state shall be entitled to a credit of sixty percent (60%) of the tax levied on each gallon of wine sold, up to fifty thousand (50,000) gallons per annum.

(3)(a) There is levied upon the sale or distribution by sale or gift of malt beverages an excise tax of two dollars and fifty cents ($2.50) on each barrel of thirty-one (31) gallons and a proportional rate per gallon on malt beverages sold or distributed in any container of more or less than thirty-one (31) gallons.

(b) Each brewer producing malt beverages in this state shall be entitled to a credit of fifty percent (50%) of the tax levied on each barrel of malt beverages sold in this state, up to 200,000 barrels per annum.

(4) This section shall not apply to:

(a) Wine manufactured, sold, given away or distributed and used solely for sacramental purposes; or

(b) Distilled spirits and wine purchased by holders of special licenses provided for in KRS 243.320 and 243.330 and purchased and used in the manner authorized by those licenses.

Committee Amendment No. 1 to **HB 507:**

Amend printed copy of **HB 507,** page 1, line 11, by deleting *$100* and the brackets around $250.00 and on page 4, line 14, by adding the following after the word "holders" *in an amount not to exceed one case per person of each variety of wine produced at such winery*

Committee Amendment No. 2 to **HB 507:**

Amend printed copy of **HB 507,** page 4, line 19, after the word "wholesale" by deleting, *retail package, or retail drink* and on page 4, line 20 after the word "holders" by adding the following "*and to retail package or retail drink license holders, provided that the wine has been offered for sale to wholesale license holders and that the wine is sold at the wholesale price to such retail package or retail drink license holders*"

HB 587, AN ACT relating to the uniform commercial code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 355.8-311 is amended to read as follows:

(1) Unless the owner has ratified an unauthorized indorsement or is otherwise precluded from asserting its *ineffectiveness:* [~~effectiveness~~]

(a) He may assert its *ineffectiveness* [~~effectiveness~~] against the issuer or any purchaser other than a purchaser for value and without notice of adverse claims who has in good faith received a new, reissued or re-registered security on registration of transfer; and

(b) An issuer who registers the transfer of a security upon the unauthorized indorsement is subject to liability for improper registration (KRS 355.8-404).

HB 631, AN ACT relating to article 9 of the uniform commercial code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 355.9-301 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) an unperfected security interest is subordinate to the rights of:

(a) Persons entitled to priority under KRS 355.9-312;

(b) A person who becomes a lien creditor without knowledge of the security interest and before it is perfected;

(c) In the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;

(d) In the case of accounts, contract rights, and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within *twenty (20)* [~~ten (10)~~] days after the collateral comes into possession of the debtor, he takes priority over

the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment. Unless all the creditors represented had knowledge of the security interest such a representative of creditors is a lien creditor without knowledge even though he personally has knowledge of the security interest.

Section 2. KRS 355.9-312 is amended to read as follows:

(1) The rules of priority stated in the following sections shall govern where applicable: KRS 355.4-208 with respect to the security interest of collecting banks in items being collected, accompanying documents and proceeds; KRS 355.9-301 on certain priorities; KRS 355.9-304 on goods covered by documents; KRS 355.9-306 on proceeds and repossessions; KRS 355.9-307 on buyers of goods; KRS 355.9-308 on possessory against non-possessory interests in chattel paper on non-negotiable instruments; KRS 355.9-309 on security interest in negotiable instruments, documents or securities; KRS 355.9-310 on priorities between perfected security interests and liens by operation of law; KRS 355.9-313 on security interests in fixtures as against interests in real estate; KRS 355.9-314 on security interests in accessions as against interests in goods; KRS 355.9-315 on conflicting security interests where goods lose their identity or become part of a product; and KRS 355.9-316 on contractual subordination.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A purchase money security interest in inventory collateral has priority over a conflicting security interest in the same collateral if:

(a) the purchase money security interest is perfected at the time the debtor received possession of the collateral; and

(b) any secured party whose security interest is known to the holder of the purchase money security interest or who, prior to the date of the filing made by the holder of the purchase money security interest, had filed a financing statement covering the same items or type of inventory, has received notification of the purchase money security interest before the debtor receives possession of the collateral covered by the purchase money security interest; and

(c) such notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within *twenty (20)* [~~ten (10)~~] days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined as follows

(a) in the order of filing if both are perfected by filing, regardless of which security interest attached first under KRS 355.9-204 (1) and whether it attached before or after filing;

(b) in the order of perfection unless both are perfected by filing, regardless of which security interest attached first under KRS 355.9-204 (1) and, in the case of a filed security interest, whether it attached before or after filing; and

(c) in the order of attachment under KRS 355.9-204 (1) so long as neither is perfected.

(6) For the purpose of the priority rules of subsection (5), a continuously perfected security interest shall be treated at all times as if perfected by filing if it was originally so perfected and it shall be treated at all times as if perfected otherwise than by filing if it was originally perfected otherwise than by filing.

HB 704, AN ACT relating to mechanics' liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.010 is amended to read as follows:

(1) Any person who performs labor or furnishes materials, *including a person who rents or leases construction and other equipment and tools, whether or not an operator is also provided by such person,* for the erection, altering or repairing of a house or other structure or for any fixture or machinery therein,

for the excavation of cellars, cisterns, vaults, wells or for the improvement in any manner of real property including the furnishing of agricultural lime, fertilizer, concrete pipe or drainage tile, crushed rock, gravel for roads or driveways, and materials used in the construction or maintenance of fences, by contract with, or by the written consent of, the owner, contractor, subcontractor, architect or authorized agent, shall have a lien thereon, and upon the land upon which the improvements were made or on any interest the owner has therein, to secure the amount thereof with interest as provided in KRS 360.040 and costs. The lien on the land or improvements shall be superior to any mortgage or encumbrance created subsequent to the beginning of the labor or the furnishing of the materials, and the lien, if asserted as hereinafter provided, shall relate back and take effect from the time of the commencement of the labor or the furnishing of the materials. The lien shall not be for a greater amount in the aggregate than the contract price of the original contractor, and should the aggregate amount of the liens exceed the price agreed upon between the original contractor and the owner there shall be a pro rata distribution of the original contract price among the lienholders.

(2) The lien shall not take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice, duly recorded or lodged for record according to law, unless the person claiming the prior lien shall, before the recording of the mortgage or other contract lien or conveyance, file in the office of the county clerk of the county wherein he has furnished or expects to furnish labor or materials, a statement showing that he has furnished or expects to furnish labor or materials, and the amount in full thereof. The lien shall not, as against the holder of a mortgage or other contract lien or conveyance, exceed the amount of the lien claimed or expected to be claimed as set forth in the statement. The statement shall, in other respects, be in the form prescribed by KRS 376.080.

(3) No person who has not contracted directly with the owner or his agent shall acquire a lien under this section unless he notifies in writing the owner of the property to be held liable or his authorized agent, within seventy-five (75) days on claims amounting to less than $1,000 and one hundred twenty (120) days on claims in excess of $1,000 after the last item of material or labor is furnished, of his intention to hold the property liable and the amount for which he will claim a lien. It shall be sufficient to prove that the notice was mailed to the last known address of the owner of the property upon which the lien is claimed, or to his duly authorized agent within the county in which the property to be held liable is located.

(4) No person who has not contracted directly with the owner-occupant or his authorized agent shall acquire a lien under this section on an owner-occupied single or double family dwelling or the appurtenances or additions thereto unless he notifies in writing the owner-occupant of the property to be held liable or his authorized agent not more than ten (10) days after the first item of material or labor is furnished, of the delivery of the material or performance of labor and of his intention to hold the property liable and the amount for which he will claim a lien. It shall be sufficient to prove that the notice was mailed to the last known address of the owner-occupant of the property upon which the lien is claimed, or to his duly authorized agent. This notice is in lieu of the notice provided for in subsection (3). Notwithstanding the foregoing provisions of this subsection, the lien provided for under this section shall not be applicable to the extent that an owner-occupant of a single or double family dwelling has, prior to receipt of the notice provided for in this subsection, paid the contractor, subcontractor, architect or authorized agent for work performed or materials furnished prior to such payment. The contractor or subcontractor cannot be the authorized agent under this subsection.

HB 711, AN ACT relating to trailers, mobile homes, and recreational vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Department" means the department of revenue.

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent per one hundred dollars of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount

of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference in the total valuation of property subject to taxation by the county, city, school district or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and the total valuation of property subject to taxation by the county, city, school district or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction, however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least ten contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government, where such activities produced an average annual gross income including payments under a state or federal program according to the following scale:

Acres	Annual Gross Income +	Income Per Acre
10 to 30	$1,000+	$60.00 per acre, or a fraction thereof, over 10 acres.
30 to 60	$2,200+	$40.00 per acre, or a fraction thereof, over 30 acres.
60 to 100	$3,400+	$25.00 per acre, or a fraction thereof, over 60 acres.
100 to 250	$4,400+	$10.00 per acre, or a fraction thereof, over 100 acres.
Over 250	$5,900+	$5.00 per acre, or a fraction thereof, over 250 acres.

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there must be an annual gross income of these amounts within two (2) years of purchase. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(10) "Horticultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least five contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers or ornamental plants, where such activities produced an average annual gross income according to the following scale:

Acres	Annual Gross Income +	Income Per Acre
5 to 30	$1,000 minimum, or	$100.00 per acre, or a fraction thereof, over 5 acres, or whichever amount is greater.
30 to 60	$3,000+	$50.00 per acre, or a fraction thereof, over 30 acres.
60 to 100	$4,500+	$25.00 per acre, or a fraction thereof, over 60 acres.
100 to 250	$5,500+	$10.00 per acre, or a fraction thereof, over 100 acres.
Over 250	$7,000+	$5.00 per acre, or a fraction thereof, over 250 acres.

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there is evidence of anticipated annual gross income of these amounts. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;
(b) Degree of productivity of the soil;
(c) Risk of flooding;
(d) Improvements to and on the land that relate to the production of income;
(e) Row crop capability including allotted crops;
(f) Accessibility to all-weather roads and markets; and
(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty(220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck campers: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

Section 2. KRS 132.260 is amended to read as follows:

(1) Every warehouse company and every person engaged in the business of furnishing storage for personal property shall by February 1, 1961, and February 1 of each year thereafter, make a report to the property valuation administrator, giving, as far as possible, accurate and complete information as to all property held by them on January 1, 1961, and January 1 of each year thereafter, and the names and residences of the owners of all property so held on that date.

(2) Every person providing rental space for the parking of *mobile homes and recreational vehicles* [~~housetrailers~~] shall by February 1, 1961, and by February 1 of each year thereafter, report the name of the owner and type and size of all *mobile homes and recreational vehicles* [~~housetrailers~~] not registered in this state under KRS 186.655 on his premises on January 1, 1961, and January 1 of each year thereafter to the property valuation administrator of the county in which the property is located.

(3) The reports required by subsections (1) and (2) shall be made in accordance with the forms prescribed by the department of revenue and shall be signed and verified by the chief officer or person in charge of the business.

(4) The property valuation administrator may make a personal inspection and investigation of property held in storage and premises on which *mobile homes and recreational vehicles* [~~housetrailers~~] are located, for the purpose of identifying and assessing such property. No person in charge of such premises shall refuse to permit the inspection and investigation.

(5) Every operator of a *mobile home and recreational vehicle* [~~trailer~~] park or every owner of property used for such purposes when there is no operator, shall keep a register of all *mobile homes and recreational vehicles* [~~housetrailers~~] which make use of the *mobile home and recreational vehicle* [~~trailer~~] park. Such register shall set forth:

(a) The name of the owner or occupier and all inhabitants of each *mobile home and recreational vehicle* [~~housetrailer~~];

(b) The permanent and temporary post office addresses of all inhabitants;

(c) The license numbers of all units;

(d) The state issuing such license;

(e) The date of arrival and departure of each *mobile home and recreational vehicle* [~~housetrailer~~];

(f) The place of employment of all occupants.

(6) The register provided for in subsection (5) of this section shall be open to inspection to the county clerk and the property valuation administrator and all law enforcement agencies at all times.

(7) Every operator of a *mobile home and recreational vehicle* [~~trailer~~] park or every owner of property used for such purposes when there is no operator, shall during December, January and February each year furnish weekly to the property valuation administrator a copy of the register.

Section 3. KRS 132.485 is amended to read as follows:

(1) The county clerk shall furnish weekly to the property valuation administrator a copy of the registration certificate for each motor vehicle, *recreational vehicle, and mobile home* [~~and housetrailer~~] registered. The address including the county in which the owner of the motor vehicle, *recreational vehicle, or mobile home* [~~or housetrailer~~] resides shall be shown on the copy of the registration certificate furnished. The property valuation administrator shall forward to the appropriate property valuation administrator all registration certificates showing a county of residence other than his own. All copies of transfers of registered motor vehicles, *recreational vehicles, and mobile homes* [~~and housetrailers~~] dated on or before May 1 in the current year shall be forwarded by the county clerk to the property valuation administrator. The property valuation administrator is authorized to list the motor vehicle, *recreational vehicle, or mobile home* [~~or housetrailer~~] listed on the registration certificate on the property tax rolls without notifying the taxpayer.

(2) The registration of a motor vehicle, *recreational vehicle, or mobile home* [~~or housetrailer~~] with the county clerk in order to operate it or permit it to be operated upon the highways shall be deemed consent

by the registrant thereof for the motor vehicle, *recreational vehicle, or mobile home* [~~or housetrailer~~] to be assessed by the property valuation administrator at a valuation determined from a standard manual prescribed by the department of revenue for valuing motor vehicles, *recreational vehicles, or mobile homes* [~~or housetrailers~~] for assessment unless the registrant appears in person before the property valuation administrator to assess the vehicle.

(3) The registration of a motor vehicle on or before the date that the registration of such vehicle is required is prima facie evidence of ownership on January 1.

(4) This section does not apply to motor vehicles, *recreational vehicles, and mobile homes* [~~and housetrailers~~] owned and operated by public service companies, common carriers or agencies of the state and federal governments.

Section 4. KRS 132.720 is amended to read as follows:

As used in KRS 132.260 and 132.720 to 132.750, unless the context otherwise requires:

(1) *"Mobile home park" and "recreational vehicle park" have the same meanings as in KRS 219.320.* [~~"Housetrailer" means any housetrailer or mobile home which is a self-propelled or nonself-propelled vehicle or similar portable structure used or maintained for use, or so constructed as to permit its being used, as a conveyance upon public streets or highways, and designed to permit the occupancy thereof as a permanent or temporary dwelling place for one or more persons, or as a sleeping place for one or more persons, or the conduct of any business or profession, occupation or trade, or which is held for sale or lease, whether resting on wheels, jacks or other foundations.~~

~~(2) "Trailer park" means any "trailer coach park" or "trailer court" or "parking space" or area of land upon which one or more housetrailers are harbored, either free of charge or for revenue purposes.~~]

(2)[~~(3)~~] "Unit" means any single [~~housetrailer or~~] mobile home *or recreational vehicle.*

(3)[~~(4)~~] "Permanent, fixed foundation" means a foundation permanent in nature which is so constructed as to be fixed upon the surface of the land.

Section 5. KRS 132.730 is amended to read as follows:

All *mobile homes and recreational vehicles* [~~housetrailers~~] which are within this state on January 1 each year shall be subject to all ad valorem tax levies applicable to other tangible personal property subject to full state and local rates, except that any *mobile home and recreational vehicle* [~~housetrailer~~] not licensed in this state and not remaining within this state for a period of more than ninety (90) days in any twelve (12) month period shall not have a taxable situs in this state unless an occupant is employed in this state.

Section 6. KRS 132.750 is amended to read as follows:

If the wheels or mobile parts have been removed from a *mobile home or recreational vehicle* [~~housetrailer~~] and the unit rests on a permanent, fixed foundation, it shall be classified as real estate.

Section 7. KRS 132.810 is amended to read as follows:

(1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the department of revenue. The assessed value of property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax paid by the taxpayer is the same as if the increase had not been made.

(2) (a) Every person filing an application for exemption under the homestead exemption provision must be sixty-five (65) years of age or older during the year for which application is made.

(b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.

(c) Only one (1) exemption per residential unit shall be allowed regardless of the number of residents sixty-five (65) years of age or older occupying said unit, but the $6,500 exemption shall be construed to mean $6,500 in terms of the purchasing power of the dollar in 1972. Every two (2) years thereafter, if the cost of living index of the United States department of labor has changed as much as one (1) per cent, the maximum exemption shall be adjusted accordingly.

(d) The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

(e) A mobile home, *recreational vehicle, or manufactured house* may qualify as a residential unit for purposes of the homestead exemption provision provided the *unit* [~~mobile home~~] is classified as real property as defined in KRS 132.750.

(f) When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, committee, curator or agent shall report such transfer to the property valuation administrator.

(3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead exemption provision for state, county, city or special district purposes.

(4) The provisions of this section shall become effective with the 1976 taxable year and persons eligible for a homestead exemption under this section shall file applications:

(a) Any time during the 1976 taxable year.

(b) By March 1 in any year after the 1976 taxable year.

Section 8. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage use or other consumption of which, this state is prohibited from taxing under the constitution or laws of the United States, or under the constitution of this state;

(2) Gross receipts from sales of, and the storage, use or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container;

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property used for the performance of a lump sum, fixed fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property made in one cent (1¢) portions through vending machines;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities or special districts as defined in KRS 65.005. This exemption applies only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit is not entitled to the exemption even though such purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include, but not be limited to, natural gas, electricity, fuel oil, bottled gas, coal, coke and wood. Determinations of eligibility for the exemption shall be made by the department of revenue.

(b) In making such determinations of eligibility, the department may use a utility company's classification of "residential" customers. Where the service is classified as residential, use other than for "residential" purposes by the customer will not negate the exemption.

(c) The exemption does not apply where charges for sewer service, water and fuel are billed to an owner or operator of a multi-unit residential rental facility or *mobile home and recreational vehicle* [~~trailer~~] park other than residential classification.

(d) The exemption applies also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years.

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill.

Section 9. KRS 186.170 is amended to read as follows:

(1) Except as provided in this subsection and in KRS 186.045, the owner shall have the receipt issued by the department through the county clerk constantly in his possession, and shall display the registration plate conspicuously upon the rear of the motor vehicle, except that the registration plate upon a semitrailer-tractor shall be displayed upon the front of the tractor. The owner's copy, or a reproduced copy thereof, of

the registration receipt of every motor vehicle licensed under subsections (3) through (14) of KRS 186.050 shall be kept in the vehicle at all times and shall be available for inspection. Plates shall be kept legible at all times and the rear plate shall be illuminated when being operated during the hours designated in KRS 189.030. If the department has prescribed that plates shall continue in use, it shall each year, in addition to the registration receipt, select and give to the owner as further evidence of registration some insignia which may conveniently be attached permanently and conspicuously to the motor vehicle during each registration year. It shall be the duty of the owner to attach same in the prescribed manner and no person may operate a motor vehicle unless such insignia is so affixed upon it. The department shall have placed on said insignia either figures, letters, writing, marks or a combination thereof, which indicate that the motor vehicle has been registered and which in conjunction with the records of the department make identity of the registrant readily ascertainable.

(2) The registration year for commercial vehicles, trailers, semitrailers, *mobile homes, and recreational vehicles* [~~and housetrailers~~] shall be from April 1 to March 31. The registration year for vehicles registered under the provisions of KRS 186.050(2) shall be January 1 to December 31.

Section 10. KRS 186.650 is amended to read as follows:

As used in KRS 186.650 to 186.700:

(1) A "trailer" means any vehicle designed for carrying persons or property and being drawn by a motor vehicle being so constructed that no part of its weight rests upon the towing vehicle.

(2) "Semi-trailer" means any vehicle designed for carrying persons or property and for being drawn by a motor vehicle and is so constructed that some part of its weight and some part of its load rests upon or is carried by another vehicle, except that:

(a) "Semi-trailer" shall not include any vehicle designed for carrying persons or property and being drawn by a motor vehicle registered according to the provisions of KRS 186.050(4)(a) and used by a farmer only for transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation and the products grown on his farm.

(3) *"Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.*

(4) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck campers: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle. [~~"Housetrailer" means any vehicle used, or maintained for use, as a conveyance upon highways, designed and constructed in such a manner as will permit occupancy thereof as a temporary dwelling, or as sleeping places for one or more persons, or the conduct of any business or profession, occupation or trade having no other foundation than wheels or jacks, and not being used in one location as a permanent dwelling.~~

~~(4) "Camping trailer" means any housetrailer less than twenty-five (25) feet in length and includes a trailer which may be expanded for camping purposes.~~]

(5) "Department" means the department of transportation.

Section 11. KRS 186.655 is amended to read as follows:

(1) Before any owner or operator of a trailer, semitrailer, *mobile home* or *recreational vehicle* [~~housetrailer~~] may operate or permit the operation of such vehicles upon the highways, the owner shall apply for registration to the county clerk of the county in which he resides or in which such vehicles are principally operated. The application shall be retained by the clerk and shall be accompanied by:

(a) A manufacturer's certificate of origin, if the application is for the registration of a new trailer, semitrailer, *mobile home* or *recreational vehicle* [~~housetrailer~~]; or

(b) The owner's registration receipt, if the trailer, semitrailer, *mobile home* or *recreational vehicle* [~~housetrailer~~] was last registered in this state; or

(c) A bill of sale and the previous registration receipt, if last registered in another state where the law of such state does not require the owner of a trailer, semitrailer, *mobile home* or *recreational vehicle* [~~housetrailer~~] to obtain a certificate of title or ownership; or

(d) A certificate of title, if last registered in another state where the law of such state requires the owner of a trailer, semitrailer, *mobile home* or *recreational vehicle* [~~housetrailer~~] to obtain a certificate of title or ownership; or

(e) Affidavit from the owner of a trailer, semitrailer, *mobile home* or *recreational vehicle* [~~housetrailer~~] assembled or constructed for his personal use on the highways; or

(f) Affidavit from the owner of a trailer, semitrailer, *mobile home* or *recreational vehicle* [~~housetrailer~~] where the bill of sale for such vehicle has been lost, destroyed or stolen.

(2) The affidavit required in paragraph (e) shall contain the owner's name, address, date, brief description and a statement that the trailer was constructed by the owner for use on the highways and any additional information that the department may from time to time prescribe by regulation.

(3) The affidavit required in paragraph (f) shall contain the owner's name, address, date, make, year made, serial or identification number, from whom purchased, date of purchase, that the person making the affidavit is the sole owner, the circumstances under which the bill of sale was lost, destroyed or stolen, and any additional information that the department may from time to time prescribe by regulation.

(4) After that, he shall register his trailer, semitrailer, *mobile home* or *recreational vehicle* [~~housetrailer~~] on or before April 1 of each year. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the department.

(5) No county clerk or other officer shall issue any license tags to the owner of any [~~housetrailer,~~] mobile home or recreational vehicle when it is offered for registration in this state, unless the owner presents a tax receipt from the seller verifying that the Kentucky sales tax has been paid. If the owner is unable to present such evidence of payment of tax, he shall furnish to the clerk a bill of sale indicating the purchase price of the [~~housetrailer,~~] mobile home or recreational vehicle on which price the sales tax shall be assessed. If he cannot furnish a bill of sale indicating the purchase price, the clerk shall assess the value in accordance with information prescribed by the department of revenue. The clerk shall collect the tax, deduct a fee of five percent (5%) of the amount collected and remit the balance to the department of revenue.

Section 12. KRS 186.660 is amended to read as follows:

A trailer, semitrailer, *mobile home* or *recreational vehicle* [~~housetrailer~~] last registered in another state and purchased by a person for operation in this state shall be first registered in this state by and in the name of the purchaser and not in the name of the seller.

Section 13. KRS 186.665 is amended to read as follows:

If an owner because of sickness or absence from the state is unable to renew the registration of his trailer, semitrailer, *mobile home* or *recreational vehicle* [~~housetrailer~~] on or before April 1, he will be deemed to have complied with the law, if before operating the trailer, semitrailer, *mobile home* or *recreational vehicle* [~~housetrailer~~] in this state he registers it at some later date and pays the fee for the full year, just as though he had renewed the registration on or before April 1. The owner shall file with the application an affidavit showing sickness or absence.

Section 14. KRS 186.670 is amended to read as follows:

(1) The application blank shall contain blank spaces for, and the applicant shall fill in the owner's name and post office address, make of the trailer, semitrailer, *mobile home* or *recreational vehicle* [~~housetrailer~~], and serial or identification number. Every application shall be accompanied by the appropriate fee.

(2) Upon filing application and paying the fee as provided by law, said owner shall be given a receipt containing the registration number and the information included in the application and one (1) plate for the registration year bearing said number.

Section 15. KRS 186.675 is amended to read as follows:

The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050 (1) shall be four dollars fifty cents ($4.50). The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050 (3) through (13), shall be nineteen dollars fifty cents ($19.50). The provisions of KRS 186.650 to 186.700 shall not apply to privately owned and operated trailers used for the transportation of boats, luggage, personal effects, farm products, farm supplies or farm equipment. The registration fee for *mobile homes and recreational vehicles* [~~housetrailers~~] shall be nine dollars fifty cents ($9.50) *except*[~~,~~] the registration fee for camping trailers, *travel trailers, and truck campers* shall be four dollars fifty cents ($4.50). The clerk shall issue the registration plate furnished by the department and shall be paid for this service the sum of one dollar ($1.00).

Section 16. KRS 186.680 is amended to read as follows:

If any person becomes the owner of a trailer, semitrailer, *mobile home* or *recreational vehicle* [~~housetrailer~~] after April 1 of any year, and for that reason registers for only part of a year the registration fee shall be as many twelfths of the annual fee as there are unexpired months in the registration year.

Section 17. KRS 186.690 is amended to read as follows:

KRS 186.045 and 186.070 to 186.240 shall apply to the registration of trailers, semitrailers, *mobile homes* and *recreational vehicles* [~~housetrailers~~] insofar as practicable.

Section 18. KRS 186.695 is amended to read as follows:

(1) Trailers, semitrailers, *mobile homes* and *recreational vehicles* [~~housetrailers~~] as defined in KRS 186.650 to 186.700 are expressly exempted from KRS 138.450 to 138.470.

(2) Trailers and semitrailers in transit between a manufacturing plant and dealer's place of business; between a manufacturing plant and user's place of residence; or between a dealer's place of business and user's place of residence and farm equipment pulled or towed by a motor vehicle not required to be licensed under the provisions of KRS chapter 186 shall be exempt from the provisions of KRS 186.650 to 186.700.

(3) *Recreational vehicles* [~~Housetrailers, camping trailers~~] and mobile homes in transit between a manufacturing plant and dealer's place of business shall be exempt from the provisions of KRS 186.650 to 186.700.

Section 19. KRS 189.221 is amended to read as follows:

No person shall operate on any highway, except such highways as may be designated by the secretary of transportation under the provisions of subsection (1) of KRS 189.222, any of the following trucks, trailers, *mobile homes* or vehicles:

(1) Any motor truck, semitrailer, trailer, *mobile home* or vehicle which exceeds 11 ½ feet in height or 96 inches in width, including any part of the body or load;

(2) Any motor truck, except a semitrailer truck, which exceeds 26 ½ feet in length, including any part of the body or load;

(3) Any semitrailer truck which exceeds 30 feet in length, including any part of the body or load;

(4) Any truck, semitrailer truck or truck and trailer unit which exceeds 18,000 pounds gross weight, including the load;

(5) Any truck, semitrailer truck or tractor-trailer unit which exceeds a gross weight equal to the sum of 600 pounds per inch of the combined width of the tires upon which such vehicle may be propelled, but in no event more than 18,000 pounds.

Section 20. KRS 189.270 is amended to read as follows:

(1) The bureau may prescribe, by orders of general application, rules and regulations for the issuance by it of permits for the operation of motor vehicles, *mobile homes* and *recreational vehicles* [~~housetrailers~~] whose gross weight including load, height, width or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the bureau for stated periods, special purposes and unusual conditions, and upon such terms in the interest of public safety and the preservation of the highways as the bureau may, in its discretion, require. The bureau shall require, as a condition to the issuance of the permit, that the applicant pay a reasonable fee, to be fixed by it, and may require that the applicant give bond, with approved surety, to indemnify the state or counties against damage to highways or bridges resulting from use by the applicant. The operation of motor vehicles, *mobile homes* and *recreational vehicles* [~~housetrailers~~] in accordance with the terms of any such permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the bureau may require, in his possession.

(2) No person shall operate any motor vehicle, *mobile home* or *recreational vehicle* [~~housetrailer~~] in violation of the terms of the permit.

Section 21. KRS 224.910 is amended to read as follows:

(1) "Department" means the department for natural resources and environmental protection.

(2) "Fund" means the resource conservation, recovery and beautification fund.

(3) "Litter" means all waste materials including but not limited to disposable packages or containers thrown or deposited as herein prohibited but not including the waste of the primary processes of mining, logging, sawmilling, farming or manufacturing.

(4) "Litter bag" means a bag, sack or other container made of any material which is large enough to serve as a receptacle for litter inside a vehicle or watercraft.

(5) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, partnership, association, firm, individual, or other entity whatsoever.

(6) "Public place" means any area that is used or held out for use by the public whether owned or operated by public or private interests, including but not limited to highways or other roads upon which vehicles are moved, parks, campgrounds, *mobile home and recreational vehicle* [~~trailer~~] parks, drive-in and fast food restaurants, gasoline service stations, parking lots for taverns, shopping centers and grocery stores, parking lots, marinas, boat launching areas, boat moorage and fueling stations, public and private piers, beaches and bathing areas, school grounds, sporting event sites and business district sidewalks.

(7) "Recycling" means the process of separating, cleansing, treating, and reconstituting waste or other discarded materials for the purpose of recovering and re-using the resources contained therein.

(8) "Recycling center" means a central collection point in a community for recyclable materials.

(9) "Resource recovery" means a system or process for the recovery of materials or energy or both from waste material.

(10) "Source separation" means separation by the public from their general refuse of recyclable materials.

(11) "Vehicle" means every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(12) "Watercraft" means any boat, ship, vessel, barge or other floating craft.

Section 22. KRS 227.550 is amended to read as follows:

As used in KRS 227.560 to 227.660, 227.990 and 227.992, unless the context requires a different definition:

(1) "Board" means the mobile homes certification and licensure board or the recreational vehicle certification and licensure board.

(2) "Class A seal" means a device or insignia issued by the office to indicate compliance with the standards, rules and regulations established by the office or the board for mobile homes and recreational vehicles.

(3) "Class B seal" means a seal issued pursuant to subsection (3) of KRS 227.600.

(4) "Dealer" means any person, other than a manufacturer, as defined herein, firm or corporation, who sells or offers for sale three (3) or more mobile homes or recreational vehicles in any consecutive twelve (12) month period.

(5) "Established place of business" means a fixed and permanent place of business in this state, including an office building and hard surface lot of suitable character and adequate facilities and qualified personnel, for the purpose of performing the functional business and duties of a dealer, which shall include the books, records, files and equipment necessary to properly conduct such business, or a building having sufficient space therein in which the functional duties of a dealer may be performed. The place of business shall not consist of a residence, tent, temporary stand or open lot. It shall display a suitable sign identifying the dealer and his business.

(6) "Federal act" means the national mobile home construction and safety standards act of 1974 and rules and regulations issued thereunder.

(7) "Manufactured housing" means mobile homes, recreational vehicles, mobile office or commercial units, add-a-rooms or cabanas.

(8) "Manufacturer" means any person who manufactures mobile homes or recreational vehicles and sells to Kentucky dealers.

(9) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place or residence, business, profession, or trade by the owner, lessee or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure. It shall include *mobile homes* [~~housetrailers~~] which are regulated as to length, width and registration by KRS Chapter 186.

(10) "NFPA 501 (A)" means that section of the national fire code adopted by the national fire protection association that pertains to mobile home installation.

(11) "NFPA 501 (B)" means that section of the national fire code adopted by the national fire protection association that pertains to standards for mobile homes.

(12) "NFPA 501 (C)" means that section of the national fire code adopted by the national fire protection association that pertains to standards for recreational vehicles.

(13) "Office" means the office of the state fire marshal.

(14) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. *It shall include recreational vehicles which are regulated as to length, width, and registration by KRS Chapter 186.* The basic entities are: Travel trailer, camping trailer, truck camper and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck campers: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

(15) "Secretary" means the secretary of the federal department of housing and urban development.

Section 23. KRS 371.210 is amended to read as follows:

As used in KRS 371.210 to 371.330, unless the context otherwise requires:

(1) "Goods" means all tangible chattels personal when purchased primarily for personal, family or household use and not for commercial, industrial or agricultural use, but not including motor vehicles as herein defined, money, things in action or intangible personal property other than merchandise certificates or coupons as herein described. The term includes such chattels which are furnished or used, at the sale of or subsequently, in the modernization, rehabilitation, repair, alteration, improvement or construction of real property as to become a part thereof whether or not severable therefrom. The term also includes merchandise certificates or coupons, issued by a retail seller, not redeemable in cash and to be used in their face amount in lieu of cash.

(2) "Services" means work, labor or services of any kind when purchased primarily for personal, family or household use and not for commercial or business use, but not including services for which the prices charged are required by law to be determined or approved by or to be filed, subject to approval or disapproval, with the United States or any state, or any department, division, agency, officer or official of either as in the case of transportation services.

(3) "Motor vehicle" means any automobile, mobile home, *recreational vehicle,* motorcycle, truck trailer, semitrailer, truck tractor and bus designed and used primarily to transport persons or property on a public highway, or any vehicle designed to run only on rails or tracks or in the air, excepting however, any boat trailer and any vehicle propelled or drawn exclusively by muscular power.

(4) "Retail buyer" or "buyer" means a person who buys or agrees to buy goods or obtain services or agrees to have services rendered or furnished, from a retail seller.

(5) "Retail seller" or "seller" means a person regularly and principally engaged in the business of selling goods to retail buyers.

(6) "Retail installment transaction" means any transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract or a retail charge agreement, as defined in this Section, which provides for a time price differential, as defined in this section, and under which the buyer agrees to pay the unpaid balance in one or more installments.

(7) "Retail installment contract" means an instrument, other than a retail charge agreement or an instrument reflecting a sale made pursuant thereto, entered into in this state evidencing a retail installment transaction. The term "retail installment contract" may include a chattel mortgage, a security agreement, a conditional sale contract and a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of the value of the goods sold and if it is agreed that the bailee or lessee is bound to become, or for no other or a merely nominal consideration, has the option of becoming the owner of the goods upon full compliance with the provisions of the bailment or lease.

(8) "Retail charge agreement" means an instrument prescribing the terms of retail installment transactions which may be made thereunder from time to time and under the terms of which a time price differential, as defined in this section, is to be computed in relation to the buyer's unpaid balance from time to time.

(9) "Time price differential" however denominated or expressed, means the amount which is paid or payable for the privilege of purchasing goods or services to be paid for by the buyer in installments over a period of time. It does not include the amount, if any, charged for insurance premiums, delinquency charges, attorneys fees, court costs, or official fees.

(10) "Cash sale price" means the price stated in a retail installment contract or in a sales slip or other memorandum furnished by a retail seller to a retail buyer under or in connection with a retail charge agreement, for which the seller would have sold or furnished to the buyer and the buyer would have bought or obtained from the seller the goods or services which are the subject matter of a retail installment transaction, if the sale had been a sale for cash. The cash sale price may include any taxes and charges for delivery, installation, servicing, repairs, alterations or improvements.

(11) "Official fees" means the amount of the fees prescribed by law for filing, recording or otherwise perfecting, and releasing or satisfying, a retained title, lien or other security interest created by a retail installment transaction.

(12) "Time sale price" means the total of the cash sale price of the goods or services and the amount, if any, included for insurance, if a separate identified charge is made therefor, and the official fees and the time price differential.

(13) "Principal balance" means the cash sale price of the goods or services which are the subject matter of a retail installment contract plus the amounts, if any, included therein, if a separate identified charge is made therefor and stated in the contract, for insurance and official fees, less the amount of the buyer's down payment in money or goods or both.

(14) "Holder" means the retail seller of the goods or services under the retail installment contract or retail charge agreement or the assignee if the retail installment contract or the retail charge agreement or any indebtedness under either has been sold or otherwise transferred.

(15) "Person" means an individual, partnership, joint venture, corporation, association or any other group, however organized.

(16) Words of the masculine gender include the feminine and the neuter and, when the sense so indicates, words of the neuter gender may refer to any gender.

Section 24. KRS 138.655 is amended to read as follows:

As used in KRS 138.655 to 138.725 and 138.990 (17) and (18), unless the context requires otherwise:

(1) "Bureau" means bureau of vehicle regulation;

(2) "Person" includes every natural person, fiduciary, association, state or political subdivision, or corporation. Whenever used in any clause describing and imposing imprisonment the term "person" as applied to an association means and includes the partners or members thereof, and as applied to a corporation the officers thereof;

(3) "Public highway" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel notwithstanding that it may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction; also including all city streets, alleys and any way or place on which a toll is charged for using such way or place;

(4) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicle;

(5) "Motor carrier" means every person who operates or causes to be operated on any highway in this state, any bus engaged in hauling passengers for hire operating under a certificate of convenience and necessity and any truck or tractor-trailer combination having a total of three (3) or more axles. The number of axles referred to herein shall include not only those axles on the power unit but if a tractor-trailer combination is involved, also those axles on the trailer or semitrailer;

(a) "Axle" as referred to herein means any two (2) or more load-carrying wheels mounted in a single transverse vertical plane;

(b) "Trailers and semitrailers" are those as defined in subsections (1) and (2) of KRS 186.650, except that it does not include those trailers defined in *subsections* [~~subsection~~] (3) *and (4)* of KRS 186.650 and those exempted from regulation under KRS 186.675. The term "motor carrier" shall not mean or shall not include any person operating or causing to be operated a city bus except city buses operated across the border of the state of Kentucky;

(6) "City bus" means any motor vehicle used for the transportation of persons for hire exclusively within the limits of any city or within ten (10) miles of its limits over a regular route and exclusively within the boundaries of this state;

(7) "Heavy equipment motor carrier" means any person who operates on the public highways of this state as a "motor carrier" as defined in subsection (5) of this section, except that it shall not include motor vehicles used to transport persons for hire;

(8) "Trip permit" means a permit for the operating during a ten (10) consecutive day period of any motor vehicle of any "heavy equipment motor carrier" not licensed under KRS 138.665;

(9) "Licensee" means for purposes of KRS 138.655 to 138.725 any person who has been granted a license as a "motor carrier" or a "heavy equipment motor carrier," or any motor vehicle in which a valid trip permit is carried;

(10) "Use" means the consumption of gasoline and special fuels in propelling motor vehicles on the public highways;

(11) "Gasoline" means gasoline as defined in KRS 138.210 (4);

(12) "Special fuels" means and includes all combustible gases and liquids used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline as defined in KRS 138.210 (4);

(13) "Quarterly" for the purposes of KRS 138.655 to 138.725 means a three (3) month period ending June 30 in the year 1956 and each succeeding three (3) month period thereafter.

HB 714, AN ACT relating to complaints against licensed occupations and professions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.066 is amended to read as follows:

(1) The function of the division is to provide administrative services, technical assistance and advice to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: The state board of accountancy, Kentucky athletic commission, the state board of examiners and registration of architects, the Kentucky board of barbering, the Kentucky board of hairdressers and cosmetologists, the state board of podiatry, the Kentucky state board of chiropractic examiners, the Kentucky board of dentistry, the state board of embalmers and funeral directors, the state board of registration for professional engineers and land surveyors, the board of nursing education and nurse registration, the Kentucky board of ophthalmic dispensers, the Kentucky board of optometric examiners, the Kentucky board of pharmacy, the state board of physical therapy, the board of examiners of psychologists, the state real estate commission, the Kentucky board of veterinary examiners, the Kentucky board of examiners in watchmaking, the state board of auctioneers, the state board for proprietary education, the state board of examiners and registration of landscape architects, the state board of medical licensure, the state board of examiners of speech pathology and audiology, the Kentucky board of licensure for nursing home administrators, the Kentucky board for licensing hearing aid dealers, the state board of examiners of social work of Kentucky, and such other boards and commissions as are created to license, certify, register or otherwise regulate any occupational or professional category.

(2) To the extent that the division does provide administrative services, the respective boards and commissions are relieved of the power and duty to provide the services for themselves. The division shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The division may employ persons previously employed by boards or commissions.

(3) The division may receive complaints against the conduct of licensees granted licensure by the boards and commissions assigned to the division for administrative purposes. The division shall cause such complaints to be reduced to writing and forwarded to the appropriate board or commission for investigation and a determination of the validity of the complaint. The division shall keep a record of all complaints received by it and forwarded to a board or commission. *The division shall devise and have published a standardized complaint form to be made available to and used by the boards and commissions in handling complaints. The division may charge a fee for the forms not to exceed the actual cost of devising and publishing the forms.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) A board or commission shall receive complaints concerning any person licensed under its respective enabling statutes. A complaint shall be made on forms provided by the division to the boards and commissions for such purposes. A board or commission may, at its discretion, accept telephone complaints. A board or commission shall not accept an anonymous complaint unless it believes the nature of the complaint is sufficiently serious to pose a real and present danger to the public health or safety.

(2) Each complaint shall contain the name of the licensee against whom the complaint is lodged, the name, address and phone number of the complaining party, the date of the complaint, a brief statement of the nature of the complaint and the final disposition of the complaint. A copy of each complaint shall be forwarded to the division if the complaint did not originate in the division. A complaint shall not be subject to public inspection unless the complaint results in disciplinary action being taken against the licensee. Records of complaints shall be maintained by a board or commission for five (5) years.

(3) A board or commission shall investigate any complaint duly received by it and shall promulgate necessary and reasonable rules and regulations for the conduct of such investigations. If a complaint is substantiated by investigation and the complaint constitutes a violation of law or regulations under which the licensee practices, the board or commission shall take disciplinary action consistent with enforcement provisions of its enabling statutes. The complainant shall be notified of the final disposition of his complaint as well as any disciplinary action initiated as a result of his complaint. The provisions of this section shall not be construed as preventing a board or commission from initiating an investigation on its own volition.

(4) By September 1 of each year a board or commission shall have completed a report on complaints processed by it in the preceding fiscal year. The report shall contain complete information on complaints resulting in disciplinary actions and a statistical summary of other complaints. A copy of the report shall be forwarded to the division and to the legislative research commission and shall be made available to any person upon request.

HB 733, AN ACT relating to the licensing of optometrists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 320.250 is amended to read as follows:

(1) Licenses to engage in the practice of optometry shall be issued only to those who qualify therefor under the provisions of KRS 320.260 or 320.270, or who successfully pass examinations conducted under the direction of the board at a time and place fixed by the board. Each license certificate shall be signed by the president and secretary-treasurer and authenticated by the seal of the board.

(2) *The examination shall consist of a written and clinical or practical examination and shall relate to the skills needed for the practice of optometry in this Commonwealth at the time of the examination and shall seek to determine the applicant's preparedness to exercise such skills. In regard to the written examination, the examining board, at its discretion, may:*

(a) Prepare, administer and grade the examination;

(b) Approve and administer a standardized examination prepared and graded by or under the direction of the National Board of Examiners in Optometry or any other organization approved by the board as qualified to prepare such an examination;

(c) Accept the scores of the applicant from an examination prepared, administered and graded by the National Board of Examiners in optometry or any other organization approved by the board as qualified to administer the examination. [~~Examinations for a license to practice optometry shall be conducted by the board at least twice each year. Applicants for the examination shall furnish to the board, on forms furnished by the board, all required information, and shall receive from the secretary-treasurer due notice of the time and place of the examination.~~]

(3) *The applicant, except those granted licenses under the provisions of KRS 320.260 or 320.270, shall successfully pass both the written and clinical or practical portions of the examination* [~~Examinations may be either oral or written, or both, and on such subjects as may be designated by the board. Applicants making an average grade of 75 per cent upon all subjects shall be admitted to practice; Provided, however, That no applicant shall be admitted to practice who does not make a grade of 60 per cent or more upon each subject. Any applicant who makes a grade of less than 60 per cent in only one (1) subject may at the next subsequent examination held by the board be reexamined in that one (1) subject and, if he then makes a grade of not less than 75 per cent in that particular subject, be admitted to practice~~].

(4) *Any person seeking a license to practice optometry pursuant to the provisions of this section shall submit an application to the board on forms furnished by the board. The applicant shall show proof of the following:*

(a) The applicant is not less than eighteen (18) years of age;

(b) The applicant is of good moral character;

(c) The applicant is a graduate of a school or college of optometry accredited by a regional or professional accreditation organization which is recognized or approved by the council on post-secondary accreditation, or by the United States department of education, and which is in good standing, as determined by the board. All applicants shall have transcript credit of at least six (6) semester hours in a course or courses in general and ocular pharmacology with particular emphasis on diagnostic pharmaceutical agents applied topically to the eye;

(d) All other information requested by the board as is set out on the application. [~~Every person applying for examination by the board shall present satisfactory proof verified by oath that he is at least eighteen (18) years of age, of good moral character, a citizen of the United States, has graduated from a high school having a four-year course, and is a graduate of an accredited optometric college, school or department of a university having a minimum five-academic-year course and recognized and approved by the board.~~]

(5) The fee for each examination *shall not exceed one hundred dollars ($100.00) for resident applicants and two hundred dollars ($200.00) for nonresident applicants* [~~, including each reexamination, for a license to practice optometry shall be $25.00 for resident applicants and $75.00 for nonresident applicants~~].

(6) No person shall be allowed to take the examination more than three (3) times within the period of any five (5) consecutive years.

Section 2. KRS 320.270 is amended to read as follows:

(1) Any person who has been licensed to practice optometry in another state, which state has licensing and educational requirements substantially equal to or higher than those of this state and which grants equal licensing privileges to persons licensed in this state, may be issued, without *written* examination, a license to practice optometry in this state upon *satisfactorily complying with all rules, regulations and procedures established by the board relating to the granting of licenses by reciprocity* [~~the payment of a fee of seventy-five dollars ($75.00) and the production of satisfactory evidence that he is of good moral character and has actually practiced optometry for at least five (5) years~~].

(2) The applicant shall be required to pass an oral and clinical or practical examination and produce satisfactory evidence that he is of good moral character and has actually practiced optometry for

at least five (5) years in the state from which he is applying for reciprocity, and shall further comply with all other rules and regulations adopted by the board relating to the granting of a license by reciprocity.

(3) The applicant shall further be required to execute and deliver an affidavit to the board stating that said applicant intends to practice optometry in the Commonwealth upon receipt of the license.

(4) The granting of a license by reciprocity shall be at the discretion of the board. An applicant seeking a license by reciprocity shall be charged a fee not to exceed two hundred dollars ($200.00).

Committee Amendment No. 1 to **HB 733:**

Amend printed copy of **HB 733,** page 3, line 11, by deleting the following: "*(b) The applicant is of good moral character;*" and by renumbering subsequent subsections accordingly; and on page 5, line 7, by deleting the words "*is of good moral character and*".

SB 261, AN ACT relating to private corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 271A.215 is amended to read as follows:

(1) Meetings of the board of directors, regular or special, may be held either within or without this state.

(2) Regular meetings of the board of directors may be held with or without notice as prescribed in the by-laws. Special meetings of the board of directors shall be held upon such notice as is prescribed in the by-laws. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting unless required by the by-laws.

(3) Unless otherwise provided by the articles of incorporation or bylaws, members of the board of directors of any corporation, or any committee designated by the board, may participate in a meeting of such board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear and speak to each other at the same time, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting.

The Committee on Education reported **HB 753** with Committee Amendment attached thereto, **SB 65,** and **SB 237** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 753, AN ACT relating to the duties and powers of the council on higher education and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.010 is amended to read as follows:

There shall be a council on higher education in Kentucky, to be composed of the superintendent of public instruction, *and seventeen (17)* [~~one (1) member of the state board of education education, one (1) member of the state board for occupational education, ten (10)~~] lay members appointed by the governor, *one (1) from each congressional district, eight (8) from the state at large, one (1) from a list of two (2) nominated by the president pro tem of the senate, and one (1) from a list of two (2) nominated by the speaker of the house of representatives* [~~and the president or chief executive officer of each four-year state institution of higher education in the state~~]. The [~~superintendent of public instruction and ten (10)~~] lay members shall constitute the voting membership of the council. The lay members shall be appointed for regular terms of four (4) years, with the initial appointment of *five (5)* [~~two (2)~~] members for one (1) year, *four (4)* [~~two (2)~~] members for two (2) years, *four (4)* [~~two (2)~~] members for three (3) years and four (4) members for four (4) years. Whenever a lay member's term expires after July 15, *1982*[~~1980~~], the member appointed by the governor to fill the vacancy shall be appointed for a *four (4)* [~~six (6)~~] year term *in the same manner as the initial appointment.* Any person, other than the superintendent of public instruction, holding either an elective or appointive state office or who is a member of the governing board of any state or private college or university in Kentucky shall be ineligible for membership or appointment on the council during his membership or term of office. When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky association of colleges, secondary and elementary schools, shall be invited to meet with the council in an advisory capacity.

Section 2. KRS 164.020 is amended to read as follows:

The council on higher education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the Commonwealth.

(2) Develop and transmit to the governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state [~~colleges and~~] universities, the community colleges, and the University of Kentucky as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in such federal legislation; provided, however, that when such federal legislation requires additional representation on any such "single state agency" the council on higher education shall establish such advisory groups as may be necessary to satisfy such federal legislative or regulatory guidelines.

(3) Determine *tuition* [~~the amount of entrance and/or registration fees~~] and approve the *minimum* qualifications for admission to the public institutions of higher education. In determining the *tuition* [~~entrance and/or registration fees~~] for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and such other factors as the council may in its sole discretion deem pertinent.

(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. *The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the governor and the legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of such formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:*

(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;

(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges, and

(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.

There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the governor, the legislature, the council on higher education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the council on higher education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the governor through the department of finance not later than November 15 of each odd numbered year. *The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.*

(5) Review and approve all capital construction projects the cost of which exceeds *two hundred thousand dollars ($200,000)* [~~one hundred thousand dollars ($100,000)~~] approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of such projects to the department of finance and/or state property and buildings commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs in the state-supported higher education institutions; review proposals and make recommendations to the governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in KRS 164.010, 164.020, 164.125, and 164.290

to 164.295 shall be construed to grant the council on higher education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

(9) Approve the teacher education programs in the public institutions.

(10) Elect a chairman annually from the voting membership and appoint an executive director and such staff as may be needed and fix their compensation without limitation of the provisions of KRS chapter 18 and KRS 64.640 subject to the approval of the commissioner of personnel and the secretary of the department of finance.

(11) Constitute the representative agency of the Commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one or more institutions of higher learning. Such responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment.

(12) Develop procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate after July 15, 1980. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee.

SECTION 3. A NEW SECTION OF KRS 164 IS CREATED TO READ AS FOLLOWS:

The president or chief executive officer of each four (4) year state institution of higher learning shall serve on an advisory conference for the council on higher education. The advisory conference of presidents will receive the full agenda for each meeting of the council a reasonable time prior to the council meeting and, in the event of viewpoints differing from the council on higher education, an elected spokesperson for the conference may meet with the council and the executive committee to present before the council the institutional positions on such issues. At least once each year the council on higher education will meet with the advisory conference of presidents.

Section 4. The following KRS sections are repealed:

164.022 Center for education statistics.

164.024 Office of geriatrics — Gerontology created in council — Administrator's qualifications — Duties.

Section 5. Whereas, the preparation of the required formulas for the next biennium will require extensive hearings and research, an emergency is declared to exist and this Act shall become effective upon its passage and signature of the Governor.

Committee Amendment No. 1 to **HB 753:**

Amend printed copy of **HB 753,** page 1, line 12, by placing a period after the word "representatives" and adding the following: "*Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the governor from a list of five nominees recommended by the governing board of each university.*"

SB 65, AN ACT relating to teachers' retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.160 is amended to read as follows:

Except as deviations therefrom are made necessary by changes in conditions of operations, to meet unforeseen contingencies, to correct errors, or to avoid cash deficits, the heads of the budget units, the department of finance and the governor, in allotting appropriations for expenditure, shall be governed by the functions, major program areas, programs, or units of organization as shown in the detailed budget estimates as enacted by the general assembly, and the heads of the budget units shall hold to the functions, major program areas, programs or units of organization as authorized and approved on advices of allotments. The secretary of the department of finance shall make quarterly allotments of appropriations, except in the case of appropriations for the purpose of capital outlay for buildings, roads and bridges, and for printing, as provided in KRS 45.200. In any other cases where periodic allotments as provided for herein are impracticable, the department may prescribe a different period suited to the circumstances, not exceeding one (1) year nor extending beyond the end of the biennium. The department shall have authority at any time to modify or amend any allotment previously made by it, upon application of, or upon notice to, the department or agency concerned, provided that no such modification or amendment shall reduce an allotment below the amount required to meet valid obligations or commitments previously incurred against the allotted funds, *and no such modification or amendment shall reduce to any degree an allotment to the teachers' retirement system.* In making the allotments the expenditures to be authorized shall be classified according to purpose, and the funds allotted for each purpose of expenditure shall be used for no other purpose, except that the head of any budget unit, with the approval of the secretary of the department of finance, may transfer allotted funds from one purpose of expenditure to another, within the budget unit. In no case shall obligations be incurred or expenditures made in excess of the total amounts allotted. The decision of the secretary of the department of finance as to the amount of any allotment for any fiscal quarter or other period or as to the purposes for which money allotted may be expended, shall be final and conclusive. The secretary of the department of finance is authorized, empowered and directed by the general assembly to reduce any appropriation *other than to the teachers' retirement system* and withhold allotments therefrom to prevent an overdraft or deficit in any fiscal year for which any appropriation is made; provided, however, that the power vested shall not permit any reduction of the appropriation of any officer, board, commission, institution or subdivision of state government that will actually impair the necessary constitutional functions of any agency whose operations and functions are determined to be necessary constitutional functions of government.

SB 237, AN ACT relating to textbooks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.400 is amended to read as follows:

(1) The superintendent of public instruction shall arrange the elementary and secondary school subjects included in the state courses of study as prescribed by the state board of education into *six (6)* [~~five (5)~~] adoption groups. The *six (6)* [~~five (5)~~] adoption groups shall be arranged as nearly equal in number and purchase cost as possible.

(2) *Contracts for each of the six (6) adoption groups shall be for a period of six (6) years and shall be executed on a staggered basis, with one group being up for adoption each year, except when an adoption has been delayed, as set forth in subsection (3) of this section. The superintendent of public instruction may call for contracts for less than six (6) years or negotiate extensions of existing contracts for individual subjects to arrange proper subject groupings and adoption group size.*

(3) The superintendent of public instruction may delay a scheduled adoption one (1) year and negotiate appropriate extensions of existing contracts when such is deemed advisable or necessary because of the amount of appropriated funds with which to purchase textbooks during any given fiscal year [~~The schedule for the periods of adoption shall be as follows:~~

~~Adoptions in group I shall be made in 1975 and the period of adoption shall be for five (5) years;~~
~~Adoptions in group II shall be made in 1976 and the period of adoption shall be for five (5) years;~~
~~Adoptions in group III shall be made in 1977 and the period of adoption shall be for five (5) years;~~
~~Adoptions in group IV shall be made in 1978 and the period of adoption shall be for five (5) years;~~
~~Adoptions in group V shall be made in 1979 and the period of adoption shall be for five (5) years.~~

~~The state textbook commission, by mutual agreement with the textbook publishers now under contract with the state of Kentucky, may extend any or all subjects under contract or accept bids for less than five (5) years for the purpose of arranging adoption groups with proper subjects and equal size~~].

Section 2. KRS 156.405 is amended to read as follows:

(1) The state textbook commission shall consist of the superintendent of public instruction and ten (10) appointive members. The ten (10) members shall be appointed by the state board of education upon the recommendation of the superintendent of public instruction for terms of four (4) years with two appointments each year, except that every fourth year there shall be four (4) appointments. No member shall be eligible to serve more than two (2) full terms consecutively. All vacancies that occur on the state textbook commission shall be filled in like manner for the remainder of the unexpired terms.

(2) Eight of the appointive members of the state textbook commission shall have had not less than five (5) years teaching or supervising experience in the public schools of Kentucky and must have had at the time of their appointment at least four (4) years of college training in a recognized institution of higher education. Five (5) members of the commission shall be classroom teachers actively employed in the public schools of Kentucky as teachers in subject field or fields for which the commission will select books. Two (2) members shall be principals, supervisors, or superintendents of public schools or public school systems. One (1) member shall be a member of the faculty of a public institution of higher education engaged in teacher education. Two (2) members shall be lay citizens. In selecting the members of the state textbook commission the superintendent of public instruction shall give due regard to representation from rural and

urban areas and both elementary and secondary levels when both educational levels are included in the subject field or fields for which adoptions are to be made. The lay citizens shall have children in the public elementary or secondary schools at the time of appointment.

(3) Members of the state textbook commission shall serve without remuneration except reimbursement for their actual expenses while attending commission meetings.

(4) The meetings of the state textbook commission shall be open to the public.

(5) Not later than July 15 each year the superintendent of public instruction shall call the state textbook commission into session, *except when an adoption has been delayed as set forth in KRS 156.400(3).* The members of the state textbook commission shall elect one (1) of its members as chairman and shall adopt rules and regulations for the procedure of the commission. The superintendent of public instruction shall be the secretary of the commission.

Section 3. KRS 156.435 is amended to read as follows:

(1) The state textbook commission shall, not later than September 20 of any [~~adoption~~] year *in which an adoption is to be made,* select, approve, and publish a list of ten (10) books or programs in each subject and grade, taking into account the needs of the various types of school organizations. The commission shall not list more than one (1) book or program for the same subject and grade from the same person, firm, or corporation.

(2) The state textbook commission shall have the authority to reject any book which contains subversive material or information that is offered for listing or adoption. If the commission finds on the multiple list any book which contains subversive material or information, Provided the publisher of such a book has been given written notice by the secretary of the commission not less than thirty (30) days prior to the meeting, the textbook commission shall have authority to remove the book from the state multiple list. The state textbook commission shall have the authority to add books to the state list when the number of books on the list is less than ten (10) per subject and grade or when the list does not contain books for subjects added to the state courses of study.

(3) The superintendent of public instruction shall make and execute contracts for the selected books with the publishers on or before January 1 following the approval of the books selected by the commission. Except as described heretofore in KRS 156.400, all contracts shall run for *six (6)* [~~five (5)~~] years.

(4) The state textbook commission, on or before May 1, shall designate books or programs on the state multiple list for each subject and grade for use in the school district or districts that decline or fail to make textbook adoptions on or before April 15.

(5) The superintendent of public instruction shall prepare a multiple list of the selected books or programs and publish same and send a copy to the superintendents of each county and independent school district in Kentucky on or before October 15 of each adoption year.

Section 4. KRS 156.440 is amended to read as follows:

(1) Textbook publishers, upon the request of the superintendents of the county and independent school districts, shall furnish to the local boards of education the requested sample copies of their books that were selected and placed on the state multiple list of textbooks by the textbook commission.

(2) The board of education of each county and independent school district shall, upon the recommendation of its superintendent and not later than April 15 of any adoption year, select from the state multiple list books or programs for each subject and grade to be used as a basal text, in its school system for a period of *six (6)* [~~five (5)~~] years *and any extensions thereof.*

(3) County and/or independent school district or districts, however, may decline to make textbook adoptions. Such a school district or districts that decline or fail to make textbook adoptions on or before April 15 shall use the books or programs on the state multiple list designated by the state textbook commission for each subject and grade for the adoption period.

(4) After the local board of education has adopted the basal textbooks for use of the district and not later than April 20, the superintendent of schools shall send to the superintendent of public instruction a complete list of books adopted properly certified by the chairman and secretary of the board of education.

Section 5. KRS 157.110 is amended to read as follows:

[~~(1)~~] In the purchase and distribution of textbooks for grades kindergarten through twelve (12), [~~the state board of education shall first furnish textbooks to the primary grades, then, if additional funds are available, to the intermediate grades, and so on, until the funds are exhausted.~~] if sufficient funds are not available to furnish textbooks for all grades, [~~then~~] the *superintendent of public instruction, subject to the approval of the state board of education, shall* [~~board may~~] determine for what grades *and subjects* [~~and/or subject~~] textbooks shall be provided.

[~~(2) The state board for elementary and secondary education, upon the recommendation of the superintendent of public instruction, shall adopt regulations whereby local school districts may be reimbursed for certain textbooks in grades nine (9) through twelve (12), whose condition would warrant their continued use.~~]

Section 6. KRS 157.145 is amended to read as follows:

(1) The superintendent of public instruction shall each year cause [~~all~~] textbooks which have not been made obsolete by new adoptions *and which, in his discretion, are in need of, and have valid content justifying such* to be rebound upon request of the local districts.

(2) When the superintendent of public instruction has received requests for rebinding, he shall prepare necessary forms to be mailed to the rebindery under contract with the commonwealth of Kentucky. Instructions for pick-up and delivery are to be given to the rebindery and local district by the superintendent of public instruction.

(3) Upon receipt of invoices from the bindery, the superintendent of public instruction will cause departmental purchase order forms to be prepared and mailed to the superintendent or director. The departmental purchase order form will be checked against books rebound and returned to the department of education authorizing payment of the invoice.

Section 7. KRS 157.160 is amended to read as follows:

The superintendent of public instruction, subject to the approval of the state board of education, shall make rules and regulations for the disposal of textbooks no longer *desirable* [~~in condition~~] to be used for purposes of instruction. *Each superintendent may make obsolete textbooks available to the residents of his district. He may publicize in the newspaper the availability of the books and the procedure for obtaining them in accordance with this section.* Any funds accruing from the sale of such books shall be paid into the treasury.

The Committee on Judiciary-Civil reported **HB 370,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Judiciary-Civil reported **HB 471** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 471, AN ACT relating to condemnation proceedings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 416.560 is amended to read as follows:

(1) Notwithstanding any other provision of the law, a department, instrumentality or agency of city, county or urban-county government, *other than a waterworks corporation the capital stock of which is wholly owned by a city of the first class,* having a right of eminent domain under other statutes shall exercise such right only by requesting the governing body of the city, county or urban-county to institute condemnation proceedings on its behalf. If the governing body of the city, county or urban-county agrees, it shall institute such proceedings under KRS 416.570, and all costs involved in the condemnation shall be borne by the department, instrumentality or agency requesting the condemnation.

(2) If any department, instrumentality or agency of a city, county or urban-county government, *other than a waterworks corporation the capital stock of which is wholly owned by a city of the first class,* operates in more than one (1) governmental unit, it shall request the governing body of the city, county or urban-county government wherein the largest part of the individual tract of the property sought to be condemned lies, to institute condemnation proceedings on its behalf.

(3) A department, instrumentality or agency of the Commonwealth of Kentucky, other than the department of transportation, having a right of eminent domain under other statutes shall exercise such right only by requesting the department of finance to institute condemnation proceedings on its behalf. If the department of finance agrees, it shall institute such proceedings under KRS 416.570, and all costs involved in the condemnation shall be borne by the department, instrumentality or agency requesting the condemnation.

(4) Prior to the filing of the petition to condemn, the condemnor or its employes or agents shall have the right to enter upon any land or improvement which it has the power to condemn, in order to make studies, surveys, tests, sounding and appraisals, provided that the owner of the land or the party in whose name the property is assessed has been notified ten (10) days prior to entry on the property. Any actual damages sustained by the owner of a property interest in the property entered upon by the condemnor shall be paid by the condemnor and shall be assessed by the court or the court may refer the matter to commissioners to ascertain and assess the damages sustained by the condemnee, which award shall be subject to appeal.

The Committee on Banking and Insurance reported **HB 658, HB 683, HB 701, HB 703** with Committee Amendment attached thereto, **HB 730, HB 731, HB 791** with Committee Amendment attached thereto, and **HB 806** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 658, AN ACT relating to insurance company investments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 7 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Clearing corporation" shall be defined as provided in KRS 355.8-102(3) except that, with respect to securities issued by institutions organized or existing under the laws of any foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, "clearing corporation" may include a corporation organized or existing under the laws of any foreign country which is legally qualified under such laws to effect transactions in securities by computerized book entry.

(b) "Custodian bank" means a national bank, state bank or trust company which is a member of the federal reserve system which acts as custodian of all or any part of an insurance company's securities.

(c) "Direct participant" means a bank, trust company, or other institution which maintains an account in its name in a clearing corporation and through which an insurance company participates in a clearing corporation.

(d) "Federal reserve book-entry system" means the computerized systems sponsored by the United States department of the treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States government and such agencies and instrumentalities, respectively, in federal reserve banks through banks which are members of the federal reserve system or which otherwise have access to such computerized systems.

(e) "Member bank" means a national bank, state bank or trust company which is a member of the federal reserve system through which an insurance company participates in the federal reserve book-entry system.

(f) "Security" means a certificated security or an uncertificated security.

(g) "Certificated security" means a share, participation or other interest in property or an enterprise of the issuer or an obligation of the issuer which is represented by an instrument issued in bearer or registered form, of a type commonly dealt in on securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment, and either one (1) of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.

(h) "Uncertificated security" means a share, participation, or other interest in property or an enterprise of the issuer or an obligation of the issuer which is not represented by an instrument and the transfer of which is registered upon books maintained for that purpose by or on behalf of the insurer, of a type commonly dealt in on securities exchanges or markets; and either one (1) of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.

(2) Notwithstanding any other provision of law, an insurance company or its custodian bank may deposit or arrange for the deposit of securities held in or purchased for the general account and the separate accounts of such insurance company in a clearing corporation or the federal reserve book-entry system. When securities are deposited with a clearing corporation, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other securities deposited with such clearing corporation by any person, regardless of the ownership of such securities, and certificates representing securities of small denominations may be merged into one (1) or more certificates of larger denominations. The records of any member bank through which an insurance company holds securities in the federal reserve book-entry system, and the records of any direct participant through which an insurance company holds securities in a clearing corporation, shall at all times show that such securities are held for such insurance company or its custodian bank and for which accounts thereof. Ownership of, and other interests in, such securities may be transferred by bookkeeping entry on the books of such clearing corporation or in the federal reserve book-entry system without, in either case, physical delivery of certificates representing such securities.

(3) Notwithstanding any other provision of law, an insurance company may deposit securities held in or purchased for its general account and its separate accounts in a custodial account with a custodian bank approved by, and under a custodial agreement approved by, the commissioner. When securities are deposited in such custodial account, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the custodian bank or its nominee with any other securities held in the custody of the custodian bank or its nominee by any person, regardless of the ownership of such securities, and certificates representing securities of small denominations may be merged into one (1) or more certificates of larger denominations. The records of the custodian bank which holds securities for an

insurance company in a custodial account shall at all times show that such securities are held for such insurance company and for which accounts thereof. Ownership of, and other interests in, such securities may be transferred by bookkeeping entry on the books of such custodian bank without physical delivery of certificates representing such securities.

(4) The same bank or trust company may act as direct participant, member bank, and custodian bank for an insurance company.

(5) The commissioner of insurance shall promulgate rules and regulations governing the deposit by insurance companies of securities with clearing corporations and in the federal reserve book-entry system and with custodian banks.

SECTION 2. A NEW SECTION OF SUBTITLE 8 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of law, the commissioner may cause any or all deposits of assets of insurers required or permitted under this code and maintained in this state to be made and maintained in trust with depositories designated pursuant to KRS 304.8-090(1) under trust agreements to which such depositories, insurers, and the commissioners are parties, for the purpose of the subtitle. Such trust agreements shall provide with respect to deposits thereunder provisions, conditions and stipulations corresponding to those applicable to other deposits under this subtitle and shall require such depositories to perform the same duties with respect to deposits thereunder as the custodian of insurance securities is required to perform with respect to other deposits under this subtitle. Insurers who have made deposits under such trust agreements shall be relieved of all other obligations under this subtitle with respect to the assets deposited thereunder.

HB 683, AN ACT relating to fraternal benefit societies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.29-490 is amended to read as follows:

(1) The valuation and underlying data shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

(2) The minimum standards of valuation for certificates issued prior to June 18, 1970, shall be those provided by the law applicable immediately prior to the effective date of this subtitle, but not lower than the standards used in the calculating of rates for such certificates.

(3) The minimum standard of valuation for certificates issued after June 18, 1970, shall be 3 ½ per cent interest and the following:

(a) For certificates of life insurance, American men ultimate table of mortality, with Bowerman's or Davis' extension thereof or with the consent of the commissioner, the commissioners 1941 standard industrial mortality table or the commissioners 1958 standard ordinary mortality table, using actual age of the insured for male risks and an age not more than three (3) years younger than the actual age of the insured for female risks;

(b) For annuity and pure endowment certificates, excluding any disability and accidental death benefits, the 1937 standard annuity mortality table or the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner;

(c) For total and permanent disability benefits in or supplementary to life insurance certificates, Hunter's disability table, or the class III disability table (1926) modified to conform to the contractual waiting period, or the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries with due regard to the type of benefit. Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance certificates;

(d) For accidental death benefits in or supplementary to life insurance certificates, the inter-company double indemnity mortality table or the 1959 accidental death benefits table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance certificates; and

(e) For noncancellable accident and health benefits, the class III disability table (1926) with conference modifications or, with the consent of the commissioner, tables based upon the society's own experience.

(4) The commissioner may, in his discretion:

(a) Accept other standards for valuation if he finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard herein prescribed.

(b) Vary the standards of mortality applicable to all certificates of insurance on substandard lives or other extra hazardous lives by any society authorized to do business in this state.

(5) Whenever the mortality experience under all certificates valued on the same mortality table is in excess of the expected mortality according to such table for a period of three (3) consecutive years, the commissioner may require additional reserves when deemed necessary in his judgment on account of such certificates.

(6) Any society, with the consent of the commissioner of the state of domicile of the society and under such conditions, if any, as he may impose may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any insured member shall not be affected thereby.

(7) Notwithstanding the foregoing provisions, any society may value its certificates in accordance with valuation standards authorized by the laws of this state for the valuation of policies issued by life insurance companies.

HB 701, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 15 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this Act:

(a) "Published monthly average" is Moody's corporate bond yield average - monthly average corporates as published by Moody's Investors Service, Inc. or any successor thereto; or in the event that Moody's corporate bond yield average - monthly average corporates is no longer published, a substantially similar average, established by regulation issued by the commissioner.

(b) "Policy loan" includes any premium loan made under a policy to pay one (1) or more premiums that were not paid to the life insurer as they fell due.

(c) "Policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer.

(d) "Policy" includes certificates issued by a fraternal benefit society organized pursuant to KRS 304.29 and annuity contracts which provide for policy loans.

(2) Notwithstanding any provision to the contrary, policies issued on or after July 15, 1982, shall contain:

(a) A provision permitting a maximum interest rate of not more than eight percent (8%) per annum; or

(b) A provision permitting an adjustable maximum interest rate established from time to time in accordance with this Act.

(3) The rate of interest charged on a policy loan made under paragraph (2)(b) of this section shall not exceed the higher of the following:

(a) The published monthly average for the calendar month ending two (2) months before the date on which the rate is determined; or

(b) The rate used to compute the cash surrender values under the policy during the applicable period plus one percent (1%) per annum.

(4) If the rate of interest is determined pursuant to paragraph (2)(b) of this section, the policy shall contain a provision setting forth the frequency with which the rate is to be determined for that policy. The rate must be determined at regular intervals at least once every twelve (12) months, but not more frequently than once every three (3) months. At the intervals specified in the policy, the rate being charged may be increased whenever such increase would be one-half percent (½%) or more per annum. At the intervals specified in the policy, the rate being charged must be reduced whenever such reduction would be one-half percent (½%) or more per annum.

(5) The life insurer shall:

(a) Notify the policyholder in writing at the time a policy loan is made of the initial rate of interest on the loan;

(b) Send to policyholders with loans reasonable advance notice of any increase or decrease in the rate; and

(c) Include in the notices required above the substance of the pertinent provisions of Sections (2) and (4).

(6) The loan value of the policy shall be determined in accordance with KRS 304.15-110, but no policy shall terminate in a policy year as the sole result of change in the interest rate during that policy year, and the life insurer shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change in the interest rate during that policy year.

(7) No other provision of law shall apply to policy loan interest rates unless made specifically applicable to such rates.

Section 2. KRS 304.15-130 is amended to read as follows:

There shall be a provision that, unless the policy has been surrendered for its cash surrender value, or its cash surrender value has been exhausted, the policy will be re-instated at any time within three (3) years (or two (2) years in the case of industrial life insurance policies) from the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears and the payment or re-instatement of any other indebtedness to the insurer upon the policy, all with interest at the rate specified *in the policy*.

HB 703, AN ACT relating to manufactured home financing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 360 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context otherwise requires:

(a) "Lender" means a person regularly engaged in the business of selling or financing manufactured homes 1. Who is an arranger of credit, or 2. Who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four (4) installments (not including a down payment) and to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.

(b) "Interest" means finance charge expressed as an annual percentage rate. The finance charge is the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the lender as an incident to or a condition of the extension of credit.

(c) "Manufactured home" means a prefabricated dwelling that is manufactured in two (2) or more modules at a location other than a homesite and which is designed to be used as a residence when the modules are transported to the homesite, and the modules are joined together and installed on a permanent foundation system. The term includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

(d) "Manufactured home financing transaction" shall include both the credit sale of a manufactured home and a direct loan used to finance the purchase of a manufactured home.

(2) A manufactured home financing transaction may provide for a fixed rate of interest payable in substantially equal successive installments over a fixed term, or may provide that the rate of interest may be adjusted at certain regular intervals. In this latter event, the manufactured home financing transaction shall be subject to the provisions in this section.

(3) Adjustments in the interest rate charged must be based on changes in a specific index, as set forth in the financing agreement. The index may be only:

(a) The monthly average yield on United States treasury securities adjusted to a constant maturity of five (5) years; or

(b) An index approved by the federal home loan bank board or by the office of the comptroller of the currency, department of the treasury, for adjustable or variable interest rates on residential mortgage loans.

(4) The rate of interest shall not increase or decrease during the six-month period beginning with the date of execution of the financing agreement, and at least six (6) months shall elapse between changes.

(5) Adjustments, either up or down, to the rate of interest on each adjustment date shall, for the initial adjustment, be equal to the difference between the index value in effect on the first day of the second calendar month preceding the adjustment date and the value in effect on the first day of the month in which the financing agreement is executed. For adjustments after the initial adjustment, adjustments shall be equal to the difference between the index value in effect on the first day of the second month preceding the adjustment date and the index value in effect on the first day of the second month preceding the date of the immediately preceding rate adjustment.

(6) Where the stated regular interval between rate adjustments is six (6) months, an adjustment to the interest rate may not result in a rate of interest which is more than one (1) percentage point greater or less than the interest rate in effect prior to such adjustment. If the stated regular interval between rate adjustments exceeds six (6) months, then the maximum adjustment either up or down shall be one (1) percentage point multiplied by the number of whole consecutive six (6) months periods in the interval between rate adjustments.

(7) Any increase in the rate of interest permitted by this section shall be optional with the creditor. Decreases in the rate of interest shall be mandatory whenever the total decrease in the index value equals or exceeds one-quarter (¼) of one (1) percentage point.

(8) If the creditor agrees to impose limitations on interest rate changes that are more restrictive than the limitations specified in this section, then such limitations shall apply to both increases and decreases.

(9) Any changes in the index which are not reflected in a rate adjustment may, by agreement of the parties, be carried over to subsequent rate adjustment periods, and be implemented to the extent not offset by opposite movement in the index.

(10) By agreement of the parties, adjustments to the rate of interest may result in changes in the amount of regular installment payments due under the financing agreement, or in changes in the term of the financing agreement, or in a combination of such changes in amount and term. Adjustments to the amount of installment payments may be made less frequently than adjustments to the interest rate.

(11) For all manufactured home financing transactions under this section, the creditor shall comply with all applicable requirements and disclosures pursuant to Part I of the Consumer Protection Act (Truth-In-Lending Act) 15 USC sec. 1601, et. seq., as amended, and as implemented by Regulation Z promulgated by the board of governors of the federal reserve system.

(12) The creditor shall send written notification of any rate adjustment, by first class mail, postage prepaid, at least one (1) month before the date that the new rate of interest shall take effect.

(13) Notwithstanding any of the requirements and limitations set forth by subsections (3) through (12) of this section, the parties may agree on any terms or provisions in the manufactured housing financing agreement as may be authorized or permitted in any program for residential mortgage loans by the federal home loan bank board or by the office of the comptroller of the currency, department of the treasury, or any other federal department, agency or board. In such event, the creditor shall comply with all applicable limitations, requirements and disclosures of the agency that relate thereto.

Committee Amendment No. 1 to **HB 703:**

Amend printed copy of **HB 703,** page 1, line 20, by deleting the words "*two (2)*" and inserting in lieu thereof the words "*one (1)*"

HB 730, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.20-020 is amended to read as follows:

(1) No automobile liability or motor vehicle liability policy of insurance insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, in limits for bodily injury or death set forth in KRS 304.39-110 under provisions approved by the commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom[~~; Provided That the named insured shall have the right to reject in writing such coverage; and Provided further That, unless the named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer~~].

(2) For the purpose of this coverage the term "uninsured motor vehicle" shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency; an insured motor vehicle with respect to which the amounts provided, under the bodily injury liability bond or insurance policy applicable at the time of the accident with respect to any person or organization legally responsible for the use of such motor vehicle, are less than the limits described in KRS 304.39-110; and an insured motor vehicle to the extent that the amounts provided in the liability coverage applicable at the time of the accident is denied by the insurer writing the same.

(3) Protection against an insurer's insolvency shall be applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one (1) year after such an accident. Nothing herein contained shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to its insureds than is provided hereunder.

(4) In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer.

Section 2. KRS 304.39-110 is amended to read as follows:

(1) The requirement of security for payment of tort liabilities is fulfilled by providing:

(a) Liability coverage of not less than ten thousand dollars ($10,000) for all damages arising out of bodily injury sustained by any one person as a result of any one accident, and not less than twenty thousand dollars ($20,000) for all damages arising out of bodily injury sustained as a result of any single accident caused by accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle;

(b) Liability coverage of not less than five thousand dollars ($5,000) for all damages arising out of damage to or destruction of property, including the loss of use thereof, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle;

(c) That the liability coverages apply to accidents during the contract period in a territorial area not less than the United States of America, its territories and possessions, and Canada; [~~and~~]

(d) Basic reparation benefits as defined in KRS 304.39-020(2)*;*

(e) Underinsured motorist coverage, whereby subject to the terms and conditions of such coverage, the insurance company agrees to pay its own insured for such uncompensated damages as he may recover on account of injury due to a motor vehicle accident because the judgment recovered against the owner of the other vehicle exceeds the policy limits thereon, to the extent of the policy limits on the vehicle of the party recovering, less the amount paid by the liability insurer of the party recovered against. His insurance company shall be subrogated to any amounts it so pays, and upon payment shall have an assignment of the judgment against the other party to the extent of the money it pays; and

(f) Uninsured motorist coverage as required by KRS 304.20-020.

(2) Subject to the provisions on approval of terms and forms, the requirement of security for payment of tort liabilities may be met by a contract the coverage of which is secondary or excess to other applicable valid and collectible liability insurance. To the extent the secondary or excess coverage applies to liability within the minimum security required by this subtitle it must be subject to conditions consistent with the system of required liability insurance established by this subtitle.

(3) Security for a motorcycle is fulfilled by providing only the coverages set forth in subsections (1)(a), (b) and (c) of this section.

Section 3. KRS 304.39-050 is amended to read as follows:

(1) The basic reparation insurance applicable to bodily injury to which this subtitle applies is the security covering the vehicle occupied by the injured person at the time of the accident or, if the injured person is a pedestrian, the security covering the vehicle which struck such pedestrian. If the reparation obligor providing such insurance fails to make payment for loss within thirty (30) days after receipt of reasonable proof of the fact and the amount of loss sustained, the injured person shall be entitled to payment under any contract of basic reparation insurance under which he is a basic reparation insured and the insurer making such payments shall be entitled to full reimbursement from the reparation obligor providing the security covering the vehicle. A pedestrian, as used herein, means any person who is not making "use of a motor vehicle" at the time his injury occurs.

(2) If there is no security covering the vehicle, any contract of basic reparation insurance under which the injured person is a basic reparation insured shall apply.

(3) *Notwithstanding any other provision of this subtitle, a person may stack basic reparation benefits* [~~No person shall recover basic reparation benefits from more than one reparation obligor as a result of the same accident, except as provided in KRS 304.39-140(4) nor in excess of ten thousand dollars ($10,000) as the result of the same accident~~].

Section 4. KRS 304.39-020 is amended to read as follows:

As used in this subtitle:

(1) "Added reparation benefits" mean benefits provided by optional added reparation insurance.

(2) "Basic reparation benefits" mean benefits providing reimbursement for net loss suffered through injury arising out of the operation, maintenance or use of a motor vehicle, subject, where applicable, to the limits, deductibles, exclusions, disqualifications and other conditions provided in this subtitle. The maximum amount of basic reparation benefits payable for all economic loss resulting from injury to any one person as the result of one (1) accident shall be ten thousand dollars ($10,000), regardless of the number of persons entitled to such benefits or the number of providers of security obligated to pay such benefits. Basic reparation benefits consist of one (1) or more of the elements defined as "loss."

(3) "Basic reparation insured" means:

(a) A person identified by name as an insured in a contract of basic reparation insurance complying with this subtitle; and

(b) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of basic reparation insurance complying with this subtitle: a spouse or other relative of a named insured; and a minor in the custody of a named insured or of a relative residing in the same household with the named insured if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.

(4) "Injury" and "injury to person" mean bodily harm, sickness, disease, or death.

(5) "Loss" means accrued economic loss consisting only of medical expense, work loss, replacement services loss, and, if injury causes death, survivor's economic loss and survivor's replacement services loss. Noneconomic detriment is not loss. However, economic loss is loss although caused by pain and suffering or physical impairment.

(a) "Medical expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, physical rehabilitation, rehabilitative occupational training, and other remedial treatment and care. "Medical expense" may include non-medical remedial treatment rendered in accordance with a recognized religious method of healing. The term includes a total charge not in excess of one thousand dollars ($1,000) per person for expenses in any way related to funeral, cremation, and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semi-private accommodations, unless intensive care is medically required. Medical expense shall include all healing arts professions licensed by the Commonwealth of Kentucky. There shall be a presumption that any medical bill submitted is reasonable.

(b) "Work loss" means loss of income from work the injured person would probably have performed if he had not been injured, and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him.

(c) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.

(d) "Survivor's economic loss" means loss after decedent's death of contributions of things of economic value to his survivors, not including services they would have received from the decedent if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of decedent's death.

(e) "Survivor's replacement services loss" means expenses reasonably incurred by survivors after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of the decedent's death and not subtracted in calculating survivor's economic loss.

(6) "Use of a motor vehicle" means any utilization of the motor vehicle as a vehicle including occupying, entering into and alighting from it. It does not include (i) conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises, or (ii) conduct in the course of loading and unloading the vehicle unless the conduct occurs while occupying, entering into, or alighting from it.

(7) "Motor vehicle" means any vehicle which transports persons or property upon the public highways of the Commonwealth, propelled by other than muscular power except road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails and such vehicles as are propelled by electrical power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the said limits of any municipality. Motor vehicle shall not mean moped as defined in this section.

(8) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(9) "Public roadway" means a way open to the use of the public for purposes of motor vehicle travel.

(10) "Net loss" means loss less benefits or advantages, from sources other than basic and added reparation insurance, required to be subtracted from loss in calculating net loss.

(11) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damages recoverable under the tort law of this Commonwealth. The term does not include punitive or exemplary damages.

(12) "Owner" means a person, other than a lienholder or secured party, who owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another person. The term does not include a lessee under a lease not intended as security.

(13) "Reparation obligor" means an insurer, self-insurer, or obligated government providing basic or added reparation benefits under this subtitle.

(14) "Survivor" means a person identified in KRS 411.130 as one entitled to receive benefits by reason of the death of another person.

(15) A "user" means a person who resides in a household in which any person owns or maintains a motor vehicle.

(16) "Maintaining a motor vehicle" means having legal custody, possession or responsibility for a motor vehicle by one other than an owner or operator.

(17) "Security" means any continuing undertaking complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle.

(18) "Stack" or "stacking" means the accumulating of coverages when there are separate policies for each vehicle covered and the insured has paid a premium on each policy.

Section 5. KRS 304.39-320, Underinsured motorist coverage, is repealed.

HB 731, AN ACT relating to bankruptcy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 427.010 is amended to read as follows:

(1) The following personal property of an individual debtor resident in this state is exempt from execution, attachment, garnishment, distress or fee-bill: All household furnishings, jewelry, personal clothing and ornaments not to exceed three thousand dollars ($3,000) in value; tools, equipment and livestock, including poultry, of a person engaged in farming, not exceeding three thousand dollars ($3,000) in value; one (1) motor vehicle and its necessary accessories, including one (1) spare tire, not exceeding in the aggregate two thousand five hundred dollars ($2,500) in value; professionally prescribed health aids for the debtor, or a dependent of the debtor.

(2) Except as provided in subsection (3) of this section and KRS 427.050, the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed the lesser of either:

(a) Twenty-five percent (25%) of his disposable earnings for that week, or

(b) The amount by which his disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage prescribed by section 6 (a) (1) of the Fair Labor Standards Act of 1938 in effect at the time the earnings are payable. In the case of earnings for any pay period other than a week, the multiple of the federal minimum hourly wage equivalent to that set forth in paragraph (b) of this subsection as prescribed by regulation by the Federal Secretary of Labor shall apply.

(3) The restrictions of subsection (2) of this section do not apply in the case of:

(a) Any order of any court for the support of any person.

(b) Any order of any court of bankruptcy under chapter 13 of the Bankruptcy Code.

(c) Any debt due for any state or federal tax.

(4) Notwithstanding any other provision of law, no property upon which a debtor has voluntarily granted a lien shall, to the extent of the balance due on the debt secured thereby, be subject to the provisions of this chapter or be exempt from forced sale under process of law.

HB 791, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.19-080 is amended to read as follows:

(1) All such policies, certificates of insurance, notices of proposed insurance, applications for insurance, indorsements and riders delivered or issued for delivery in this state and the schedule of premium rates pertaining thereto shall be filed with the commissioner.

(2) All life insurance and all health insurance in connection with loans or other credit transactions shall be subject to the provisions of this subtitle, except health insurance in connection with a loan or other credit transaction of more than five (5) years' duration or life insurance in connection with a loan or other credit transaction of more than ten (10) years' duration; nor shall insurance be subject to provisions of this subtitle where the issuance of such insurance is an isolated transaction on the part of the insurer not relating to an agreement or a plan for insuring debtors of the creditor; nor shall insurance issued for an amount in excess of twenty thousand dollars ($20,000) be subject to this subtitle.

(3) (a) Credit life insurance. *The premium rates set forth hereunder, or actuarially equivalent, shall be charged* [~~It shall, be presumed that premium rates charged or to be charged are not excessive in~~

~~relation to the benefits if the premium or premium rates as filed with the commissioner do not exceed the following, or actuarially equivalent rates~~]:

1. For decreasing term credit life insurance, a single premium of *sixty cents (60¢)* [~~seventy-five cents (75¢)~~] per annum per one hundred dollars ($100) of scheduled indebtedness, or *sixty-five cents (65¢)* [~~ninety cents (90¢)~~] per annum per one hundred dollars ($100) of scheduled indebtedness if dismemberment benefits are included in the policy.

2. Single premium rates for indebtedness repayable in monthly instalments other than twelve (12) in number shall not exceed one-twelfth (1/12) of the above premium rate multiplied by the number of full months in the scheduled period.

3. A premium payable monthly at the rate of *ninety-two cents (92¢)* [~~one dollar and sixteen cents ($1.16)~~] per one thousand dollars ($1,000) of outstanding unpaid insured indebtedness or *one dollar ($1.00)* [~~one dollar and thirty-nine cents ($1.39)~~] per one thousand dollars ($1,000) of outstanding unpaid insured indebtedness if dismemberment benefits are included in the policy, will be deemed the actuarial equivalent of the foregoing rates.

4. For level term credit life insurance, a single premium of *one dollar and twenty cents ($1.20)* [~~one dollar and fifty cents ($1.50)~~] per annum per one hundred dollars ($100) of indebtedness or *one dollar and thirty cents ($1.30)* [~~one dollar and eighty cents ($1.80)~~] per one hundred dollars ($100) of indebtedness if dismemberment benefits are included in the policy.

(b) [~~The foregoing rate standards assume:~~]

1. [~~That~~] The standards set forth above are applicable to a plan of death benefits with or without requirements for evidence of insurability which contain no exclusions except for suicide; other exclusions must receive the approval of the commissioner, and

2. [~~That~~] Coverage *shall be* [~~is~~] offered to all debtors regardless of age; or to all debtors not older than the applicable age limit which shall be not less than sixty-five (65) at the inception of the indebtedness or sixty-six (66) at the scheduled maturity date of the transaction, provided that each company's right to underwrite risks on an individual basis shall not be restricted by this *subparagraph* [~~assumption~~]. Appropriate adjustments may be made with the approval of the commissioner if premium rates are determined according to the age of the insured debtor or by age brackets.

3. Rates for use with forms which are more restrictive in any material respect shall reflect such variations in lower rates. Similarly, forms providing more extensive benefits than set forth above may carry appropriately higher charges.

4. [~~That~~] The standards set forth above shall be applicable to contracts which may contain a provision excluding or denying a claim for death, resulting from pre-existing illness, disease or physical condition for which the debtor received medical advice, consultation or treatment during the twelve (12) month period immediately preceding the effective date of the debtor's coverage and which would ordinarily be expected to affect materially the debtor's health during the period of coverage; provided, however, that after such coverage has been in force for six (6) months (twelve (12) months for contracts of more than three (3) years), this pre-existing exclusion clause shall not operate to deny coverage for any death thereafter. The contract shall contain no other provision which excludes or restricts liability in the event of death caused in a certain specified manner, except provisions excluding or restricting coverage in the event of intentionally self-inflicted injuries, foreign travel or residence, flight in nonscheduled aircraft, war or military service.

(4) (a) Credit health insurance. *The following premium rates, or actuarially equivalent rates, shall be charged for the coverages set forth hereunder* [~~It shall be presumed that premium rates charged or to be charged are not excessive in relation to the benefits if the premium or premium rates as filed with the commissioner do not exceed the following, or actuarially equivalent rates~~]:

Single Premium Per $100 of Initial Indebtedness

	Nonretroactive Basis		Retroactive Basis	
Number of Monthly Instalments	14-Day Wait	30-Day Wait	14-Day Wait	30-Day Wait
1- 6 months	$ 1.51	$ .69	$ 2.02	$ .92
7- 12 months	2.02	.91	2.69	1.22
13- 19 months	2.50	1.56	3.33	2.08
20- 24 months	2.93	1.84	3.91	2.45
25- 30 months	3.28	2.34	4.37	3.12
31- 36 months	3.85	2.77	5.14	3.70
37- 48 months	4.77	3.67	6.36	4.89
49- 60 months	5.68	4.58	7.58	6.11
[~~61- 72 months~~	~~6.60~~	~~5.50~~	~~8.80~~	~~7.34~~
~~73- 84 months~~	~~7.51~~	~~6.42~~	~~10.02~~	~~8.56~~

Number of Monthly Instalments	Nonretroactive Basis 14-Day Wait	Nonretroactive Basis 30-Day Wait	Retroactive Basis 14-Day Wait	Retroactive Basis 30-Day Wait
~~85- 96 months~~	~~8.44~~	~~7.35~~	~~11.25~~	~~9.78~~
~~97-108 months~~	~~9.35~~	~~8.25~~	~~12.47~~	~~11.00~~
~~109-120 months~~	~~10.27~~	~~9.17~~	~~13.70~~	~~12.23~~]

(b) [~~The foregoing rate standards assume:~~]

1. [~~That~~] The standards set forth above shall be applicable to contracts which may contain a provision excluding or denying a claim for disability, resulting from pre-existing illness, disease or physical condition for which the debtor received medical advice, consultation or treatment during the twelve (12) month period immediately preceding the effective date of the debtor's coverage and which would ordinarily be expected to affect materially the debtor's health during the period of coverage; provided, however, that after such coverage has been in force for six (6) months (twelve (12) months for contracts of more than three (3) years), this pre-existing exclusion clause shall not operate to deny coverage for any disability commencing thereafter. The contract shall contain no other provision which excludes or restricts liability in the event of disability caused in a certain specified manner, except provisions excluding or restricting coverage in the event of pregnancy, intentionally self-inflicted injuries, foreign travel or residence, flight in nonscheduled aircraft, war or military service.

2. [~~That~~] Coverage *shall be* [~~is~~] offered to all debtors regardless of age, or to all debtors not older than the applicable age limit which shall be not less than sixty-five (65) at the inception of the indebtedness or sixty-six (66) at the scheduled maturity date of the transaction, provided that each company's right to underwrite risks on an individual basis shall not be restricted by this *subparagraph* [~~assumption~~]. Appropriate adjustments may be made with the approval of the commissioner if premium rates are determined according to the age of the insured debtor or by age brackets.

3. Rates for use with forms which are more restrictive in any material respect shall reflect such variations in lower rates. Similarly, forms providing more extensive benefits than set forth above may carry appropriately higher charges.

(5) Statistical reporting. Each insurer writing credit life or credit health insurance within this state shall keep and maintain statistical data of its experience on these kinds of insurance. The insurer shall, on or before May 1 of each year, file with the commissioner its statistical experience data for the year ending December 31 immediately preceding. Such experience shall be reported on forms conforming to those now or hereafter from time to time adopted by the national association of insurance commissioners.

(6) If a group policy has been delivered in this state before June 18, 1980, or has been or is delivered in another state before or on or after June 18, 1980, the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this state as specified in subsections (2) and (4) of KRS 304.19-070, and such forms shall be approved by the commissioner if they conform with the requirements specified in such subsections and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the commissioner. The premium rate in effect on existing group policies may be continued until the first policy anniversary date following June 18, 1980. After June 18, 1980, no borrower shall be added to an existing group policy at rates higher than those set forth in subsections (3) and (4) of this section.

(7) The foregoing rates and procedures are deemed to be legislative prerogatives and shall not be subject to administrative or executive change or modification.

Committee Amendment No. 1 to **HB 791:**

Amend printed copy of **HB 791,** page 2, line 2, after the word "*shall*", by deleting the words "*be charged*" and inserting in lieu thereof "*not exceed*"

HB 806, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.15-310 is amended to read as follows:

(1) No policy of life insurance, except as stated in KRS 304.15-360 shall be *delivered or* issued *for delivery* [~~or delivered~~] in this state unless it shall contain, in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder *as are the minimum requirements hereinafter specified and are essentially in compliance with Section 7 of this Act:*

(a) Paid-up nonforfeiture benefit. That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty (60) days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such *amount* [~~value~~] as may be hereinafter specified. *In lieu of such stipulated paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than sixty (60) days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.*

(b) Cash surrender value. That, upon surrender of the policy within sixty (60) days after the due date of any premium payment in default after premiums have been paid for at least three (3) full years in the case of ordinary insurance or five (5) full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(c) Effective date of benefit. That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty (60) days after the due date of the premium in default.

(d) Cash surrender value if policy paid up. That, if the policy shall have become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within thirty (30) days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(e) Mortality table and interest rate used. *In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method use in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies,* [~~A~~] statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefits, if any, available under the policy on each policy anniversary either during the first twenty (20) policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

(f) Method used in computing value and benefit. A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; and explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

(2) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

(3) The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six (6) months after demand therefor with surrender of the policy.

Section 2. KRS 304.15-320 is amended to read as follows:

Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by KRS 304.15-310, shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of:

(1) [~~Present value of adjusted premiums.~~] The then present value of the adjusted premiums as defined in KRS 304.15-340 *and Section 4 of this Act*, corresponding to premiums which would have fallen due on and after such anniversary, and

(2) [~~Amount of indebtedness.~~] The amount of any indebtedness to the insurer on the policy*; provided, however, that for any policy issued on or after the effective date of Section 4 of this Act as defined therein, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value shall be an amount not less than the sum of the cash surrender value for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.*

Provided, further, that for any family policy issued on or after the effective date of Section 4 of this Act as defined therein, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one (71), the cash surrender value shall be an amount not less than the sum of the cash surrender value for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

And any cash surrender value available within thirty (30) days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit whether or not required by KRS 304.15-310 shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on the policy.

Section 3. KRS 304.15-340 is amended to read as follows:

(1) How calculated. *This section shall not apply to policies issued on or after the operative date of Section 4 of this Act as defined therein.* Except as provided in subsection (4) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairment or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

(a) The then present value of the future guaranteed benefits provided for by the policy;

(b) Two per cent (2%) of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy;

(c) Forty per cent (40%) of the adjusted premium for the first policy year; and

(d) Twenty-five per cent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.

(2) In applying the percentages specified in paragraphs (c) and (d) of subsection (1) of this section, no adjusted premium shall be deemed to exceed 4 per cent of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the provisions of the policy, the date of issue of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

(3) In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this section shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; Provided That in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten (10), the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten (10) were the amount provided by such policy at age ten (10).

(4) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to:

(a) The adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by

(b) The adjusted premiums for such term insurance, paragraphs (a) and (b) of this subsection being calculated separately and as specified in subsections (1), (2) and (3) of this section, except that, for the purposes of paragraphs (b), (c), and (d) of subsection (1) of this section, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in paragraph (b) of this subsection shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in paragraph (a) of this subsection.

(5) All adjusted premiums and present values referred to in KRS 304.15-310 to 304.15-360, inclusive, *but not including Sections 4 and 5 of this Act* shall for all policies of ordinary insurance be calculated on the basis of the commissioners 1958 standard ordinary mortality table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six (6) years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the commissioners 1961 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest

shall not exceed four percent (4%) per year except that a rate of interest not exceeding five and one-half percent (5-½%) per year may be used for policies issued on or after June 17, 1978. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit for ordinary insurance, the rates of mortality assumed may not be more than those shown in the commissioners 1958 extended term insurance table and for industrial insurance the rates of mortality may not be more than those shown in the commissioners 1961 industrial extended term insurance table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

SECTION 4. A NEW SECTION OF KRS 304.15-310 to 304.15-350 IS CREATED TO READ AS FOLLOWS:

(1) This section shall apply to all policies issued on or after the effective date of this section as defined in subsection (11) of this section. Except as provided in subsection (7) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of: (a) The then present value of the future guaranteed benefits provided for by the policy; (b) One percent (1%) of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and (c) One hundred twenty-five percent (125%) of the nonforfeiture net level premium as hereinafter defined. Provided, however, that in applying the percentage specified in (c) above, no nonforfeiture net level premium shall be deemed to exceed four percent (4%) of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years. This date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

(2) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one (1) per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

(3) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(4) Except as otherwise provided in subsection (7) of this section, the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of (a) the sum of the then present value of the then future guaranteed benefits provided for by the policy and the additional expense allowance, if any, over (b) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(5) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of (a) one percent (1%) of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten (10) policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten (10) policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (b) one hundred twenty-five percent (125%) of the increase, if positive, in the nonforfeiture net level premium.

(6) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (a) by (b) where

(a) Equals the sum of:

1. The nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and

2. The present value of the increase in future guaranteed benefits provided for by the policy, and *(b) Equals the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.*

(7) Notwithstanding any other provisions of this section to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(8) All adjusted premiums and present values referred to in this Act shall for all policies of ordinary insurance be calculated on the basis of the commissioners 1980 standard ordinary mortality table or at the election of the insurer for any one (1) or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors; shall for all policies of industrial insurance be calculated on the basis of the commissioners 1961 standard industrial mortality table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section for policies issued in that calendar year. Provided, however, that:

(a) At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this section, for policies issued in the immediately preceding calendar year.

(b) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by KRS 304.15-310, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(c) Any insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(d) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1980 extended term insurance table for policies of ordinary insurance and not more than the commissioners 1961 industrial extended term insurance table for policies of industrial insurance.

(e) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

(f) Any ordinary mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table.

(g) Any industrial mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table.

(9) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five percent (125%) of the calendar year statutory valuation interest rate for such policy as defined in KRS 304.6-130 to 304.6-180, inclusive to the nearer one quarter of one percent (¼ of 1%).

(10) Notwithstanding any other provision in this code to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

(11) Any insurer may file with the commissioner of a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1989, which shall be the effective date of this section for such insurer. If an insurer makes no such election, the effective date of this section for such insurer shall be January 1, 1989.

SECTION 5. A NEW SECTION OF KRS 304.15-310 to 304.15-350 IS CREATED TO READ AS FOLLOWS:

(1) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in KRS 304.15-310 to 304.15-340 and in Section 4 of this Act, then:

(a) The commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by KRS 304.15-310 to 304.15-360 herein;

(b) The commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds;

(c) The cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of KRS 304.15-310 to 304.15-360, as determined by regulations promulgated by the commissioner.

(d) Notwithstanding any other provision in the laws of this state, any policy, contract or certificate providing life insurance under any such plan must be affirmatively approved by the commissioner before it can be marketed, issued, delivered or used in this state.

Section 6. KRS 304.15-350 is amended to read as follows:

(1) Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in KRS 304.15-320 to 304.15-340 *and in Section 4 of this Act*, may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the *amounts* [~~dividends~~] used to provide such additions. Notwithstanding KRS 304.15-330, additional benefits payable:

(a) [~~Death or accident.~~] In the event of death or dismemberment by accident or accidental means;

(b) [~~Total disability.~~] In the event of total and permanent disability;

(c) [~~Reversionary annuity.~~] As reversionary annuity or deferred reversionary annuity benefits;

(d) [~~Term insurance benefits.~~] As term insurance benefits provided by a rider or supplemental policy provisions to which, if issued as a separate policy, KRS 304.15-310 to 304.15-360, inclusive, would not apply;

(e) [~~Child term insurance benefits.~~] As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six (26), and is uniform in amount after the child's age is one (1);

(f) [~~Other policy benefits.~~] As other policy benefits additional to life insurance and endowment benefits; and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by KRS 304.15-310 to 304.15-360, inclusive, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(2) Contrary provisions. Any condition or stipulation in the policy of insurance or elsewhere contrary to the provisions of KRS 304.15-310 to 304.15-360, and any waiver of such provisions by the insured, shall be void.

SECTION 7. A NEW SECTION OF KRS 304.15-350 to 304.15-360 IS CREATED TO READ AS FOLLOWS:

(1) This section, in addition to all other applicable sections of KRS 304.15-310 to 304.15-360, shall apply to all policies issued on or after January 1, 1986. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two-tenths of one percent (2/10 of 1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years, from the sum of the greater of zero and the basic cash value hereinafter specified and the present value of any existing paid-up additions less the amount of any indebtedness to the insurer under the policy.

(2) The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the insurer, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums which would have fallen due on and after such anniversary. Provided, however, that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in KRS 304.15-320, 304.15-340, or Section 4 of this Act is applicable, shall be the same as are the effects specified in KRS 304.15-320, 304.15-340, or Section 4 of this Act, whichever is applicable, on the cash surrender values defined in that section.

(3) The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in KRS 304.15-340 or Section 4 of this Act, whichever is applicable. Except as required in this subsection, such percentage:

(a) Must be the same percentage for each policy year between the second policy anniversary and the later of the fifth policy anniversary and the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting

any indebtedness, of at least two-tenths of one percent (2/10 of 1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and

(b) Must be such that no percentage after the later of the two (2) policy anniversaries specified in paragraph (a) of this subsection may apply to fewer than five (5) consecutive policy years. Provided, that no basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in KRS 304.15-340 or Section 4 of this Act, whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

(4) All adjusted premiums and present values referred to in this section shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other sections of KRS 304.15-310 to 304.15-360. The cash surrender values referred to in this section shall include any endowment benefits provided for by the policy.

(5) Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment, shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in KRS 304.15-310, 304.15-320, 304.15-330, Section 4 of this Act and 304.15-350. The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed as paragraphs (a) to (f) of KRS 304.15-350 shall conform with the principles of this section.

Section 8. KRS 304.15-360 is amended to read as follows:

KRS 304.15-310 to *Section 7 of this Act* [~~304.15-350~~], inclusive, shall not apply to any *of the following:*

(a) Reinsurance,

(b) Group insurance,

(c) Pure endowment,

(d) annuity or reversionary annuity contract, *except as provided in KRS 304.15-315,* [~~nor to any~~]

(e) Term policy of uniform amount, *which provides no guaranteed nonforfeiture or endowment benefits,* or renewal thereof, of *twenty (20)* [~~fifteen (15)~~] years or less expiring before age *seventy-one (71)* [~~sixty-six (66)~~] for which uniform premiums are payable during the entire term of the policy, [~~nor to any~~]

(f) Term policy of decreasing amount, *which provides no guaranteed nonforfeiture or endowment benefits,* on which each adjusted premium, calculated as specified in KRS 304.15-350 *and Section 7 of this Act,* is less than the adjusted premium so calculated, on *a* [~~such fifteen-year~~] term policy *of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits,* issued at the same age and for the same initial amount of insurance, *and for a term of twenty (20) years or less expiring before age seventy-one (71), for which uniform premiums are payable during the entire term of the policy;*

(g) Policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in KRS 304.15-320, 304.15-330, 304.15-340 and Section 4 of this Act, exceeds two and one-half percent (2 ½%) of the amount of insurance at the beginning of the same policy year; nor to any

(h) Policy which shall be delivered outside this state through an agent or other representative of the insurer issuing the policy.

For purposes of determining the applicability of this Act, the age at expiry for a joint term life insurance policy shall be at the age at expiry of the oldest life.

Section 9. KRS 304.6-140 is amended to read as follows:

(1) This subsection applies only to policies and contracts issued prior to January 1, 1948, or such earlier date after June 13, 1944, as shall have been elected by an insurer as the date on and after which it would comply with the standard nonforfeiture law. Except as otherwise provided in paragraph (b) of subsection 2 of this section, the minimum standard for the valuation of all such policies and contracts shall be that provided by the laws in effect immediately prior to such date, except that the minimum standard for the valuation of annuities and pure endowments purchased under group annuity and pure endowment contracts issued prior to such effective date shall be that provided by the laws in effect immediately prior to such date but replacing the interest rates specified in such laws by an interest rate of five percent (5%) per annum. Reserves for all such policies and contracts may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this subsection.

(2) This subsection applies only to policies and contracts issued on and after January 1, 1948, or such earlier date after June 13, 1944, as shall have been elected by an insurer as the date on and after which it would comply with the standard nonforfeiture law, except as otherwise provided in paragraph (b) of this subsection for group annuity and pure endowment contracts issued prior to such date.

(a) Except as otherwise provided in paragraph (b) of this subsection *and in Section 10 of this Act,* the minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation methods defined in KRS 304.6-150, 304.6-155, and 304.6-180, five percent (5%) interest for group annuity and pure endowment contracts, four percent (4%) interest for all other such policies and contracts issued prior to June 17, 1978, four and one-half percent (4-½%) interest for such policies and contracts, other than annuity and pure endowment contracts, issued on or after June 17, 1978, and the following tables:

1. Standard ordinary mortality table. For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, — the commissioners 1941 standard ordinary mortality table; Provided, however, That the commissioners 1958 standard ordinary mortality table shall be the table for such minimum standard for such policies issued on and after January 1, 1966, or such earlier date after June 16, 1960, as shall have been elected by an insurer as the date on and after which it would use such table as the basis for minimum cash surrender values and nonforfeiture benefits under the standard nonforfeiture law *and prior to the effective date of Section 4 of this Act*; provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in KRS 304.6-130 to 304.6-180, inclusive, may be calculated according to an age not more than six (6) years younger than the actual age of the insured*; and for such policies issued on or after the effective date of Section 4 of this Act the Commissioners 1980 Standard Ordinary Mortality Table, or at the election of the company for any one (1) or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.*

2. Standard industrial mortality table. For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, — the 1941 standard industrial mortality table; provided, however, that the commissioners 1961 standard industrial mortality table shall be the table for such minimum standard for such policies issued on and after January 1, 1968, or such earlier date after June 14, 1962, as shall have been elected by the insurer as the date on and after which it would use such table as the basis for minimum cash surrender values and nonforfeiture benefits under the standard nonforfeiture law *or any industrial mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.*

3. *Individual* [~~Standard~~] annuity mortality table or annuity mortality table. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies — the 1937 Standard Annuity Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner.

4. Group annuity mortality table. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies — the group annuity mortality table for 1951, any modification of such table approved by the commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

5. [~~Class (3)~~] Disability table. For total and permanent disability benefits in or supplementary to ordinary policies or contracts on active and disabled lives — for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit *or any tables of disablement rates and termination rates, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies*; for policies or contracts issued on or after January 1, 1961 and prior to January 1, 1966, either such tables or, at the option of the insurer, the class (3) disability table (1926), and for policies issued prior to January 1, 1961, the class (3) disability table (1926). In addition, any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

6. *Accidental death* [~~Inter-company double indemnity~~] mortality table. For accidental death benefits in or supplementary to policies — for policies issued on or after January 1, 1966, the 1959 accidental death benefits table *or any accidental death benefits table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies*; for policies issued on or after January 1, 1961 and prior to January 1, 1966, either such table or, at the option of the insurer, the inter-company double indemnity mortality table; and for policies issued prior to January 1, 1961, the inter-company double indemnity mortality table. *Any such* [~~Either~~] table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

7. Group life and other tables. For group life insurance, life insurance issued on the substandard basis and other special benefits — such tables as may be approved by the commissioner.

(b) *Except as provided in Section 10 of this Act,* the minimum standard for the valuation of all individual annuity and pure endowment contracts issued prior to January 1, 1979, excluding any disability and accidental death benefits in such contracts, shall be the commissioners reserve valuation methods defined in KRS 304.6-150 and 304.6-155, six percent (6%) interest for single premium immediate annuity contracts and four percent (4%) interest for all other contracts, and the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner.

The minimum standard for the valuation of all annuities and pure endowments purchased prior to January 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the commissioners reserve valuation methods defined in KRS 304.6-150 and 304.6-155, six percent (6%) interest, and the 1971 group *annuity* mortality table, or any modification of this table approved by the commissioner.

The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after January 1, 1979, excluding any disability and accidental death benefits in such contracts, shall be the commissioners reserve valuation methods defined in KRS 304.6-150 and 304.6-155, seven and one-half percent (7-½%) interest for single premium immediate annuity contracts, five and one-half percent (5-½%) interest for single premium deferred annuity and pure endowment contracts and four and one-half percent (4-½%) interest for all other individual annuity and pure endowment contracts, and the 1971 individual annuity mortality table, *or any individual annuity mortality table adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standards of valuation for such contracts,* or any modification of *these tables* [~~this table~~] approved by the commissioner.

The minimum standard for the valuation of all annuities and pure endowments purchased on or after January 1, 1979 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the commissioners reserve valuation methods defined in KRS 304.6-150 and 304.6-155, seven and one-half percent (7-½%) interest, and the 1971 group annuity mortality table, *or any group annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standards of valuation for such contracts,* or any modification of *these tables* [~~this table~~] approved by the commissioner.

The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after July 1, 1976, and prior to January 1, 1979, and of all annuities and pure endowments purchased on or after July 1, 1976, and prior to January 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the standard specified in this paragraph, or, at the option of the insurer with respect to any such contracts or purchases, the standard specified in paragraph (a) of this subsection.

SECTION 10. A NEW SECTION OF SUBTITLE 6 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The interest rates used in determining the minimum standard for the valuation of:

(a) All life insurance policies issued in a particular calendar year, on or after the effective date of Section 4 of this Act;

(b) All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1983;

(c) All annuities and pure endowments purchased in a particular calendar year on or after January 1, 1983 under group annuity and pure endowment contracts; and

(d) The net increase, if any, in a particular calendar year after January 1, 1983, in amounts held under guaranteed interest contracts shall be the calendar year statutory valuation interest rates as defined in this section.

(2) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one-quarter of one percent (¼ of 1%):

(a) For life insurance,

$I = .03 + W(R1 - .03) + W/2\,(R2 - .09);$

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$I = .03 + W(R - .03)$

where $R1$ is the lesser of R and .09,

$R2$ is the greater of R and .09,

R is the reference interest rate defined in this section,

and W is the weighting factor defined in this section,

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in paragraph (b) above, the formula for life insurance stated in paragraph (a) above shall apply to annuities and guaranteed interest contracts, with guarantee durations in excess of ten (10) years and the formula for single premium immediate annuities stated in paragraph (b) above shall apply to annuities and guaranteed interest contracts with guarantee duration of ten (10) years or less;

(d) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in paragraph (b) above shall apply;

(e) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in paragraph (b) above shall apply.

However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent (½ of 1%), the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of when Section 4 of this Act becomes effective.

(3) The weighting factors referred to in the formulas stated above are given in the following tables:

(a) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	*Weighting Factors*
10 or less	*.50*
More than 10, but not more than 20	*.45*
More than 20	*.35*

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

(b) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

.80

(c) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in (b) above, shall be as specified in tables 1., 2., and 3. below, according to the rules and definitions in 4., 5., and 6. below:

1. For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration	*Weighting Factor For Plan Type*		
(Years)	*A*	*B*	*C*
5 or less:	*.80*	*.60*	*.50*
More than 5, but not more than 10:	*.75*	*.60*	*.50*
More than 10, but not more than 20:	*.65*	*.50*	*.45*
More than 20:	*.45*	*.35*	*.35*

2. For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in 1. above increased by:

Plan Type		
A	*B*	*C*
.15	*.25*	*.05*

3. For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one (1) year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve (12) months beyond the valuation date, the factors shown in 1. or derived in 2. increased by:

Plan Type		
A	*B*	*C*
.05	*.05*	*.05*

4. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty (20) years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

5. Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer, or without such adjustment but in installments over five (5) years or more, or as an immediate life annuity, or no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer, or without such adjustment but in installments over five (5) years or more, or no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five (5) years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five (5) years either without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer, or subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

6. An insurer may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this section, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(4) The Reference Interest Rate referred to in subsection (2) of this section shall be defined as follows:

(a) For all life insurance, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (12) months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's Corporate Bond Yield Average Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in paragraph (b) above, with guarantee duration in excess of ten (10) years, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(d) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in paragraph (b) above, with guarantee duration of ten (10) years or less, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(e) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(f) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in paragraph (b) above, the average over a period of twelve (12) months, ending on June 30 of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(5) In the event that Moody's Corporate Bond Yield Average - Monthly Average Corporates is no longer published by Moody's Investors Service, Inc., or in the event that the National Association of Insurance Commissioners determines that Moody's Corporate Bond Yield Average - Monthly Average Corporates

as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by regulation promulgated by the commissioner, may be substituted.

Section 11. KRS 304.6-150 is amended to read as follows:

(1) Except as otherwise provided in KRS 304.6-155 and 304.6-180, reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (a) over (b), as follows:

(a) Net level annual premium. A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due. Such net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one (1) year higher than the age at issue of such policy.

(b) Net one-year term premium. A net one-year term premium for such benefits provided for in the first policy year.

Provided that for any life insurance policy issued on or after January 1, 1986 for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in KRS 304.6-180, be the greater of the reserve as of such policy anniversary calculated as described in the preceding subsection and the reserve as of such policy anniversary calculated as described in that subsection, but with the value defined in paragraph (a) of that subsection being reduced by fifteen percent (15%) of the amount of such excess first year premium, all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, the policy being assumed to mature on such date as an endowment, and the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in KRS 304.6-140 and Section 10 of this Act shall be used.

(2) Reserves according to the commissioners reserve valuation method for:

(a) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums,

(b) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employe organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended,

(c) Disability and accidental death benefits in all policies and contracts, and

(d) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the provisions of this section, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

Section 12. KRS 304.6-160 is amended to read as follows:

In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, which are subject to subsection (2) of KRS 304.6-140, be less than the aggregate reserves calculated in accordance with the methods set forth in KRS 304.6-150, 304.6-155, [~~and~~] 304.6-180 *and Section 14 of this Act*, and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

Section 13. KRS 304.6-180 is amended to read as follows:

If in any contract year the gross premium charged by any life insurer on any policy or contract, which is subject to subsection (2) of KRS 304.6-140, is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon, but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. *The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in KRS 304.6-140 and Section 10 of this Act. Provided that for any life insurance policy issued on or after January 1, 1986 for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this section shall be applied as if the method actually used in calculating the reserve for such policy were the method described in KRS 304.6-150, ignoring the second subsection of that section. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with KRS 304.6-150, including the second subsection of that section, and the minimum reserve calculated in accordance with this section.*

SECTION 14. A NEW SECTION OF SUBSECTION 15 OF CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in KRS 304.6-150, 304.6-155 and 304.6-180, the reserves which are held under any such plan must:

(1) Be appropriate in relation to the benefits and the pattern of premiums for that plan; and

(2) Be computed by a method which is consistent with the principles of this standard valuation law; as determined by regulations promulgated by the commissioner.

The Committee on Education reported **HB 232,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 232, AN ACT relating to the University of Kentucky and the University of Louisville's athletic programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The University of Kentucky and the University of Louisville shall contract for an annual contest between those two universities' varsity basketball and football teams. The annual contest shall be an exhibition or regular season game and the site of the game shall alternate between those two universities' athletic facilities.

(2) A seventeen (17) member committee is hereby established to assist the University of Kentucky and the University of Louisville in negotiating a contract for the initial contest and in planning ancillary festivities.

(3) The membership of the committee shall consist of:

(a) The head coaches, presidents and athletic directors of the two universities or their designees;

(b) Three (3) members of the Senate appointed by the President Pro Tempore;

(c) Three (3) members of the House of Representatives appointed by the Speaker; and

(d) Three (3) at-large members appointed by the Governor.

(4) The committee shall elect a chairman at its first meeting, which shall be no later than thirty (30) days after appointment of the members.

Section 2. There is appropriated to the committee out of the General Fund in the State Treasury the sum of fifty thousand dollars ($50,000) for the promotion and expenses of organizing the contest and festivities. The appropriation is to be repaid to the General Fund from the proceeds of the contest and festivities. Any proceed above the appropriation shall be equally divided between the universities, deposited into the General Fund and credited to those universities general accounts. It is the intent of the General Assembly that the subsequent contests and festivities be self-supporting and any profits from those events go to the universities to fund their educational missions.

Committee Substitute to **HB 232:**

HB 232, AN ACT relating to the University of Kentucky and the University of Louisville's athletic programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The University of Kentucky and the University of Louisville shall contract for an annual contest between those two universities' varsity basketball and football teams. The annual contest shall be an exhibition or regular season game and the site of the game shall alternate between those two universities' athletic facilities.

(2) A seventeen (17) member committee is hereby established to assist the University of Kentucky and the University of Louisville in negotiating a contract for the initial contest and in planning ancillary festivities.

(3) The membership of the committee shall consist of:

(a) The head coaches, presidents and athletic directors of the two universities or their designees;

(b) Three (3) members of the Senate appointed by the President Pro Tempore;

(c) Three (3) members of the House of Representatives appointed by the Speaker; and

(d) Three (3) at-large members appointed by the Governor.

(4) The committee shall elect a chairman at its first meeting, which shall be no later than thirty (30) days after appointment of the members.

(5) The secretary of the department of commerce shall provide staff to assist the committee.

Calendar

HB 176, HB 264, HB 598, HB 632, HB 706, HB 745, HCR 46, HR 49, HB 483, HB 538, HB 693, HB 697, HCR 47, SB 52, SB 202, HB 686, SB 151, SB 159, HB 320, HB 381, HB 465, HB 678, SB 2, SB 137, HB 537, HB 636, HB 820, HJR 54, SB 33, HB 90, HB 144, HB 277, HB 289, HB 756, SB 180, SB 278, SB 191, HB 279, HB 677, HB 267, HB 513 and **HB 429** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative LeMaster moved that the House recess for one hour. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

Speaker Pro Tempore Thomason presiding.

Orders of the Day

HR 42 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Guenthner moved the adoption of **HR 42.**

HR 42 was adopted by voice vote.

Representative Guenthner moved that a call of the roll be taken to show co-sponsors of **HR 42.** Agreed.

The following members requested that their names be added as co-sponsors of **HR 42:** Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell,

Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates.

Representative Guenthner moved that the vote by which **HR 42** was adopted be reconsidered and said motion be on the table. Agreed.

Senate Message

Announcing passage of **SB 279** and **SB 223.**

Orders of the Day (continued)

Speaker Richardson presiding.

HB 562, with Committee Amendments attached thereto,taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Harper moved the adoption of the Committee Amendment No. 1 to **HB 562.** Agreed.

Representative Harper moved the adoption of the Committee Amendment No. 2 to **HB 562.** Agreed.

Representative Harper moved that **HB 562,** as amended, be passed.

On the roll call the vote was yeas 77-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Kidd, Layman, LeMaster, Little, Long, Lundergan, Maggard, Moberly, Moore, Morris, Nett, Noe, Noland, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 5-Gray, Mann, McNutt, Meyer, Seum.

HB 562, as amended, was passed and the title agreed to.

Representative Harper moved that the vote by which **HB 562,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 565, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kenton moved the adoption of the Committee Substitute to **HB 565.** Agreed.

Representative Kenton moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 565.** Agreed.

Representative Kenton moved that **HB 565,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 84-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, T. Jones, Kenton, Kidd, Layman, LeMaster, List, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 2-Barrows, Moberly.

HB 565, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Kenton moved that the vote by which **HB 565,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 206, with Committee Substitutes attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of the Second Committee Substitute to **HB 206.** Agreed.

Representative Noe moved that **HB 206,** by way of Commiteee Substitute, be passed.

On the roll call the vote was yeas 92-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 206, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 206,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 525, with Committee Substitute, Committee Title Amendment, and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved the adoption of the Committee Substitute to **HB 525.** Agreed.

Representative Priddy moved that **HB 525,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 525, by way of Committee Substitute, was passed.

Representative Priddy moved the adoption of the Committee Title Amendment to the Committee Substitute to **HB 525.** Agreed.

Representative Priddy moved that the vote by which **HB 525,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 623, with Floor Amendment attachted thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved the adoption of the Floor Amendment No. 1 to **HB 623.** Agreed.

Speaker Pro Tempore Thomason presiding.

Representative Farrow moved that **HB 623,** as amended, be passed.

On the roll call the vote was yeas 85-Allen, Arnold, Bendl, Blandford, Blevins, Boswell, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Guenthner, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, R. Jones, Kenton, Kidd, Layman, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, White, Williams, Worthington, Yates. Nays 6-Bennett, Clark, Cyrus, Gray, Heleringer, Van Horn.

HB 623, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 623,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 469, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Amendment No. 1 to **HB 469.** Agreed.

Representative LeMaster moved the adoption of the Floor Amendment No. 1 to **HB 469.** Agreed.

Representative LeMaster moved that **HB 469,** as amended, be passed.

On the roll call the vote was yeas 71-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Dunn, Endicott, Farrow, Foster, Freibert, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, R. JOnes, T. Jones, Kidd, LeMaster, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, Richards, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Tobin, Van Horn, White, Williams, Worthington, Yates. Nays 6-Allen, Brown, Haering, Patrick, Schmidt, Thomason.

HB 469, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 469,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 311, with Committee Amendments and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved the adoption of the Committee Amendment No. 1 to **HB 311.** Agreed.

Representative Pearman moved the adoption of the Committee Amendment No. 2 to **HB 311.** Agreed.

Representative Boswell moved the adoption of Floor Amendment No. 1 to **HB 311.** Agreed.

Representative Pearman moved that **HB 311,** as amended, be passed.

On the roll call the vote was yeas 56-Barrows, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Burch, Caldwell, Cowan, Craddock, Crupper, Curd, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Guenthner, Haering, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, Kidd, LeMaster, List, Long, Lundergan, McNutt, Meyer, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Petty, Rapier, Richards, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Todd, Turner. Nays 18-Bennett, Brown, Clark, Cyrus, Dawahare, Deskins, Gray, Heleringer, Little, Maggard, Moberly, Moore, Perkins, Priddy, Van Horn, White, Worthington, Yates.

HB 311, as amended, was passed and the title ageed to.

Representative Pearman moved that the vote by which **HB 311,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 532, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Amendment No. 1 to **HB 532.** Agreed.

Representative LeMaster moved that **HB 532,** as amended, be passed.

On the roll call the vote was yeas 79-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Gray, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holloway, R. Jones, Kidd, Layman, LeMaster, List, Little, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, F. Smith, Stone, Thomason, Tobin, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 532, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 532,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 50 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 50** be passed.

On the roll call the vote was yeas 85-Allen, Arnold, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, List, Little, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Barrows, Bendl.

HB 50 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 50** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 146, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McNutt moved the adoption of the Committee Amendment No. 1 to **HB 146.** Agreed.

Representative McNutt moved that **HB 146,** as amended, be passed.

On the roll call the vote was yeas 73-Arnold, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, Clarke, Cowan, Craddock, Crupper, Curd, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Freibert, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kidd, Layman, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Williams, Worthington. Nays 7-Allen, Bennett, Clark, Cyrus, Gray, Van Horn, Yates.

HB 146, as amended, was passed and the title agreed to.

Representative McNutt moved that the vote by which **HB 146,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 210 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 210** be passed.

On the roll call the vote was yeas 88-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 1-Donnermeyer.

HB 210 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 210** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 489 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cowan moved that **HB 489** be passed.

On the roll call the vote was yeas 69-Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cowan, Craddock, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Haering, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, Layman, List, Little, Long, Maggard, McBee, McNutt, Meyer, Morris, Nett, Noland, O'Brien, Patrick, Pearman, Rattliff, Richards, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomason, Tobin, Todd, Van Horn, White, Worthington, Yates. Nays 8-Barrows, Crupper, Deskins, T. Jones, Moberly, Perkins, Stumbo, Williams.

HB 489 was passed and the title agreed to.

Representative Cowan moved that the vote by which **HB 489** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions.

Floor Amendment No. 3 to **HB 559,** by Representative Caldwell:

Amend printed copy of **HB 559,** page 15, line 26, by inserting after "Section 14." the following: "KRS 147.660 is amended to read as follows:

(1) The area planning commission created hereunder, when accepted by the cities and counties affected as provided for herein, shall then be a political subdivision and shall be in perpetual existence, with power to sue and be sued, contracted and be contracted with, incur liabilities and obligations, levy an annual tax, which shall not exceed more than *one cent (1¢)* [~~five cents (5¢)~~] upon each one hundred dollars ($100) of the assessed valuation of property within the counties affected, to be used for the purpose of defraying all expenses necessary and incidental to carry out the continuing activities of the area planning commission. This tax shall be certified to the auditors and county clerks of the various counties and by them to the respective treasurers of the counties, signature to the contract provided for in KRS 147.620. The tax shall be based upon the last preceding assessment for state and county purposes. Its collection shall be imposed upon all property within the counties participating and shall conform to the collection of taxes for counties and the same provisions concerning the nonpayment of taxes shall apply. The tax shall be added by the county clerk to the next state and county tax bill following the levy of the tax by the area planning commission, and shall be collected concurrently with state and county taxes. The sheriff shall be allowed a fee not to exceed four per cent (4%) for collection.

(2) In the performance of its duties, the area planning commission may cooperate with, contract with, or accept funds from federal, state, or local public or semipublic agencies, or private individuals or corporations within or without the commonwealth, may expend such funds and may carry out such cooperative undertakings and contracts.

Section 15.".

Floor Amendment No. 1 to **HB 648,** by Representative LeMaster:

Amend printed copy of **HB 648,** page 10, line 21, by adding the following new section:

"SECTION 10. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) If any other section of this Act is declared unconstitutional, any other statute to the contrary notwithstanding, no block grant money received from the United States government shall be spent or allocated unless appropriated by the general assembly in regular or special session.

(2) This section shall supersede all statutes other than this Act and all appropriation acts with respect to the expenditure of federal block grant funds and any statute in conflict herewith is repealed to the extent of the conflict."

Floor Amendment No. 1 to **HB 658,** by Representative LeMaster:

Amend printed copy of **HB 658,** page 3, line 6, by deleting the word "*insurer*" and substituting in lieu thereof the word "*issuer*";

and on page 5, line 24, by deleting the "*is*" on the word "*commissioners*";

and on line 24, by deleting the word "*the*" and substituting in lieu thereof the word "*this*".

Floor Amendment NO. 1 to **HB 753,** by Representative Richards:

Amend printed copy of **HB 753,** page 1, line 12, by placing a period after the word "representatives" and adding the following:

"*Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the governor.*"

Floor Amendment No. 2 to Second Committee Substitute to **HB 141,** by Representative Allen:

Amend printed copy of first Committee Substitute to **HB 141,** page 1, line 1, by inserting an opening bracket "[" before "KRS 64.012" and by striking through all the language after the opening bracket; and on page 1, lines 2 through 20, by striking through lines 2 through 20; and on page 2, lines 1 through 26, by striking through lines 1 through 26; and on page 3, lines 1 through 8, by striking through all of lines 1 through 8; and on page 3, line 9, by deleting "14.00" and the brackets, and by striking through the remaining language on line 9; and on page 3, lines 10 through 26, by striking through all of lines 10 through 26; and on page 4, lines 1 through 26, by striking through lines 1 through 26; and on page 5, lines 1 through 26, by striking through lines 1 through twenty-six and on page 6, lines 1 through 17, by striking through lines 1 through 17 and by inserting a closing bracket "]" after "2.00"; and on page 6, lines 18 through 26, by deleting lines 18 through 26; and on page 7, lines 1 through 4, by deleting lines 1 through 4; and on page 1, line 1, by inserting after "Section 1." the following:

"KRS 23A.200 is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70), *except for filing a petition for dissolution, anulment of marriage or for legal separation, for which the filing fee shall be eighty dollars ($80.00)*; however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202A, 202B and 203. The filing fee shall be paid to the clerk at the time the case is filed.

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a)	Filing a third-party complaint	$10.00
(b)	Preparing a certification	1.00
(c)	Providing a copy of a document (per page)	.25
(d)	Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e)	Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk at the disposition of the action by the party against whom the costs have been assessed as follows:

(a)	For a jury of more than six (6) persons	$25.00
(b)	For a jury of six (6) persons	12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

(a)	Service of process (per process)	$ 3.00

(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

Section 2. KRS 23A.200, 1980 Acts Chapter 396, Section 30, effective July 1, 1982, is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70), *except for filing a petition for dissolution of marriage, annulment or for legal separation, for which the filing fee shall be*

eighty dollars ($80); however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202A, 202B and 387. The filing fee shall be paid to the clerk at the time the case is filed.

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a)	Filing a third-party complaint	$10.00
(b)	Preparing a certification	1.00
(c)	Providing a copy of a document (per page)	.25
(d)	Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e)	Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk at the disposition of the action by the party against whom the costs have been assessed as follows:

(a)	For a jury of more than six (6) persons	$25.00
(b)	For a jury of six (6) persons	12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

(a)	Service of process (per process)	$ 3.00

(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 209 iS CREATED TO READ AS FOLLOWS:

There is hereby created a trust and agency account in the state treasury to be known as the spouse abuse shelter fund. The administrative office of the courts or its designee shall remit to the fund ten dollars ($10.00) from the fee collected by the circuit clerks for filing a petition for dissolution of marriage or for legal separation. The fund shall be administered by the department. The department shall use the funds for the purpose of providing protective shelter services for spouse abuse victims.".

Floor Amendment No. 1 to **HB 493,** by Representative Clarke:

Amend printed copy of **HB 493** on page 1, line 5, after "buildings" insert the following:

"*Including office space related and subordinate to any of the facilities enumerated below*"

On page 3, line 24, after "industrial"; by placing the bracket before "or" and strike through same.

And, on page 4, line 10, before the bracket insert *(11)* and delete the brackets and strike through on lines 10, 11, 12, 13, and 14.

And on line 19 delete "thirty (30) and insert in lieu thereof *four (4)* and after line 19 insert:

(13) Any activity, designed for the preservation of commercial or residential buildings which are on the national register of historic places or within an area designated as a national historic district or approved by the Kentucky heritage commission.

(14) Any activity, including new contruction, designed for revitalization or redevelopment of downtown business districts as designated by the issuer.

Section 2. Any bond issue approved by the industrial revenue bond oversight committee prior to July 15, 1982, shall be unaffected by this act.

And on line 20 after the word Section, delete 2 and insert in lieu *3*.

Floor Amendment No. 2 to **HB 493,** by Representative Boswell:

Amend printed copy of **HB 493** page 4, line 15, renumber Section "(11)" as Section "(12)";

Page 4, line 20, by deleting after "KRS" all of lines 20, 21, and 22 and inserting in lieu thereof "103.2101 is amended to read as follows:

(1) The industrial revenue bond oversight committee is hereby established and shall consist of eight (8) members, who shall be appointed as follows for a term of four (4) years:

(a) One (1) member shall be a member of the house of representatives, appointed by the speaker of the house of representatives;

(b) One (1) member shall be a senator, appointed by the president pro tempore of the senate;

(c) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky association of counties;

(d) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky municipal league;

(e) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky chamber of commerce;

(f) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky AFL-CIO;

(g) One (1) member shall be a citizen at large who is not associated with or financially interested in the business regulated;

(h) The secretary of the development cabinet, or his designee, shall be a member of the committee.

(2) The industrial revenue bond oversight committee is attached to the development cabinet for administrative and support purposes.

(3) The committee shall adopt a monthly meeting schedule and shall meet at least monthly and a majority of the members of the committee shall constitute a quorum.

(4) It shall be the duty of the committee to review only those projects authorized by subsections *(11), (12), (13) and (14)* [~~(2), (4), (8), (9) and (16)~~] of KRS 103.200, and only off-street parking facilities, cable television and mass communication facilities as authorized by KRS 103.200(3), whether by cities, counties, urban county governments, air boards, riverport authorities, or the Kentucky industrial development finance authority. Such review shall include, but need not be limited to, the following:

(a) The economic need for the project in the area.

(b) Whether the project places an unjustified competitive disadvantage on existing business in the area.

(c) If normal commercial financing is unavailable for this project or if available at what rates it must be secured and under what terms and conditions.

(d) If the project is in accord with the intent of KRS 103.200 to 103.285, this section, and KRS 103.2451.

(e) The project's economic soundness.

(5) If the committee finds that the project does not meet all of the above listed criteria it shall deny approval of the project until the objections thereto have been met.

(6) Members of the committee shall receive seventy-five dollars ($75.00) per diem and their actual and necessary expenses incurred in the performance of their duties.

(7) The committee may require the submission of testimony, project data, or any other information deemed appropriate with regard to any project submitted to it for approval.

(8) The committee, within fourteen (14) days of receiving application, shall notify the agency or unit of government proposing the issuance of bonds and the developers of the project of the date on which the project will be considered by the committee at a public hearing. Any person may attend the hearing and may personally, or through counsel, address the committee with regard to the project and make recommendations to the committee thereon. Notice shall be given to the agency or unit of government proposing to issue the bonds and the developers of the project not less than forty-five (45) days before the date the committee has set for the hearing on the project. The agency or unit of government proposing the issuance of the bonds shall, not less than thirty (30) days before the date of the hearing, publish notice of the hearing in the manner required by KRS Chapter 424. The agency or unit of government proposing the issuance of the bonds shall require the developer of the project (if it is other than the agency or unit of government) to reimburse the agency or unit of government for the cost of the advertising required herein.

(9) The committee shall have the right to approve or disapprove any project submitted to it, and over which it has jurisdiction as described in subsection (4) of this section, and no bonds or other evidence of indebtedness for any such project shall be issued until such project has been approved by the committee."

Floor Amendment No. 1 to **HB 503,** by Representative Heleringer:

Amend printed copy of **HB 503,** page 19, between lines 24 and 25, insert the following:

SECTION 17. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

"In the event that a judge of a district or circuit court or the Court of Appeals, or a justice of the Supreme Court is indicted for a felony, the judicial retirement and removal commission shall immediately remove him from office, without pay, and the Supreme Court shall appoint someone to serve in his stead until he is exonerated or convicted. In the event of exoneration, the judge or justice shall be reistated and paid all the back pay together with the legal rate of interest thereon."

And on page 19, line 25, delete "17" and insert in lieu thereof "18";

And on page 20, line 2, delete "18" and insert in lieu thereof "19".
Floor Amendment No. 4 to **HB 559,** by Representative Donnermeyer:

Amend printed copy of **HB 559,** on page 3, line 1, following "*dissolved*", by deleting: "*as*"; and on page 3, line 2, by deleting all of line 2, and by inserting in lieu thereof the following: "*or altered in accordance with subsections (3), (4), or (5) of this section.*

(3) An area planning commission may be altered or dissolved by the fiscal court, as follows:

(a) Upon receipt of a petition and following a public hearing as provided herein, the fiscal court may alter the boundaries of an area planning commission by reducing its area, or may dissolve an area planning commission if that commission has for a period of two (2) consecutive years failed to provide the services for which it was established, or if all or a portion of such services have been provided by some other entity. The fiscal court of each member county of an area planning commission must vote to dissolve the commission before such dissolution may take effect.

(b) Upon receipt of a petition signed by at least twenty-five percent (25%) of the number of registered voters who voted in the last presidential election, the fiscal court shall schedule a public hearing on the matter of alteration or dissolution and advertise such hearing as provided in KRS 424.130.

(c) The petition shall be in substantially the following form: "The undersigned registered voters as determined by subsection (3)(b) of this section living within the area planning commission territory and containing a description of the territory, hereby request that the fiscal court consider the alteration or dissolution of the area planning commission pursuant to this section." The petition shall conspicuously state in laymen's terms that any legal obligations of the commission must be satisfied before the commission can be dissolved and that the citizens residing within the area planning commission territory shall be responsible for the satisfaction of any obligations. Signatures on the petition shall be dated, the last no later than ninety (90) days after the first.

(d) At the hearing, the burden of proving that the commission is providing or taking substantial steps toward providing the services for which it was created, or that no other entity is providing the service, shall be upon the commissison. In determining whether to alter, dissolve or to take no action in regard to the commission, the fiscal court shall consider testimony offered at the hearing and any other relevant information including but not limited to the following:

(1) Present and projected need for the service provided by the commission;

(2) Population density of the commission;

(3) Existence of alternate providers of services;

(4) Revenue base of the commission such as assessed valuation and bonding capacity; and

(5) Consequences of alteration of the commission's boundaries on the effectiveness and efficiency of the commission.

(c) Within sixty (60) days following the hearing, the fiscal court shall set forth its written findings of fact in approving or disapproving the alteration or dissolution of the commission.

(1) If the fiscal court determines to dissolve the commission, it shall determine a method to satisfy any legal obligations of the commission which might be effected thereby. Upon satisfaction of its legal obligations, the commission shall be legally dissolved; any special ad valorem tax imposed by the commission shall be removed from the tax rolls by the county clerk; and any assets of the commission shall be assumed by the county.

(2) If the fiscal court determines to alter the boundaries of the commission, it shall draw the new boundaries of the commission and determine the proportional amount of existing legal obligations of the area which is to be excluded from the commission. Upon the satisfaction of such obligations, the new boundaries of the commission shall be legally effected and any affected taxpayer shall be removed from the tax rolls of the commission.

(f) If the final decision of the fiscal court or the circuit court, in the case of an appeal as provided for herein, is against the alternation or dissolution of the commission, no attempt to alter or dissolve the commission pursuant to this section shall be made within three (3) years of the decision.

(g) Any petitioner or member of the commission may, within thirty (30) days of the fiscal court's decision, appeal in adverse findings of the fiscal court to the circuit court in the county containing the greather part of the commission. The circuit court shall review the decision of the fiscal court but shall reverse the decision only if such decision is found to be arbitrary or capricious. If the circuit court reverses the decision of the fiscal court by ordering the alteration or dissolution of the commission, it shall direct the fiscal court to determine, as provided in subsection (3)(e) of this section, a method for satisfying any legal obligations of the commission which might be affected thereby.

(4) An area planning commission may be dissolved by a referendum as follows:

(a) Persons seeking dissolution of the commission shall submit a petition to the county clerk signed by at least twenty-five percent (25%) of the number of registered voters who voted in the last presidential election.

(b) The petition shall be in substantially the following form:

"The undersigned registered voters as determined by subsection (4)(a) of this section, living within the area planning commission territory and containing a description of the territory, hereby request that the question of the dissolution of the commission be put to a referendum." The petition shall conspicuously state in laymen's terms that any legal obligations of the commission must be satisfied before the commission can be dissolved and that citizens residing within the area planning commission territory shall be responsibile for the satisfaction of any such obligations. Signatures on the petition shall be dated, the last no later than ninety (90) days after the first.

(c) If the county clerk determines that the petition is in proper order, he shall certify the petition to the fiscal court. The fiscal court shall direct that the question be placed on the ballot at the next regular election held more than sixty (60) days from the certification of the petition. The fiscal court shall bear the costs of advertising and placing the question on the ballot.

(d) The county clerk shall advertise the question as provided in KRS Chapter 424 and shall prepare the question for the ballot. The ballot shall contain the following admonition to the voter: "The (name of the area planning commission) may have existing legal obligations which must be satisfied before the commission can be dissolved. The citizens residing within the area planning commission territory shall be responsible for the satisfaction of any obligations." The question of the dissolution of the commission shall be placed on the ballot in substantially the following form: "The (name of the area planning commission and containing a description of the commission's territory) should be dissolved." The voter shall vote "yes" or "no".

(e) All registered voters shall be eligible to vote on the question of dissolution.

(f) In referendums under this section, provision shall be made for those opposing the dissolution of the commission to have equal representation with the proponents of the measure in the determination of eligibility of voters, and in the observance of canvassing and certifying of the returns.

(g) If a majority of those voting in the referendum as provided for herein, favor the dissolution of the commission, the commission shall, upon satisfaction of its legal obligations, be dissolved by the order of the fiscal court, any special ad valorem tax imposed by the commission shall be removed from the tax rolls by the county clerk and any assets of the commission shall be assumed by the county.

(h) If a majority of those voting in the referendum oppose the dissolution of the commission, no attempt to dissolve the commission pursuant to this section shall be made within five (5) years of the election.

(i) Each member county of an area planning commission must follow the procedures defined herein, before such dissolution may take effect.

(j) Any member county of an area planning commission may withdraw its membership after following the procedures defined herein. The commission shall continue to function after such withdrawals, with its boundaries consisting of the remaining county members. No county may withdraw from any commission unless it satisfies its part of all contractual obligations assumed by the commission prior to the passage of its resolution.

(5) Nothing contained herein shall be construed as prohibiting any county, which is included in the territory of an area planning commission, from withdrawing that county's membership in an area planning commission, provided that the procedures for effectuating such withdrawal shall be in accordance with either subsection (3) or subsection (4) of this section."; and on page 15, line 16, by deleting lines 16 through 25 in their entirety.

Floor Amendment No. 2 to Committee Substitute to **HB 594,** by Representative Brinkley:

Amend printed copy of Committee Substitute to **HB 594,** page 6, line 17, by inserting after the word "*payable*" and before the punctuation ".", *the following:*

, except as provided for in subsection (8) of this section

Page 9, following line 1, by adding the following:

(8)(a) The credit provided for in subsection (1) of this section shall not apply to gasoline-alcohol blend delivered to storage facilities of persons qualifying, under the provisions KRS 138.341, KRS 138.344, 138.445, and 138.662, for a refund of the tax paid pursuant to the provisions of KRS 138.210 to 138.340.

(b) Notwithstanding the provisions of subsection (4) of this section, the department of revenue may require the dealer to report such information as is necessary to administer the provisions of this subsection.

(9)(a) Refunds due under the provisions of KRS 138.341, 138.344, 138.445, and 138.662 for tax paid pursuant to the provisions of KRS 138.210 to 138.340 on gasoline-alcohol blend dispensed from storage facilities serving both persons qualifying and not qualifying for the refund due, shall be reduced by the amount of the credit provided for in subsection (1) of this section.

(b) Notwithstanding the provisions of any other section to the contrary, the department of revenue may require persons applying for a refund under the provisons of KRS 138.341, 138.344, 138.445 and 138.662 to furnish the department such information as is necessary to administer the provisions of this subsection.

Floor Amendment No. 2 to Committee Substitute to **HB 611,** by Representative Thomason:

Amend printed copy of Committee Substitute to **HB 611,** page 1, line 10, after the word "*station.*" by adding the following:

"*Any commercial station whose studio and tower are located in the Commonwealth of Kentucky shall be considered a Kentucky commercial station for the purposes of this Act.*"

Floor Amendment No. 3 to the Second Committee Substitute to **HB 141,** by Representative Allen:

Amend printed copy of Second Committee Substitute to **HB 141,** on page 1, line 1, by deleting everything after "Section 1.";

And on page 1, lines 2 through 21, by deleting all of lines 2 through 21;

And on page 2, by deleting all of page 2;

And on page 3, by deleting all of page 3;

And on page 4, by deleting al lof page 4;

And on page 5, by deleting al lof page 5;

And on page 6, by deleting al of page 6;

And on page 7, by deleting all of page 7;

And on page 1, line 1, by inserting after "Section 1." the following:

"KRS 23A.200 is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70), *except for filing a petition for dissolution, annulment of marriage or for legal separation for which the filing fee shall be eighty dollars ($80.00)*; however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202A, 202B and 203. The filing fee shall be paid to the clerk at the time the case is filed.

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a)	Filing a third-party complaint	$10.00
(b)	Preparing a certification	1.00
(c)	Providing a copy of a document (per page)	.25
(d)	Issuing orders of attachment; executions; writ of possession after judgment	10.00

(e) Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk at the disposition of the action by the party against whom the costs have been assessed as follows:

(a) For a jury of more than six (6) persons	$25.00
(b) For a jury of six (6) persons	12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

(a) Service of process (per process)	$ 3.00

(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

Section 2. KRS 23A.200, 1980 Acts Chapter 396, Section 30, effective July 1, 1982, is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70), *except for filing a petition for dissolution of marriage, annulment or for legal separation, for which the filing fee shall be eighty dollars ($80)*; however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202A, 202B and 387. The filing fee shall be paid to the clerk at the time the case is filed.

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	1.00
(c) Providing a copy of a document (per page)	.25
(d) Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e) Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk at the disposition of the action by the party against whom the costs have been assessed as follows:

(a) For a jury of more than six (6) persons	$25.00
(b) For a jury of six (6) persons	12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

(a) Service of process (per process)	$ 3.00

(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

There is hereby created a trust and agency account in the state treasury to be known as the spouse abuse shelter fund. The administrative office of the courts or its designee shall remit to the fund ten dollars ($10.00) from the fee collected by the circuit clerks for filing a petition for dissolution of marriage or for legal separation. The fund shall be administered by the department. The department shall use the funds for the purpose of providing protective shelter services for spouse abuse victims."

Floor Amendment No. 1 to **HB 269,** by Representative Cowan:

Amend printed copy of **HB 269,** page 1, line 15, by deleting the word "*and*";

Line 16, by deleting the punctuation point, ".", and inserting in its place a semicolon "*;*";

Line 16, by inserting after the semicolon the word "*and*";

After line 16, by inserting the following:

(f) cause of the fire, if known, or the suspected cause of the fire.;

And renumbering subsequent lines to conform.

Floor Amendment No. 1 to **HB 572,** by Representative Harper:

Amend printed copy of **HB 572,** page 2, line 19, following "*construction*" insert the words "*and purchase*"; and following "*new*" insert the words "*and existing*".

Floor Amendment No. 1 to **HJR 54,** by Representative Mann:

Amend printed copy of **HJR 54,** on page 1, line 2, by striking lines 2 through 11 in their entirety and by adding the following: "shall direct the interim committee with jurisdiction over hazardous waste to create a subcommittee to study the problems of hazardous waste facility siting in Kentucky. The subcommittee is directed to:"; and

On page 2, by striking lines 1 through 3 in their entirety; and

On page 2, line 23, by striking the number "3" and by inserting in its place "2"; and

On page 3, line 1, by striking the word "Commission" and by inserting in its place "subcommittee"; and

On page 3, line 4, by striking "4. That the Commission report its findings" and by adding after the word "Section" the following : "3. That the findings and recommendations of the subcommittee be reported"; and

On page 3, line 5, by striking "and recommendations"; and

On page 3, line 6, by striking "December 1, 1982" and by adding in its place "September 1, 1983"; and

On page 3, line 7, by deleting lines 7 through 17 in their entirely and by adding the following: "Section 4. It is estimated that Legislative Research Commission staff services will cost approximately $8,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission."

Floor Amendment No. 1 to Committee Substitute to **SB 190,** by Representative McBee:

Amend printed copy of Committee Substitute to **SB 190** on page 5, line 7, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

As used in this section:

(1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed to use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength; effectiveness or purity of controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrocholoride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(k) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which

mean objects used to hold burning material, such as marijuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoons, and cocainevials; chamber pipes; carburetor pipes; electric pipes; air driven pipes; chillums; bongs; ice pipes or chillers.

(2) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia for the purpose of planting, propagating, cultiviating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.

(3) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, proces, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

Section 5. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug, except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell marijuana shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(5) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I or II which is a narcotic drug shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more

than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(6) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug, except marijuana, or of any controlled substance classified in schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary for human resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary for human resources or his designee prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary for human resources or his designee shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the department for human resources unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (6) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary for human resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the department to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the department is insufficient to spare one from his regular duties or if no such service may be purchased at regular departmental rates, in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(7) Any person who knowingly and unlawfully possesses for his own use or transfers marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (7) above may be ordered to a facility designated by the secretary for human resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250) or both. Upon discharge of the person from the facility by the secretary for human resources or his designee prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary for human resources or his designee shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the department for human resources unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(8) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(9) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(10) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(11) Any person who violates any provision of Section 4(2), (3) or (4) of this Act shall be guilty of a class A misdemeanor."

Floor Amendment No. 4 to **HB 345,** by Representative B. Smith.

Amend printed copy of **HB 345,** page 10, by inserting the following between lines 7 and 8:

"*Energy and agriculture cabinet. Department of agriculture (headed by elected officer).*"; and

On page 10, between lines 14 and 15, by inserting the following:

"*7. State fair board.*

8. Kentucky council on agriculture.

9. Kentucky tobacco research board."

And, on page 10, by bracketing and striking through lines 16 and 17 in their entirety; and,

On page 10, line 18, by bracketing and striking through "7." and by placing "*10.*" in front of "7."; and

On page 10, line 21, by bracketing and striking through "8." and by placing "*11.*" in front of "8."; and

On page 10, line 23, by bracketing and striking through "9." and by placing "*12.*" in front of "9."; and

On page 10, line 25, by bracketing and striking through "10." and by placing "*13.*" in front of "10."; and

On page 11, by bracketing and striking through line 1 in its entirety; and,

On page 11, line 2, by bracketing and striking through "12." and by inserting "*14.*" in front of "12."; and

On page 11, by bracketing and striking through line 3 in its entirely; and

On page 11, line 4, by bracketing and striking through "14." and by placing "*15.*" in front of "14."; and

On page 11, line 5, by bracketing and striking through "15." and by placing "*16.*" in front of "15."; and,

On page 11, line 6, by bracketing and striking through "16." and by placing "*17.*" in front of "16."; and

On page 11, line 7, by bracketing and striking through "17." and by placing "*18.*" in front of "17."; and

On page 11, line 8. by bracketing and striking through "18." and by placing "*19.*" in front of "18."; and

On page 11, by bracketing and striking through line 9 in its entirety; and,

On page 18, between lines 8 and 9, by adding the following:

SECTION 12. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The Kentucky council on agriculture shall include an agricultural export authority with the powers and duties specified in KRS 247.420(4).

Section 13. KRS 11.400 is amended to read as follows:

(1) In addition to the duties prescribed for the office by the constitution of the Commonwealth of Kentucky and by the rules of the senate, the duties of the lieutenant governor shall be as follows:

(a) To serve as vice-chairman of the state property and buildings commission as prescribed by KRS 56.450;

(b) To serve as vice-chairman of the Kentucky turnpike authority as prescribed in KRS 175.430;

(c) To serve as a member of the *Kentucky* [~~governor's~~] council on agriculture in accordance with KRS 247.417;

(d) To serve as vice-chairman of the county debt commission as provided in KRS 66.300;

(e) To appoint three (3) members of the board of ethics of the Kentucky general assembly in accordance with KRS 6.810;

(f) To appoint one (1) member of the public officials' compensation board as provided in KRS 64.742;

(g) To serve as a member of the economic development commission;

(h) To serve as a member of the Kentucky port and river development authority pursuant to KRS 154.320;

(i) To serve as a member of the board of the Kentucky housing corporation in accordance with KRS 198A.030;

(j) To serve as a member of the appalachian development council as provided in KRS 154.600;

(k) To serve as a member of Kentucky delegations on the following interstate compact commissions or boards:

(i) The southern growth policies board as prescribed by KRS 147.585;

(ii) The breaks interstate park commission as provided in KRS 148.225;

(iii) The falls of the Ohio interstate park commission pursuant to KRS 148.242;

(iv) The Tennessee-Tombigbee waterway development authority pursuant to KRS 182.305;

(v) The interstate water sanitation control commissions as prescribed by KRS 224.205; and

(vi) The Kentucky mining advisory council for the interstate mining compact as provided by KRS 350.310.

(2) Nothing in this section shall prohibit the governor and lieutenant governor from agreeing upon additional duties within the executive branch of the state government to be performed by the lieutenant governor.

Section 14. KRS 12.265 is amended to read as follows:

The cabinets established in KRS 12.250 shall be composed of departments, boards and commissions as follows:

I. Cabinet for development

A. [~~Department of agriculture~~

~~B.~~] Department of commerce

B.[~~C.~~] Department of fish and wildlife resources

C.[~~D.~~] Department of parks

D.[~~E.~~] Kentucky historical events celebration commission

[~~F. State fair board~~]

E.[~~G.~~] Economic development commission

[~~H. Governor's council on agriculture~~]

F.[~~I.~~] Department for local government

G.[~~J.~~] State horse park board

H.[~~K.~~] Office for program administration

I.[~~L.~~] Urban development office

[~~M. Kentucky tobacco research board~~]

J.[~~N.~~] Appalachian development council.

II. Cabinet for education and the arts

A. Kentucky arts commission

B. Department of education

C. The Kentucky authority for educational television

D. Kentucky heritage commission

E. Kentucky historical society

F. Department of library and archives

G. Bureau for the blind.

III. Cabinet for public protection and regulation

A. Department of alcoholic beverage control

B. Department of banking and securities

C. Department of insurance

D. Department of labor

E. Department of mines and minerals

F. Kentucky registry of election finance

G. Energy regulatory commission and utility regulatory commission

H. Kentucky quarterhorse and appaloosa commission

I. Kentucky state racing commission

J. Kentucky harness racing commission

K. Kentucky board of tax appeals

L. Department of housing, buildings and construction

M. Board of claims

N. Crime victims compensation board.

Section 15. KRS 246.030 is amended to read as follows:

The department shall consist of:

(1) The commissioner;

(2) The board of agriculture;

[~~(3) The state fair board;~~]

(3)[~~(4)~~] The division of markets;

(4)[~~(5)~~] The division of weights and measures;

(5)[~~(6)~~] The board of veterinary examination;
(6)[~~(7)~~] The division of pest and noxious weed control;

(7)[~~(8)~~] The division of statistics and export;

(8)[~~(9)~~] The division of pesticides; and

(9)[~~(10)~~] The exposition management division.

Section 16. KRS 247.410 is amended to read as follows:

As used in KRS 247.410 to 247.430:

(1) "Council" means the *Kentucky* [~~governor's~~] council on agriculture.

(2) "Executive director" means the chief administrative officer of the council.

Section 17. KRS 247.413 is amended to read as follows:

There is hereby established the *Kentucky* [~~governor's~~] council on agriculture which shall be attached to the *energy and agriculture* [~~development cabinet for administrative purposes. The object of the council shall be the development~~] and promotion of a broadly conceived statewide agricultural and agri-business program, including the distribution and promotion of agricultural products, which will stimulate the acceleration of the state's agricultural economy by endeavoring to improve all phases thereof.

Section 18. KRS 247.417 is amended to read as follows:

(1) The membership of the council shall consist of [~~the governor,~~] the lieutenant governor, the commissioner of agriculture, the secretary of the development cabinet, *the secretary of the energy and agriculture cabinet* [~~the dean of the college of agriculture and home economics of the university of Kentucky~~], and *eighteen (18)* [~~fifteen~~] citizen members, a majority of whom shall be full-time farmers, appointed by the governor. *Two (2) members shall be appointed from each congressional district and four (4) from the state-at-large.* All members shall serve at the governor's will during his incumbency, and until each member's successor is appointed.

(2) The *secretary of the energy and agriculture cabinet* [~~governor~~] shall serve as chairman of the council. The council may elect by majority vote a vice-chairman and such officers of the council as may be deemed necessary.

(3) Citizen members of the council shall receive a compensation of fifty dollars ($50) per day for each day of attendance at meetings of the council, and shall be reimbursed by the secretary's office for necessary and actual expenses in accordance with the provisions of KRS chapters 44 and 45.

(4) The council shall meet at the call of the chairman, but not less often than four (4) times during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

Section 19. KRS 247.420 is amended to read as follows:

The duties and functions of the council shall be to:

(1) Counsel with the Governor on matters pertaining to agricultural and agri-business development and the marketing and distribution of agricultural products.

(2) Promote, to the fullest extent, coordination and cooperation among public and private agencies and organizations so that each may make the maximum contribution toward the attainment of a greater and improved agricultural economy.

(3) Make investigations, undertake such studies, and prepare such reports and recommendations regarding the elimination or alleviation of specific problems affecting farm gross and net income, the improvement of all phases of agriculture, and any other matters necessary and incidental to the stimulation of the development of a statewide agricultural program for acceleration of farm income.

(4) Promote the production and marketing of Kentucky farm products and services, on local, state, [~~and~~] national *and international* levels, through research, education, and other promotional activities.

(5) Contract from time to time as appropriate with experts and consultants who may be utilized as deemed necessary and make other necessary purchases.

(6) Hold public and private hearings for the purpose of furthering the objectives of the council's programs.

Section 20. KRS 247.423 is amended to read as follows:

From the council membership, the chairman shall name *three (3)* [~~four (4)~~] members, at least two of whom shall be full-time farmers, who, along with the chairman, *and the executive director,* shall serve as the steering committee. The steering committee shall be responsible for the execution of duties and functions assigned to the council.

Section 21. KRS 247.430 is amended to read as follows:

(1) [~~The council shall submit an annual report to the Governor before the 15th day of August each year, summarizing the council's expenditures and activities, including such recommendations as the council deems appropriate.~~

~~(2)~~] The receipt, control, and expenditure of all funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of other state agencies.

(2)[~~(3)~~] No provision of KRS 247.410 to 247.430 shall be construed as a repeal of any other laws relating to agriculture, but shall be held and construed as supplemental thereto.

And, on page 18, line 9, by changing "12" to "22".

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsor of Bills and Resolutions: Representative Farrow, **HB 311;** Representative Boswell, **HB 768;** Representative Long, **HR 49;** Representative Handy, **HB 771.**

Representative McBee requested that his name be withdrawn as a co-sponsor of **HB 651.**

Representative Haering moved that he be recorded as voting "yea" on **HB 206,** Agreed.

Representative Riner moved that he be recorded as voting "yea" on **HB 206.** Agreed.

Representative Riner moved that he be recorded as voting "yea" on **HB 525.** Agreed.

The following meetings were announced.

Committee on Rules: On adjournment, Room 316.

State Government: Thursday, noon.

Health and Welfare: Special meeting, Monday, 2:00 p.m., Room 109.

Judiciary-Civil: Special meeting, Thursday on adjournment, Room 110.

Transportation: Special meeting, Thursday, on adjournment, Room 103.

Labor and Industry: Special meeting, on adjournment, Room 104.

Appropriations and Revenue: Thursday, 9:00 a.m., Room 109.

Education: Thursday, on adjournment, Room 104.

Representative LeMaster moved that when the House adjourns, it do so by voice vote. Agreed.

Representative LeMaster moved that when the House adjourns, it do so until 2:00 p.m. on Thursday, March 11, 1982. Agreed.

Representative LeMaster moved that no further business be conducted on this day other than Report of Committees. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 732, HR 80, SB 312, SR 38, HB 222.**

Appropriations and Revenue: **HJR 52, HB 643.**

Health and Welfare: **SB 219.**

State Government: **HB 668, HJR 72, HR 36.**

Energy: **HB 738, HB 822, SB 285.**

Business Organizations and Professions: **HB 727, HB 369.**

Labor and Industry: **HB 747, HB 803, HB 698.**

Counties and Special Districts: **HB 607, HB 767, HB 757, HB 723.**

Transportation: **SB 79, HB 518, HB 546, SB 164, HB 616, HB 635, HB 665, SB 280, SB 281.**

Judiciary-Civil: **HB 302.**

Banking and Insurance: **SB 234, SB 39, SB 160.**

Report of Committees

The Committee on Judiciary-Civil reported **HB 503,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 503, AN ACT relating to the court of justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.100 is amended to read as follows:

(1) In any county which does not have a district judge resident in the county there shall be a trial commissioner.

(2) Trial commissioners shall be appointed in the manner required by Section 113 of the Constitution of Kentucky and shall perform such duties as may be directed by the Supreme Court.

(3) Trial commissioners in district court shall be compensated as provided in the judicial personnel system, provided, however that no trial commissioner shall be compensated at a rate greater than seven thousand two hundred dollars ($7,200) per year. *Except that during the disability or suspension of a district judge for a period in excess of sixty (60) days, a trial commissioner who is qualified as an attorney and who is authorized to perform extraordinary duties, may be compensated by the Supreme Court in an amount not exceeding the salary of a district judge, provided such trial commissioner shall not engage in the practice of law during the period of extraordinary service.*

Section 2. KRS 26A.090 is amended to read as follows:

As used in KRS 26A.090 to 26A.115 unless the context otherwise requires:

(1) "Operating costs allowance" means compensation equivalent to the annual expenses borne by the unit of government for utilities, janitorial service, rent, insurance and necessary maintenance, repair and upkeep of the court facility which do not increase the permanent value or expected life of the court facility, but keeps it in efficient operating condition, *and, at the election of the administrative office of the courts, capital costs of interior or mechanical renovations for the benefit of the court.*

(2) "Use allowance" means compensation equal to four percent (4%) annually of the total original capital costs and the cost of capitalized renovation of the court facility, *except that if indebtedness has been incurred in respect to such capital costs at a constant annual interest rate equal to or greater than seven percent (7%), compensation shall be at a rate of eight percent (8%) annually of that portion of the capital costs for which the rate applies. Provided, however that in no instance shall the use allowance be less than one dollar ($1.00) per net square foot of space occupied by the court of justice.*

(3) "Capital costs" means the costs borne by the unit of government, excluding grants, *conditioned by the grantor agency specifically for court facility construction or renovation,* for acquisition of property and for construction and capitalized renovation including interest accruing during construction or renovation, but no other interest of each court facility. If capital costs are not documented, reasonable estimates provided by qualified appraisers will suffice.

(4) "Capitalized renovation" means all remodeling involving the structural or mechanical systems, except for remodeling that involves substantial demolition of the original structure. Remodeling involving substantial demolition of the original structure shall constitute construction resulting in a new court facility.

(5) "Unit of government" means a county, city, urban-county government, special district or corporate entity created for the purpose of constructing or holding title to a court facility.

(6) "Court facility" means the land and buildings owned or operated by a unit of government in which space for the court of justice is provided. Judges' benches, jury and witness boxes, and fixed seating shall be considered as permanent building fixtures.

(7) "Court facilities standards committee" means a committee consisting of the chief justice or his designee, one judge each of the court of appeals, the circuit court and the district court appointed by the supreme court, the president of the circuit clerks' association, the chairman of the judiciary-courts committees of the general assembly, the secretary of the executive department for finance and administration, and a county judge/executive appointed by the governor. Each appointed member shall serve for a term of four (4) years from the date of his appointment or until he vacates the office in respect to which he was appointed, whichever is earlier.

Section 3. KRS 26A.100 is amended to read as follows:

(1) The circuit and the district court shall be held in the county courthouse of each county unless otherwise ordered by the supreme court in which case it may be held at any other location made available by the county and owned, leased, or controlled by the county. Circuit or district court may also be held in such other locations in the county as may be convenient and approved by the supreme court.

(2) Every county or urban-county government shall provide such reasonably available space which would not disrupt the operation of county government as necessary in the county courthouse, or in other county facilities as permitted in subsection (1), for:

(a) A courtroom or courtrooms for the circuit and the district court;

(b) Chambers for the circuit judge and district judge or judges;

(c) Office space for the circuit and district court staffs;

(d) Office and storage space for the circuit clerk's operations;

(e) Jury facilities for the circuit and the district court;

(f) Office space for other officers of the court of justice including pretrial release officers, court reporters, court administrators, judges' secretaries, friends of the court and commissioners; and

(g) Such other facilities necessary for the operation of the circuit and the district court as may be agreed upon by the county or urban-county government and the administrative office of the courts.

(3) If all necessary facilities for the holding of circuit or district court, for the clerk's operations, or for the operation of the court or its ancillary functions, are not available in county facilities, every city shall, upon request of the administrative office of the courts, provide such reasonably available space which would not disrupt the operation of city government as necessary in the city's facilities for the operations of circuit or district court, or both. The city shall be responsible for providing space for the operations listed in subsection (2) of this section.

(4) If all necessary facilities for the holding of circuit or district court, for the clerk's operations, or for the operation of the court or its ancillary functions, are not available in county or city facilities, every agency of state government, special district, and independent agency of local government, other than a city, may, upon the request of the administrative office of the courts, provide such space as necessary in facilities owned, leased, or controlled by such organization for the operations of circuit or district court, or both. The agency may provide space for the operations listed in subsection (2) of this section.

(5) If all necessary facilities for the holding of circuit or district court, for the clerk's operations, or for the operation of the court or its ancillary functions, are not available in public facilities, private facilities may be rented, leased, purchased, or otherwise acquired, by the *administrative office of the courts* [~~department of finance~~] pursuant to permission granted by the chief justice for such acquisition and in compliance with the provisions of KRS Chapters 45 and 56.

Section 4. KRS 26A.115 is amended to read as follows:

(1) Each unit of government providing space in a court facility to the court of justice under the provisions of KRS 26A.100 shall be paid an operating costs allowance plus a use allowance to be administered by the *administrative office of the courts* [~~department for finance~~].

(2) The precise amount paid for operating costs allowance and use allowance shall be computed by allocating to the court of justice its proportionate share of each category according to the relative portion of the floor space in the facility which is occupied by the court of justice. Compensation shall be calculated on an annualized basis, may be in the form of rental per square footage, and shall be paid quarterly. Should the availability of space provided to the court of justice be limited by the governmental unit to a part-time basis, the compensation shall be apportioned according to the number of days or partial days per week in which it is made available, one (1) day or partial day per week being considered as one-fifth (1/5) of the time.

SECTION 5. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

A court facility which is entirely dedicated to court of justice purposes may be conveyed to the Commonwealth for court purposes with or without consideration. Provided, however, that no such conveyance shall be accepted by the Commonwealth unless the administrative office of the courts has certified its agreement to maintain the facility.

Section 6. KRS 29A.040 is amended to read as follows:

(1) All voter registration lists [~~and property tax rolls for the county~~] shall constitute a master list of prospective jurors. Where possible, the jury commission shall acquire copies of these lists from the official having custody of the required lists. The jury commission shall consult the master list in the manner specified by KRS 29A.050 in the selection of prospective jurors.

(2) Public officers or employes having custody, possession, or control of any of the lists used in making the master list shall furnish a copy of the list to the jury commission without charge.

Section 7. KRS 29A.060 is amended to read as follows:

(1) Each circuit or district judge shall inform the chief circuit judge *or his designee* of his needs for qualified jurors.

(2) To select a grand jury or a petit jury in circuit court *for a criminal case*, the clerk shall:

(a) Draw forty (40) names at random from the jury wheel;

(b) List the names, in the order drawn, from one (1) to forty (40);

(c) Place forty (40) numbered balls in a box and shake the box;

(d) Draw the required number of balls, dependent on the number of jurors required plus alternates, from the box and record the number of each ball as it is drawn.

(3) To select a petit jury for a *civil* trial in *circuit court or a civil or criminal trial in* district court, the clerk shall:

(a) Draw twenty (20) names at random from the jury wheel;

(b) List the names, in the order drawn, from one (1) to twenty (20);

(c) Place twenty (20) numbered balls in a box and shake the box;

(d) Draw the required number of balls, dependent on the number of jurors required plus alternates, from the box and record the number of each ball as it is drawn.

(4) The names corresponding to the numbers on the balls which have been drawn shall constitute the petit jury. When alternate jurors are permitted the last ball or balls drawn, as the case may be, will represent the alternate jurors.

(5) As jurors are excused and new jurors are required additional balls shall be drawn from the box, one for each juror required, until all of the balls in the box have been exhausted.

(6) In the event that all of the balls in the box have been exhausted the box shall be refilled utilizing the process required by subsections (1) to (4) of this section.

(7) The chief circuit judge shall regulate the random assignment of jurors for use in circuit and district courts. Any petit juror assigned to a judge of circuit or district court may be used by any other judge of any other branch or division of circuit or district court when jurors are needed.

(8) If a grand, petit, or other jury is ordered to be drawn, the *chief circuit* judge *or his designee* thereafter shall cause each person drawn for jury service to be served with a summons requiring him to report for jury service at a specified time and place, unless otherwise notified by the court, and to be available for jury service for thirty (30) judicial days thereafter. The service of summons may be either made personally by the sheriff or sent by *first class* [~~certified~~] mail, [~~return receipt requested,~~] addressed to him at his usual residence, business, or post office address. In either case, notice shall be mailed or served to the juror at least thirty (30) days before he is required to attend.

(9) *The juror qualification form required by KRS 29A.070 shall be enclosed with the summons. If the summons is served by mail, any prospective juror who does not return the juror qualification form within ten (10) days shall be personally served by the sheriff.*

(10) When there is an unanticipated shortage of available jurors drawn from a jury wheel, the court may *cause additional names to be drawn. The persons so chosen shall be summoned as provided in this section, but* [~~require the sheriff to summon a sufficient number of jurors selected at random by the judge from the jury wheel. Jurors summoned in this way~~] need not be given the notice provided in subsection (8) of this section.

(11)[~~(10)~~] Only persons duly qualified and summoned under subsection (8) of this section and KRS 29A.070 shall serve as jurors.

(12)[~~(11)~~] If, after making a fair effort in good faith, the judge is satisfied that it will be impracticable to obtain a jury free of bias in the county in which the prosecution is pending, he may obtain a sufficient number of jurors from some adjoining county in which the judge believes there is the greatest probability of obtaining impartial jurors. The judge shall request the chief circuit judge for the adjoining county to draw and summon as many jurors as are needed. Jurors summoned under this subsection need not be given the notice provided in subsection (8) of this section.

(13)[~~(12)~~] The names of jurors drawn from the jury wheel shall be made available to the public.

Section 8. KRS 29A.080 is amended to read as follows:

(1) The chief circuit judge or another judge designated by him shall determine on the basis of the information provided on the juror qualification form whether the prospective juror is disqualified for jury service for any of the reasons listed in subsection (2) of this section. He shall enter this determination in the space provided on the juror qualification form and on the list of names drawn from the jury wheel. The chief circuit judge shall cause each disqualified juror to be immediately notified of his disqualification.

(2) A prospective juror is disqualified to serve on a jury if he:

(a) *Is under eighteen (18) years of age; or*

(b) Is not a citizen of the United States; or

(c)[~~(b)~~] Is not a resident of the county; or

(d)[~~(c)~~] Is unable to speak and understand the English language; or

(e)[~~(d)~~] Is incapable, by reason of his physical or mental disability, of rendering effective jury service; or

(f)[~~(e)~~] Has been previously convicted of a felony and has not been pardoned by the governor or other authorized person of the jurisdiction in which he was convicted; or

(g)[~~(f)~~] Is presently under indictment; or

(h)[~~(g)~~] Has served on a jury within the past twelve (12) months.

(3) There shall be no waiver of these disqualifications.

Section 9. KRS 29A.240 is amended to read as follows:

The court shall swear the grand jury using *substantially the following oath: "Do you swear or affirm that you will hear and weigh carefully all the evidence presented to you, and that you will do your duty as prescribed by law, and that you will carry out carefully any investigations which you are requested to make?"* [~~an oath prescribed by the Supreme Court.~~]

Section 10. KRS 29A.250 is amended to read as follows:

The *chief circuit judge shall appoint one (1) of the* grand jurors [~~shall elect one (1) of their members~~] to be foreman. The foreman shall administer an oath[~~, prescribed by the Supreme Court,~~] to each witness who testifies before the grand jury, *substantially as follows: "Do you swear or affirm that you will tell the truth, the whole truth, and nothing but the truth?".*

Section 11. KRS 29A.260 is amended to read as follows:

At any time for cause shown, the court may excuse a grand juror either temporarily or permanently and may swear another grand juror from a current jury panel in place of the one excused. The discharge of any such grand juror shall in no way or manner affect any indictment found by the grand jury as it was composed either before or after such discharge. If it is impossible to fill the vacancy on the grand jury from a current jury panel, the chief circuit judge may summon, using the procedure in KRS 29A.060*(10)*[~~(9)~~], such number of prospective jurors as deemed necessary for the purpose.

Section 12. KRS 29A.280 is amended to read as follows:

(1) Juries for all *criminal* trials in circuit court shall be composed of twelve (12) persons *and juries for civil trials in circuit court shall be composed of six (6) persons*. Juries for all *civil and criminal* trials in district court shall be composed of six (6) persons.

(2) [~~In circuit court, at any time before the jury is sworn, the parties with the approval of the court may stipulate that the jury shall consist of any number less than twelve (12), except that no jury shall consist of less than six (6) persons.~~

~~(3)~~] A unanimous verdict is required in all criminal trials by jury. [~~The agreement of at least three-fourths (¾) of the jurors is required for a verdict in all civil trials by jury in circuit court.~~] The agreement of at least five-sixths (5/6) of the jurors is required for a verdict in all civil trials by jury [~~in district court.~~]

Section 13. KRS 29A.300 is amended to read as follows:

The court shall swear the petit jurors using *substantially the following oath: "Do you swear or affirm that you will impartially try the case between the parties and give a true verdict according to the evidence and the law, unless dismissed by the court?"* [~~an oath prescribed by the Supreme Court~~].

Section 14. KRS 64.485 is amended to read as follows:

(1) The salary for each justice of the Supreme Court, payable out of the state treasury, shall be forty-nine thousand dollars ($49,000) per annum, except for the salary of the chief justice of the Supreme Court which shall be fifty thousand dollars ($50,000) per annum.

(2) The salary of each judge of the Court of Appeals, payable out of the state treasury, shall be forty-seven thousand dollars ($47,000), with the exception of the chief judge of the Court of Appeals who shall receive a salary of forty-seven thousand five hundred dollars ($47,500).

(3) The salary of each circuit judge, payable out of the state treasury, shall be forty-five thousand dollars ($45,000) per annum.

(4) The salary of each district judge, payable out of the state treasury, shall be thirty-eight thousand five hundred dollars ($38,500) per annum.

(5) In order to equate or adjust the compensation of justices and judges of the court of justice with the purchasing power of the dollar, the department of finance shall compute by July 1 of every year, beginning on July 1, 1981, the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year. Upon notification from the department of finance, the annual salary of justices and judges of the court of justice for fiscal year 1982 *and each fiscal year thereafter* shall be set at a rate which includes the adjustment for the increase or decrease in the consumer price index, but in no event shall a justice or judge of the court of justice receive an annual increase exceeding six percent (6%) of salary.

Section 15. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not less than seventy (70) days before the primary. If the vacancy occurs on or after the seventieth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and section 152 of the Constitution of Kentucky.

(2) *If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity or withdrawal, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (9) of this section.*

(3) Each candidate shall file a petition for candidacy with the secretary of state at least fifty-five (55) days before the day fixed by law for holding the regular election.

(4)[~~(3)~~] The petition for candidacy shall state the name and residence of the candidate and shall describe by district or circuit, and numbered division thereof if divisions exist, the judicial office for which he seeks election. It shall be signed by him and not less than two (2) registered voters from the district or circuit from which he seeks candidacy. The petition shall be in the form prescribed by the state board of elections.

(5)[~~(4)~~] The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the regular election.

(6)[~~(5)~~] Not less than forty-five (45) days before the regular election, and after the order of names on the ballot has been determined as required in subsection *(5)* [~~(4)~~], the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(7)[~~(6)~~] The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular election the names of the candidates for offices of the Court of Justice.

(8)[~~(7)~~] The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. Above the names of the candidates shall be printed the words "Vote for one" or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9)[~~(8)~~] The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 16. KRS 118A.110 is amended to read as follows:

The initial election of judges to the Court of Appeals shall be conducted in the regular election of 1976 without a primary election and in the manner prescribed in subsections *(3)* [~~(2)~~] through *(9)* [~~(8)~~] of KRS 118A.100.

Section 17. KRS 26A.105, Long-term lease agreements and KRS 453.180, costs to be taxed in Court of Appeals or Supreme Court, are repealed.

Section 18. Sections 6 through 13 of this Act shall be effective on October 1, 1982.

Committee Substitute to **HB 503:**

HB 503, AN ACT relating to the court of justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.100 is amended to read as follows:

(1) In any county which does not have a district judge resident in the county there shall be a trial commissioner.

(2) Trial commissioners shall be appointed in the manner required by Section 113 of the Constitution of Kentucky and shall perform such duties as may be directed by the Supreme Court.

(3) Trial commissioners in district court shall be compensated as provided in the judicial personnel system, provided, however that no trial commissioner shall be compensated at a rate greater than seven thousand two hundred dollars ($7,200) per year. *Except that during the disability or suspension of a district judge for a period in excess of sixty (60) days, a trial commissioner who is qualified as an attorney and who is authorized to perform extraordinary duties, may be compensated by the Supreme Court in an amount not exceeding the salary of a district judge, provided such trial commissioner shall not engage in the practice of law during the period of extraordinary service.*

Section 2. KRS 26A.090 is amended to read as follows:

As used in KRS 26A.090 to 26A.115 unless the context otherwise requires:

(1) "Operating costs allowance" means compensation equivalent to the annual expenses borne by the unit of government for utilities, janitorial service, rent, insurance and necessary maintenance, repair and upkeep of the court facility which do not increase the permanent value or expected life of the court facility, but keeps it in efficient operating condition, *and, at the election of the administrative office of the courts, capital costs of interior or mechanical renovations for the benefit of the court.*

(2) "Use allowance" means compensation equal to four percent (4%) annually of the total original capital costs and the cost of capitalized renovation of the court facility, *except that if indebtedness has been incurred in respect to such capital costs at a constant annual interest rate equal to or greater than seven percent (7%), compensation shall be at a rate of eight percent (8%) annually of that portion of the capital costs for which the rate applies.*

(3) "Capital costs" means the costs borne by the unit of government, excluding grants, *conditioned by the grantor agency specifically for court facility construction or renovation,* for acquisition of property and for construction and capitalized renovation including interest accruing during construction or renovation, but no other interest of each court facility. If capital costs are not documented, reasonable estimates provided by qualified appraisers will suffice.

(4) "Capitalized renovation" means all remodeling involving the structural or mechanical systems, except for remodeling that involves substantial demolition of the original structure. Remodeling involving substantial demolition of the original structure shall constitute construction resulting in a new court facility.

(5) "Unit of government" means a county, city, urban-county government, special district or corporate entity created for the purpose of constructing or holding title to a court facility.

(6) "Court facility" means the land and buildings owned or operated by a unit of government in which space for the court of justice is provided. Judges' benches, jury and witness boxes, and fixed seating shall be considered as permanent building fixtures.

(7) "Court facilities standards committee" means a committee consisting of the chief justice or his designee, one judge each of the court of appeals, the circuit court and the district court appointed by the supreme court, the president of the circuit clerks' association, the chairman of the judiciary-courts committees of the general assembly, the secretary of the executive department for finance and administration, and a county judge/executive appointed by the governor. Each appointed member shall serve for a term of four (4) years from the date of his appointment or until he vacates the office in respect to which he was appointed, whichever is earlier.

Section 3. KRS 26A.100 is amended to read as follows:

(1) The circuit and the district court shall be held in the county courthouse of each county unless otherwise ordered by the supreme court in which case it may be held at any other location made available by the county and owned, leased, or controlled by the county. Circuit or district court may also be held in such other locations in the county as may be convenient and approved by the supreme court.

(2) Every county or urban-county government shall provide such reasonably available space which would not disrupt the operation of county government as necessary in the county courthouse, or in other county facilities as permitted in subsection (1), for:

(a) A courtroom or courtrooms for the circuit and the district court;

(b) Chambers for the circuit judge and district judge or judges;

(c) Office space for the circuit and district court staffs;

(d) Office and storage space for the circuit clerk's operations;

(e) Jury facilities for the circuit and the district court;

(f) Office space for other officers of the court of justice including pretrial release officers, court reporters, court administrators, judges' secretaries, friends of the court and commissioners; and

(g) Such other facilities necessary for the operation of the circuit and the district court as may be agreed upon by the county or urban-county government and the administrative office of the courts.

(3) If all necessary facilities for the holding of circuit or district court, for the clerk's operations, or for the operation of the court or its ancillary functions, are not available in county facilities, every city shall, upon request of the administrative office of the courts, provide such reasonably available space which would not disrupt the operation of city government as necessary in the city's facilities for the operations of circuit or district court, or both. The city shall be responsible for providing space for the operations listed in subsection (2) of this section.

(4) If all necessary facilities for the holding of circuit or district court, for the clerk's operations, or for the operation of the court or its ancillary functions, are not available in county or city facilities, every agency of state government, special district, and independent agency of local government, other than a city, may, upon the request of the administrative office of the courts, provide such space as necessary in facilities owned, leased, or controlled by such organization for the operations of circuit or district court, or both. The agency may provide space for the operations listed in subsection (2) of this section.

(5) If all necessary facilities for the holding of circuit or district court, for the clerk's operations, or for the operation of the court or its ancillary functions, are not available in public facilities, private facilities may be rented, leased, purchased, or otherwise acquired, by the *administrative office of the courts* [~~department of finance~~] pursuant to permission granted by the chief justice for such acquisition and in compliance with the provisions of KRS Chapters 45 and 56.

Section 4. KRS 26A.115 is amended to read as follows:

(1) Each unit of government providing space in a court facility to the court of justice under the provisions of KRS 26A.100 shall be paid an operating costs allowance plus a use allowance to be administered by the *administrative office of the courts* [~~department for finance~~].

(2) The precise amount paid for operating costs allowance and use allowance shall be computed by allocating to the court of justice its proportionate share of each category according to the relative portion of the floor space in the facility which is occupied by the court of justice. Compensation shall be calculated on an annualized basis, may be in the form of rental per square footage, and shall be paid quarterly. Should the availability of space provided to the court of justice be limited by the governmental unit to a part-time basis, the compensation shall be apportioned according to the number of days or partial days per week in which it is made available, one (1) day or partial day per week being considered as one-fifth (1/5) of the time.

SECTION 5. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

A court facility which is entirely dedicated to court of justice purposes may be conveyed to the Commonwealth for court purposes with or without consideration. Provided, however, that no such conveyance *shall be accepted by the Commonwealth unless the administrative office of the courts has certified its agreement to maintain the facility.*

Section 6. KRS 29A.040 is amended to read as follows:

(1) All voter registration lists [~~and property tax rolls for the county~~] shall constitute a master list of prospective jurors. Where possible, the jury commission shall acquire copies of these lists from the official having custody of the required lists. The jury commission shall consult the master list in the manner specified by KRS 29A.050 in the selection of prospective jurors.

(2) Public officers or employes having custody, possession, or control of any of the lists used in making the master list shall furnish a copy of the list to the jury commission without charge.

Section 7. KRS 29A.060 is amended to read as follows:

(1) Each circuit or district judge shall inform the chief circuit judge *or his designee* of his needs for qualified jurors.

(2) To select a grand jury or a petit jury in circuit court, the clerk shall:

(a) Draw *thirty-two (32)* [~~forty (40)~~] names at random from the jury wheel;

(b) List the names, in the order drawn, from one (1) to *thirty-two (32)* [~~forty (40)~~];

(c) Place *thirty-two (32)* [~~forty (40)~~] numbered balls in a box and shake the box;

(d) Draw the required number of balls, dependent on the number of jurors required plus alternates, from the box and record the number of each ball as it is drawn.

(3) To select a petit jury for a trial in district court, the clerk shall:

(a) Draw *sixteen (16)* [~~twenty (20)~~] names at random from the jury wheel;

(b) List the names, in the order drawn, from one (1) to *sixteen (16)* [~~twenty (20)~~];

(c) Place *sixteen (16)* [~~twenty (20)~~] numbered balls in a box and shake the box;

(d) Draw the required number of balls, dependent on the number of jurors required plus alternates, from the box and record the number of each ball as it is drawn.

(4) The names corresponding to the numbers on the balls which have been drawn shall constitute the petit jury. When alternate jurors are permitted the last ball or balls drawn, as the case may be, will represent the alternate jurors.

(5) As jurors are excused and new jurors are required additional balls shall be drawn from the box, one for each juror required, until all of the balls in the box have been exhausted.

(6) In the event that all of the balls in the box have been exhausted the box shall be refilled utilizing the process required by subsections (1) to (4) of this section.

(7) The chief circuit judge shall regulate the random assignment of jurors for use in circuit and district courts. Any petit juror assigned to a judge of circuit or district court may be used by any other judge of any other branch or division of circuit or district court when jurors are needed.

(8) If a grand, petit, or other jury is ordered to be drawn, the *chief circuit* judge *or his designee* thereafter shall cause each person drawn for jury service to be served with a summons requiring him to report for jury service at a specified time and place, unless otherwise notified by the court, and to be available for jury service for thirty (30) judicial days thereafter. The service of summons may be either made personally by the sheriff or sent by *first class* [~~certified~~] mail, [~~return receipt requested,~~] addressed to him at his usual residence, business, or post office address. In either case, notice shall be mailed or served to the juror at least thirty (30) days before he is required to attend.

(9) *The juror qualification form required by KRS 29A.070 shall be enclosed with the summons. If the summons is served by mail, any prospective juror who does not return the juror qualification form within ten (10) days shall be personally served by the sheriff.*

(10) When there is an unanticipated shortage of available jurors drawn from a jury wheel, the court may *cause additional names to be drawn. The persons so chosen shall be summoned as provided in this section, but* [~~require the sheriff to summon a sufficient number of jurors selected at random by the judge from the jury wheel. Jurors summoned in this way~~] need not be given the notice provided in subsection (8) of this section.

(11)[~~(10)~~] Only persons duly qualified and summoned under subsection (8) of this section and KRS 29A.070 shall serve as jurors.

(12)[~~(11)~~] If, after making a fair effort in good faith, the judge is satisfied that it will be impracticable to obtain a jury free of bias in the county in which the prosecution is pending, he may obtain a sufficient number of jurors from some adjoining county in which the judge believes there is the greatest probability of obtaining impartial jurors. The judge shall request the chief circuit judge for the adjoining county to draw and summon as many jurors as are needed. Jurors summoned under this subsection need not be given the notice provided in subsection (8) of this section.

(13)[~~(12)~~] The names of jurors drawn from the jury wheel shall be made available to the public.

Section 8. KRS 29A.080 is amended to read as follows:

(1) The chief circuit judge or another judge designated by him shall determine on the basis of the information provided on the juror qualification form whether the prospective juror is disqualified for

jury service for any of the reasons listed in subsection (2) of this section. He shall enter this determination in the space provided on the juror qualification form and on the list of names drawn from the jury wheel. The chief circuit judge shall cause each disqualified juror to be immediately notified of his disqualification.

(2) A prospective juror is disqualified to serve on a jury if he:

(a) *Is under eighteen (18) years of age; or*

(b) Is not a citizen of the United States; or

(c)[~~(b)~~] Is not a resident of the county; or

(d)[~~(c)~~] Is unable to speak and understand the English language; or

(e)[~~(d)~~] Is incapable, by reason of his physical or mental disability, of rendering effective jury service; or

(f)[~~(e)~~] Has been previously convicted of a felony and has not been pardoned by the governor or other authorized person of the jurisdiction in which he was convicted; or

(g)[~~(f)~~] Is presently under indictment; or

(h)[~~(g)~~] Has served on a jury within the past twelve (12) months.

(3) There shall be no waiver of these disqualifications.

Section 9. KRS 29A.240 is amended to read as follows:

The court shall swear the grand jury using *substantially the following oath: "Do you swear or affirm that you will hear and weigh carefully all the evidence presented to you, and that you will do your duty as prescribed by law, and that you will carry out carefully any investigations which you are requested to make?"* [~~an oath prescribed by the Supreme Court.~~]

Section 10. KRS 29A.250 is amended to read as follows:

The grand jurors shall elect one (1) of their members to be foreman. The foreman shall administer an oath[~~, prescribed by the Supreme Court,~~] to each witness who testifies before the grand jury, *substantially as follows: "Do you swear or affirm that you will tell the truth, the whole truth, and nothing but the truth?"*.

Section 11. KRS 29A.260 is amended to read as follows:

At any time for cause shown, the court may excuse a grand juror either temporarily or permanently and may swear another grand juror from a current jury panel in place of the one excused. The discharge of any such grand juror shall in no way or manner affect any indictment found by the grand jury as it was composed either before or after such discharge. If it is impossible to fill the vacancy on the grand jury from a current jury panel, the chief circuit judge may summon, using the procedure in KRS 29A.060*(10)*[~~(9)~~], such number of prospective jurors as deemed necessary for the purpose.

Section 12. KRS 29A.300 is amended to read as follows:

The court shall swear the petit jurors using *substantially the following oath: "Do you swear or affirm that you will impartially try the case between the parties and give a true verdict according to the evidence and the law, unless dismissed by the court?"* [~~an oath prescribed by the Supreme Court~~].

Section 13. KRS 64.485 is amended to read as follows:

(1) The salary for each justice of the Supreme Court, payable out of the state treasury, shall be forty-nine thousand dollars ($49,000) per annum, except for the salary of the chief justice of the Supreme Court which shall be fifty thousand dollars ($50,000) per annum.

(2) The salary of each judge of the Court of Appeals, payable out of the state treasury, shall be forty-seven thousand dollars ($47,000), with the exception of the chief judge of the Court of Appeals who shall receive a salary of forty-seven thousand five hundred dollars ($47,500).

(3) The salary of each circuit judge, payable out of the state treasury, shall be forty-five thousand dollars ($45,000) per annum.

(4) The salary of each district judge, payable out of the state treasury, shall be thirty-eight thousand five hundred dollars ($38,500) per annum.

(5) In order to equate or adjust the compensation of justices and judges of the court of justice with the purchasing power of the dollar, the department of finance shall compute by July 1 of every year, beginning on July 1, 1981, the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year. Upon notification from the department of finance, the annual salary of justices and judges of the court of justice for fiscal year *1981*-1982 *and fiscal years 1982-1983 and 1983-1984* shall be set at a rate which includes the adjustment for the increase or decrease in the consumer price index, but in no event shall a justice or judge of the court of justice receive an annual increase exceeding six percent (6%) of salary.

Section 14. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not less than seventy (70) days before the primary. If the vacancy occurs on or after the seventieth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and section 152 of the Constitution of Kentucky.

(2) *If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity or withdrawal, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (9) of this section.*

(3) Each candidate shall file a petition for candidacy with the secretary of state at least fifty-five (55) days before the day fixed by law for holding the regular election.

(4)[~~(3)~~] The petition for candidacy shall state the name and residence of the candidate and shall describe by district or circuit, and numbered division thereof if divisions exist, the judicial office for which he seeks election. It shall be signed by him and not less than two (2) registered voters from the district or circuit from which he seeks candidacy. The petition shall be in the form prescribed by the state board of elections.

(5)[~~(4)~~] The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the regular election.

(6)[~~(5)~~] Not less than forty-five (45) days before the regular election, and after the order of names on the ballot has been determined as required in subsection *(5)* [~~(4)~~], the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(7)[~~(6)~~] The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular election the names of the candidates for offices of the Court of Justice.

(8)[~~(7)~~] The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. Above the names of the candidates shall be printed the words "Vote for one" or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9)[~~(8)~~] The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 15. KRS 118A.110 is amended to read as follows:

The initial election of judges to the Court of Appeals shall be conducted in the regular election of 1976 without a primary election and in the manner prescribed in subsections *(3)* [~~(2)~~] through *(9)* [~~(8)~~] of KRS 118A.100.

Section 16. KRS 26A.105, Long-term lease agreements and KRS 453.180, costs to be taxed in Court of Appeals or Supreme Court, are repealed.

Section 17. Sections 6 through 12 of this Act shall be effective on October 1, 1982.

The committee on Judiciary-Criminal reported **HB 416, HB 676, HR 67, SB 10,** and **SB 213** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 416, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 432.570 is amended to read as follows:

(1) It shall be unlawful for any person except a member of a police department or police force or an official with written authorization from the head of a department which regularly maintains a police radio system authorized or licensed by the federal communications commission, to have in his or her possession, or in an automobile or other vehicle, or to equip or install in or on any automobile or other vehicle, any mobile radio set or apparatus capable of either receiving or transmitting radio or other messages or signals within the wave length or channel now or which may hereafter be allocated by the federal communications commission, or its successor, for the purpose of police radios, or which may in any way intercept or interfere with the transmission of radio messages by any police or other peace officers and it shall be unlawful for any car, automobile or other vehicle other than one publicly owned and entitled to an official license plate

issued by the state issuing a license for said car, to have, or be equipped with such sets or apparatus even though said car is owned by an officer. Provided, however, the provisions of this section shall not apply to any automobile or other vehicle owned or operated by a member of a sheriff's department authorized by the fiscal court to operate a radio communications system that is licensed by the federal communications commission or other federal agency having the authority to license same.

(2) Any person guilty of violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars ($50.00) and not exceeding five hundred dollars ($500), or imprisonment not exceeding twelve (12) months, or both so fined and imprisoned.

(3) It shall be the duty of any and all peace officers to seize and hold for evidence any and all equipment had or used in violation of the provisions of this section, and, upon conviction of the person having, equipping or using such equipment, it shall be the duty of the trial court to order such equipment or apparatus destroyed, forfeited or escheated to the Commonwealth of Kentucky, and said property may be ordered destroyed, forfeited or escheated as above provided without a conviction of the person charged with violating this section.

(4) Nothing contained in this section shall prohibit the possession of a radio by:

(a) An individual who is a retailer or wholesaler and in the ordinary course of his business offers such radios for sale or resale or by;

(b) A commercial or educational radio or television station, licensed by the federal communications commission, at its place of business or by;

(c) An individual who possesses such a radio, provided it is capable of receiving radio transmissions only and is not capable of sending or transmitting radio messages, at his place of residence; licensed commercial auto towing trucks; newspaper reporters and photographers; peace officers authorized in writing by the head of their law enforcement agency, commonwealth's attorneys and their assistants, county attorneys and their assistants, except that it shall be unlawful to use such radio to facilitate any criminal activity or to avoid apprehension by law enforcement officers. Violation of this section shall, in addition to any other penalty prescribed by law, result in a forfeiture to the local law enforcement agency of such radio;

(d) An individual who is a paid or volunteer member of an ambulance service or rescue squad, who possesses such a radio, whether in a vehicle or otherwise, with the written authorization of the county judge/executive pursuant to an ordinance or order of the fiscal court permitting the possession of such radios by members of ambulance services or rescue squads in the county. Provided, however, the provisions of this section shall not apply to the use of such radio equipment to facilitate any criminal activity or to avoid apprehension by law enforcement officers. Violation of this section shall result in the application of the sanctions contained in subsections (2) and (3) of this section.

(5) The secretary of the department of finance is hereby empowered by issuance of a secretary's order to exempt from the prohibitions and penalties of this section the possession and use of any and all radio communication equipment that he finds is necessary to be owned and used by members of the general public and other non-police persons for utilization in the N.O.A.A. weather radio system.

HB 676, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of display of restricted material when, in any retail mercantile establishment, he displays, exposes for sale, viewing, or in any other manner otherwise accessible to persons under the age of eighteen (18) years, any book, magazine, or other material, the sale or distribution of which is regulated or prohibited by this chapter.

(2) Display of restricted material is a Class A misdemeanor.

HR 67, A CONCURRENT RESOLUTION directing the Legislative Research Commission to study determinate sentencing.

WHEREAS, there is a need to provide for court sentencing rather than jury sentencing for those offenders sentenced to a term of imprisonment by the court; and

WHEREAS, an offender's date of release from prison should depend on the offender's orderly behavior while imprisoned rather than the offender's participation in rehabilitative programs; and

WHEREAS, the present system of probation and parole does not seem to be achieving its desired results, as evidenced by large amounts of recidivism in crime; and

WHEREAS, the Legislative Research Commission has received inquiries regarding determinate sentencing from individuals in the penal system; and

WHEREAS, a number of bills regarding determinate sentencing have been introduced in previous legislative sessions, but have not had sufficient study to allow enactment; and

WHEREAS, determinate sentencing may represent a viable alternative to the present indefinite sentence system;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission shall perform a study of determinate sentencing in other states and shall use resources available to it within the state to formulate recommendations as to the viability of determinate sentencing use in Kentucky.

Section 2. That the results of the study, along with any recommendations, be reported to the appropriate interim committee not later than July 1, 1983.

Section 3. Staff services to be utilized in completing this study are estimated to cost $14,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

SB 10, AN ACT relating to plea bargaining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Prosecutor" means county attorney, commonwealth's attorney or their assistants;

(2) "Recommendation" means a proposal by the prosecutor to a court that:

(a) A charge be dismissed; or

(b) A defendant, if he pleads guilty to a charge, receive less than the maximum penalty permitted by law.

(3) "Victim" means a person who has suffered harm as a result of an offense.

SECTION 2. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

(1) In making a recommendation on a felony charge, a prosecutor must:

(a) Attempt to inform the victim that he has entered into discussions with defense counsel or the court concerning a recommendation;

(b) Attempt to inform the victim of the contents of the recommendation before it is filed; and

(c) Attempt to notify the victim so that he might be present when the court considers the recommendation.

(2) A court may consider a recommendation on a felony charge only if the prosecutor has complied with this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

(1) No recommendation may be made by the prosecutor to a court on a felony charge except (a) in writing; and (b) before the defendant enters a plea of guilty. The recommendation shall be shown as filed, and, if its contents indicate that the prosecutor anticipates that the defendant intends to enter a plea of guilty to a felony charge, the court shall order the presentence report required by KRS 532.050 and may hear evidence on the recommendation.

(2) Neither the content of the recommendation, the presentence report nor the hearing shall be a part of the official record of the case unless the court approves the recommendation. If the recommendation is not accepted, the court shall reject the same before the case may be tried. If the court rejects the recommendation, subsequent recommendations may be filed with the court, subject to the same requirements this chapter imposes upon the initial recommendation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

No recommendation, or verbal or written communications concerning the recommendation, may be admitted into evidence at the trial of the case, should the recommendation not culminate in approval by the court.

SECTION 5. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

As a part of the recommendation submitted to the court, the prosecutor must certify that he has offered to show the proposed recommendation to the victims of the felony, if any, and that they have been offered an opportunity to present their opinion of the recommendation to the prosecutor. This section is for the benefit of the victim and gives no additional rights to the defendant. Failure to comply gives no grounds for post-conviction relief.

SECTION 6. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

(1) If the victim is deceased or is under the age of eighteen (18), the prosecutor shall certify that he has completed the procedure required by Section 5 of this Act with the next of kin of the victim. If there is more than one (1) next of kin, then the prosecutor shall select at least one (1). If the victim is a corporation, association, or governmental entity, the prosecutor shall certify that he has completed the procedure with the responsible officer of agent of the entity. If the victim is a partnership, the prosecutor shall certify that he has completed the procedure with at least one (1) partner.

(2) If there are more than three (3) victims, the prosecutor shall complete the procedure required by Section 5 of this Act with the three (3) who he believes have suffered the most. If a victim, or his next of kin, cannot be located after a reasonable effort, the prosecutor shall so certify, and the recommendation may be submitted to and acted upon by the court.

(3) If the crime is one for which there is no identifiable victim, the provisions of this Act shall not apply.

SB 213, AN ACT relating to probation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the provisions of KRS chapter 439 and chapters 500 to 534, any district court or any circuit court with respect to a defendant convicted in circuit court of a misdemeanor may, upon motion of the defendant made not earlier than thirty (30) days after the defendant has been delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon such terms as the court determines.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

Section 2. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of KRS Chapter 439 and Chapters 500 to 534, any [~~district or~~] circuit court may, upon motion of the defendant made not earlier than thirty (30) days nor later than *ninety (90)* [~~sixty (60)~~] days after the defendant has been delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon such terms as the court determines. [~~The court which tried the defendant may also suspend the sentence and place the defendant on probation upon its own motion, made within the same thirty (30) day period.~~]

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the

expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

(4) The provisions of this section shall not apply where a sentence of death has been imposed.

The Committee on Natural Resources and Environment reported **HB 660, HB 758, HB 762,** and **HJR 59** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 660, AN ACT relating to geology.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) "Geology" means the science which treats the earth as a whole; the investigation of its composition, its size, shape and relationships between consolidated and unconsolidated rock units in the regolith and bedrock; and the applied aspects of utilizing knowledge of the earth and its constituents, including its consolidated and unconsolidated rock units, its minerals, liquids, gases and other materials for the benefit of mankind.

(2) "Geologist" means a person engaged in the practice of geology who has graduated from an accredited institution of higher learning with a major study in geology, geophysics, geochemistry, geological engineering, or engineering geology, with a minimum of thirty (30) semester or forty-five (45) quarter hours in geology, geophysics, geochemistry or their subdivisions; or a person who has graduated from an accredited institution of higher learning with major study in petroleum engineering, mining engineering, or other branch of engineering, or in physical or biological science, with a minimum of thirty (30) semester or forty-five (45) quarter hours of study in geology, geophysics, geochemistry or their subdivisions; or a person certified by the American Institute of Professional Geologists.

(3) "Registered professional geologist" means a geologist as defined in subsection (2) of this section and who has minimum of five (5) years of experience in aggregate geologic training or experience, after the award of a baccalureate degree, no more than two (2) years of which may have been in post-graduate study and who has filed the required approved credentials with the survey.

(4) "Survey" means the Kentucky geological survey.

Section 2. KRS 151.030 is amended to read as follows:

The Kentucky geological survey shall make a continuing geological study of the state and perform such other functions as are directed toward the development of the mineral resources of the state. *The survey shall maintain a list of all registered professional geologists and establish such additional procedures as are necessary to implement a geologist registration process.*

HB 758, AN ACT relating to the employes of the department of fish and wildlife resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

The commissioner may employ such other persons as he may deem necessary or desirable to accomplish the duties and functions assigned by law to the department of fish and wildlife resources; may fix the compensation and the terms of employment of those employed; and may assign to them such duties and responsibilities as he may determine. Individuals employed by the commissioner on a temporary basis for specific construction projects under KRS 56.491(5) or for maintenance or other purposes shall be exempt from the requirements of KRS 18.110 to 18.360.

HB 762, AN ACT relating to surface mining and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.060, 1980 Acts Chapter 62, Section 5, operative upon approval of primacy, except for (3) which became effective 3-21-80, is amended to read as follows:

(1) No person shall engage in surface coal mining and reclamation operations without having first obtained from the department a permit designating the area of land affected by the operation. Permits shall authorize the operator to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period of not to exceed five (5) years; provided that if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the department may grant a permit for such longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

(2) All operators who wish to engage in surface coal mining and reclamation operations and who have a valid permit from the department and who are in expectation of operating such mines after the expiration of eight (8) months from the approval by the secretary of the interior of the permanent regulatory program shall within two (2) months of the effective date of such approval apply for a new permit for such mines in compliance with the requirements of this section. The department for natural resources and environmental protection shall establish procedures and programs consistent with this chapter to issue or deny such permits within eight (8) months of such approval. The general assembly finds the fact that, due to the large number of permitted operations within the Commonwealth, the eight-month period may be administratively impracticable, and hereby authorizes the secretary to devise procedures to comply with this section in the most expeditious and reasonable manner possible, and a filing shall be deemed timely for the purposes of this subsection and surface coal mining operations may continue under an existing permit if that filing is in substantially complete form and submitted within the time limits set forth herein.

(3) Any permit validly issued by the department under the interim regulatory program in effect on March 21, 1980 and which would expire at any time after May 1, 1980 and before eight (8) months after approval of the permanent regulatory program by the United States secretary of the interior, shall be extended and remain in effect until eight (8) months after approval of the permanent regulatory program. Any interim permit so extended shall continue as a valid existing permit for purposes of this subsection if the permittee so requests and files an application for a permit with the department within two (2) months of the date of approval of the permanent regulatory program. The permittee may conduct operations under that existing permit beyond the eight (8) month period if an application has been filed in accordance with this subsection, but the initial administrative decision has not been rendered. The department shall not accept interim permit applications after August 1, 1980 or after December 1, 1980 if the United States secretary of the interior has not approved the Commonwealth's permanent regulatory program by September 3, 1980. The department shall receive and act on all substantially complete permit applications tendered to it on or before August 1, 1980 or December 1, 1980, whichever date is applicable, under the interim program.

(4) No permit or revision application shall be approved unless the application affirmatively demonstrates and the department finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(5) An operator desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post-office addresses of the applicant;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not every officer, partner, director or any individual owning of record or beneficially (alone or with associates) if known, ten percent (10%) or more of any class of stock of the applicant, is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify;

(h) A listing of any and all violations of this chapter, P.L. 95-87, and any law, rule or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three-year period prior to the date of an application. Such a list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is not in compliance with current reclamation standards, if so then identify the needed reclamation work.

(6) The application for a permit shall be accompanied by an official document (and an affidavit attesting to the document's authenticity) which will evidence what particular business entity the applicant

is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, then an affidavit so stating.

(7) The application for a permit shall be accompanied by copies, in numbers satisfactory to the department, of a United States geological survey topographic map or such other map acceptable to the department on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(8) The application for a permit shall be accompanied by copies, in numbers satisfactory to the department, of an enlarged United States geological survey topographic map or such other map acceptable to the department meeting the requirements of the subsections below. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (10) below;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining and the boundaries of surface properties and names of owners on the affected area and adjacent to any part of the affected area;

(d) Be of a scale of 1:24,000 or larger;

(e) Show the names, and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(f) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(g) Show the date on which the map was prepared, the north point and the quadrangle name; and

(h) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(9) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the department of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability; provided, however, that this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. Provided further, that the permit shall not be approved until such information is available and is incorporated into the application.

(10) All certifications required by this chapter to be made by professional engineers shall state that the information or documentation contained in the application is correct, and shall show that to the best of his or her knowledge and belief all the information required by the applicable laws and regulations of this state is included. The certification shall be signed and notarized. The department may reject any document or map as incomplete if its accuracy is not so attested. The certification shall be done in the form prescribed by the department.

(11) The application shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the department of transportation attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges. All trucks hauling coal on a fully controlled limited access highway shall be covered by a tarp or equivalent cover to prevent spillage.

(12) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto.

(13) The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the department for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by regulations of the department. Such coverage shall be maintained in full force and effect during the terms of the permit and any renewal thereof, and until reclamation operations are completed.

(14) A basic fee set by regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed two hundred fifty dollars ($250) plus a fee set by regulation but

not to exceed fifty dollars ($50) for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued. The operator shall file with the department a bond payable to the Commonwealth of Kentucky with surety satisfactory to the department in the penal sum to be determined by the department for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the department. In determining the amount of the bond the department shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required and the probable difficulty of reclamation giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the department in the event of forfeiture. The department shall promulgate regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of such bonds. Where a surface coal mining operation affects two (2) acres or less and the circumstances are such as to warrant an exception, the department, in its discretion, may reduce the amount of the bond for a particular operation to less than the required minimum.

(15) Surface coal mining and reclamation operations which affect two (2) acres or less shall be exempt from the requirements of this chapter, except that the department shall promulgate reasonable minimal regulations for permitting, bonding, controlling offsite water quality, refuse piles, and use of explosives; and shall prohibit disposal of soil over the outslope in an uncontrolled manner. Such regulations shall recognize the distinct difference between two (2) acre operations and other surface coal mining operations and shall be less stringent than those imposed on other surface coal mining operations affecting more than two (2) acres, and in no event shall the department require that the highwalls left by such operations be eliminated. In no event shall the bond be more than one thousand dollars ($1,000) per acre. The department shall promulgate a short form application which will require the basic business information and a brief description of the method of operation. These applications shall be processed within thirty (30) calendar days. All procedural provisions and the penalty provisions of KRS 350.990 shall, however, apply to operations conducted and permits granted pursuant to this subsection. The department shall enforce this subsection consistent with KRS Chapter 350 except that the department shall not issue orders requiring cessation of operations for mere failure to abate a violation.

(16) The department shall promulgate rules and regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The department shall recognize the distinct differences between the surface effects of underground mining and surface coal mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the department shall require that the areas overlaying underground workings not affected by the operation be permitted only for purposes of subsidence control and shall not be subject to the payment of acreage fees or bond requirements of subsection (14) of this section*; provided further, the department shall not consider haul roads or access roads as part of the affected area for permitting said operation, if such haul road or access road is permitted, bonded, properly constructed and maintained by an independent permittee, and if the surface effect of said underground coal mine (excluding haul or access roads) is less than two (2) acres.*

(17) Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), subsequent to the fulfillment of the public notice requirements of this chapter unless it is established and written findings by the department are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the department might require; or

(e) Any additional revised or updated information required by the department has not been provided; Prior to the approval of any renewal of permit the department shall provide notice to the appropriate public authorities.

(18) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(19) Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred and twenty (120) days prior to the expiration of the valid permit.

(20) Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three (3) years of the issuance of the permit. However, the department may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

Section 2. The general assembly finds and declares that it is vitally important to the Commonwealth that the statutes relating to surface coal mining be cohesive and administratively workable. Therefore, the general assembly finds and declares that an emergency exists and that this legislation shall become validly enacted law when signed by the governor, and the provisions of this Act shall become operative simultaneously with the approval of the state's proposed permanent program by the secretary of the interior pursuant to Public Law 95-87, the surface mining control and reclamation act of 1977. In the event that the secretary of the interior approves the permanent program before this legislation is signed by the governor, then the provisions of this Act shall become effective immediately upon the signing of this Act by the governor.

HJR 59, A JOINT RESOLUTION directing the department for natural resources and environmental protection to insure that any regulations relating to the mining of oil shale or tar sands be promulgated so as to be no more stringent than those governing surface coal mining.

WHEREAS, the Commonwealth has tremendous amounts of oil trapped in Devonian shale deposits; and

WHEREAS, large and numerous deposits of tar sands also exist within the boundaries of the state; and

WHEREAS, there is considerable interest in development of both type deposits; and

WHEREAS, the General Assembly recognizes the value of providing regulation and control of such development in order to protect the interests of the people and the resources of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the department for natural resources and environmental protection may promulgate regulations relating to mining of oil shale or tar sands provided that such regulations are no more stringent than those governing surface coal mining.

The Committee on Judiciary-Criminal reported **HB 536,** with Committee Substitute attached thereto, and **HB 669,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 536, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.505 is amended to read as follows:

(1) No person shall, with intent to defraud, knowingly make a false statement or misrepresentation or by other means fail to disclose a material fact used in determining his qualification to receive benefits under any assistance program;

(2) No person shall, with intent to defraud, fail to report a change in the factors affecting his eligibility for benefits;

(3) No person shall, with intent to defraud, knowingly use, attempt to use, acquire, transfer, forge, alter, traffic, counterfeit or possess a food stamp, food stamp identification card or medical identification card in any manner not authorized by law;

(4) No person having responsibility for the administration of an assistance program shall, having knowledge that the same is in violation of the law, knowingly aid or abet any person in obtaining benefits

to which such person is not legally entitled, or to obtain a benefit amount greater than that to which he is fully entitled;

(5) No person shall misappropriate or attempt to misappropriate a food stamp authorization to purchase card, food stamp identification card, medicaid identification card or misappropriate other benefits from any program with which he has been assigned responsibility, nor shall he knowingly fail to report any such activity when the same is clearly in violation of the law;

(6) No person shall, with intent to defraud or deceive, devise a scheme or plan a scheme or artifice to obtain benefits from any assistance program by means of false or fraudulent representations or intentionally engage in conduct which advances the scheme or artifice;

(7) No person shall aid and abet another individual in acts prohibited in subsections (1) to (6) of this section knowing the same to be in violation of the law*;*

(8) The attorney general on behalf of the Commonwealth of Kentucky may commence proceedings to enforce this section in the Franklin circuit court or in any county wherein the offense is committed; and the attorney general shall in undertaking such actions exercise all powers and perform all duties which the prosecuting attorney would otherwise perform or exercise.

Section 2. KRS 194.990 is amended to read as follows:

(1) Any person who violates the provisions of subsections (1), (2), and (7) of KRS 194.505 shall be guilty of a Class A misdemeanor unless the sum total of benefits received in excess of that to which the person was entitled at the time the offense was committed is valued at or over one hundred dollars ($100), in which case it is a Class D felony;

(2) Any person who violates subsection (3) of KRS 194.505 shall be guilty of a Class D felony;

(3) Any person who violates the provisions of subsections (4) and (5) of KRS 194.505 shall be guilty of a Class C felony;

(4) Any person who violates the provisions of subsection (6) of KRS 194.505 shall be guilty of a Class D felony unless the purpose of the violation is to obtain ten thousand dollars ($10,000) or more in which case it shall be a Class C felony;

(5) *Any person who violates subsections (1) to (6) of KRS 194.505 shall, in addition to any other penalties provided by law, forfeit and pay civil penalties of:*

(a) Payment to the department in the amount of all benefits and payments to which the person was not entitled;

(b) Payment to the state treasury's general revenue fund in an amount equal to three (3) times the amount of such benefits and payments to which the person was not entitled; and

(c) Payment to the state treasury's general revenue fund of all reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section. [~~Recovery of all benefits to which a person was not entitled shall be awarded to the department as provided in KRS 431.200.~~]

Section 3. KRS 205.845 is amended to read as follows:

As used in KRS 205.850:

(1) "Application" or "claim" means any communication, whether oral, written, or electronic which is used to identify any goods, item or service that is reimbursable under the medical assistance program or to petition the department for payment;

(2) "Assistance program" means any program administered by the department;

(3) "Benefit" means receipt of money, or goods or anything of pecuniary value from an assistance program;

(4) "False statement or misrepresentation" means a statement or representation knowingly made by a person to be false;

(5) "Provider" means an individual, corporation, association, facility, or institution which is providing or has been approved to provide medical assistance to recipients under the medical assistance program. [~~(1) "False statement or misrepresentation" means a statement or representation knowingly made by a person to be false;~~

~~(2) "Benefit" means receipt of money, or goods or anything of pecuniary value from an assistance program;~~

~~(3) "Provider" means an individual, corporation, association, facility, or institution which is providing or has been approved to provide medical assistance to recipients under the medical assistance program;~~

~~(4) "Assistance program" means any program administered by the department.~~]

Section 4. KRS 205.850 is amended to read as follows:

(1) Except as otherwise provided in KRS 205.510 to 205.600, no person shall knowingly solicit or receive any remuneration (including any kickback, bribe or rebate) for furnishing medical assistance benefits *or in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any goods, facility, service or item for which payment may be made pursuant to Title XIX of the Social Security Act*;

(2) No person shall unlawfully make, offer or receive payment, rebate of a fee, or charge for referring an individual to another person for furnishing of benefits;

(3) No person shall enter into an agreement, combination or conspiracy with the intent to defraud the department by obtaining or aiding another to obtain the payment or allowance of a fictitious, false or fraudulent claim;

(4) *No person shall make, present, or cause to be made or presented to an employe or officer of the department any false, fictitious or fraudulent statement, representation or entry in any application, claim, report or document used in determining rights to any benefit or payment or the extent of such entitlement to any benefit or payment, knowing such application, claim, report or document to contain any false, fictitious or fraudulent information* [~~No person shall, with intent to defraud, make, present or cause to be made or presented to an employe or officer of the department a claim for benefits upon or against the state knowing the claim to be false, fictitious or fraudulent~~];

(5) No person shall, with intent to defraud, knowingly make, or induce, or seek to induce the making of a false statement or false representation of a material fact with respect to the conditions or operations of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled nursing facility, intermediate care facility, home health agency or other provider of services to the medical assistance program.

(6) Subsections (1) and (2) of this section shall not apply to:

(a) A discount or other reduction in price obtained by a provider of services or other entity under this chapter if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this chapter; and

(b) Any amount paid by an employer to an employe (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

(7) The attorney general on behalf of the Commonwealth of Kentucky may commence proceedings to enforce this section in the Franklin Circuit Court or in any county wherein the offense is committed; and the attorney general shall in undertaking such actions exercise all powers and perform all duties which the prosecuting attorney would otherwise perform or exercise.

Section 5. KRS 205.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 205.170 or 205.175 shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200) or imprisoned for not more than six (6) months or both.

(2) Any person who wilfully violates any of the provisions of KRS 205.310, or any rule or regulation thereunder, shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), or imprisoned for not more than thirty (30) days, or both. Each failure or violation shall constitute a separate offense.

(3) Any person who violates the provisions of subsections (1), (2) and (3) of KRS 205.850 shall be guilty of a Class D felony.

(4) *Any person who violates subsection (4) of KRS 205.850 shall be guilty of a Class A misdemeanor unless the sum total of the false, fictitious or fraudulent statements, representations or entries in any such claim, report or document is valued at one hundred dollars ($100) or more in which case it shall be a Class D felony. If the sum total of such false, fictitious or fraudulent statements representations, or entries in such claim, report or document is valued at $10,000 or more, it shall be a Class C felony* [~~Any person who violates the provisions of subsection (4) of KRS 205.850 shall be guilty of a Class A misdemeanor unless the sum total of the false, fictitious or fraudulent claims for benefits is valued at one hundred dollars ($100) or more in which case it shall be a Class D felony~~].

(5) Any person who violates the provisions of subsection (5) of KRS 205.850 shall be guilty of a Class C felony.

(6) *Any person who violates subsections (1) to (6) of KRS 194.505 shall, in addition to any other penalties provided by law, forfeit and pay civil penalties of:*

(a) Payment to the department in the amount of all benefits and payments to which the person was not entitled;

(b) Payment to the state treasury's general revenue fund in an amount equal to three (3) times the amount of such benefits and payments to which the person was not entitled; and

(c) Payment to the state treasury's general revenue fund of all reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section [~~Recovery of all benefits to which a person was not entitled shall be awarded to the department as provided in KRS 431.200~~].

Committee Substitute to **HB 536:**

HB 536, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.505 is amended to read as follows:

(1) No person shall, with intent to defraud, knowingly make a false statement or misrepresentation or by other means fail to disclose a material fact used in determining his qualification to receive benefits under any assistance program;

(2) No person shall, with intent to defraud, fail to report a change in the factors affecting his eligibility for benefits;

(3) No person shall, with intent to defraud, knowingly use, attempt to use, acquire, transfer, forge, alter, traffic, counterfeit or possess a food stamp, food stamp identification card or medical identification card in any manner not authorized by law;

(4) No person having responsibility for the administration of an assistance program shall, having knowledge that the same is in violation of the law, knowingly aid or abet any person in obtaining benefits to which such person is not legally entitled, or to obtain a benefit amount greater than that to which he is fully entitled;

(5) No person shall misappropriate or attempt to misappropriate a food stamp authorization to purchase card, food stamp identification card, medicaid identification card or misappropriate other benefits from any program with which he has been assigned responsibility, nor shall he knowingly fail to report any such activity when the same is clearly in violation of the law;

(6) No person shall, with intent to defraud or deceive, devise a scheme or plan a scheme or artifice to obtain benefits from any assistance program by means of false or fraudulent representations or intentionally engage in conduct which advances the scheme or artifice;

(7) No person shall aid and abet another individual in acts prohibited in subsections (1) to (6) of this section knowing the same to be in violation of the law*;*

(8) The attorney general on behalf of the Commonwealth of Kentucky may commence proceedings to enforce this section in the Franklin circuit court or in any county wherein the offense is committed; and the attorney general shall in undertaking such actions exercise all powers and perform all duties which the prosecuting attorney would otherwise perform or exercise.

Section 2. KRS 194.990 is amended to read as follows:

(1) Any person who violates the provisions of subsections (1), (2), and (7) of KRS 194.505 shall be guilty of a Class A misdemeanor unless the sum total of benefits received in excess of that to which the person was entitled at the time the offense was committed is valued at or over one hundred dollars ($100), in which case it is a Class D felony;

(2) Any person who violates subsection (3) of KRS 194.505 shall be guilty of a Class D felony;

(3) Any person who violates the provisions of subsections (4) and (5) of KRS 194.505 shall be guilty of a Class C felony;

(4) Any person who violates the provisions of subsection (6) of KRS 194.505 shall be guilty of a Class D felony unless the purpose of the violation is to obtain ten thousand dollars ($10,000) or more in which case it shall be a Class C felony;

(5) *Any person who violates subsections (1) to (6) of KRS 194.505 shall, in addition to any other penalties provided by law, forfeit and pay a civil penalty of:*

(a) Payment to the department in the amount of all benefits and payments to which the person was not entitled;

(6) Any provider who violates subsections (1) to (6) of KRS 194.505 shall, in addition to any other penalties provided by law, including the penalty set forth in KRS 194.505(5), forfeit and pay civil penalties of:

(a) Payment to the state treasury's general revenue fund in an amount equal to three (3) times the amount of such benefits and payments to which the person was not entitled; and

(b) Payment to the state treasury's general revenue fund of all reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section [~~Recovery of all benefits to which a person was not entitled shall be awarded to the department as provided in KRS 431.200~~].

Section 3. KRS 205.845 is amended to read as follows:

As used in KRS 205.850:

(1) *"Application" or "claim" means any communication, whether oral, written, or electronic which is used to identify any goods, item or service that is reimbursable under the medical assistance program or to petition the department for payment;*

(2) "Assistance program" means any program administered by the department;

(3) "Benefit" means receipt of money, or goods or anything of pecuniary value from an assistance program;

(4) "False statement or misrepresentation" means a statement or misrepresentation knowingly made by a person to be false;

(5) "Provider" means an individual, corporation, association, facility, or institution which is providing or has been approved to provide medical assistance to recipients under the medical assistance program

[~~"False statement or misrepresentation" means a statement or representation knowingly made by a person to be false;~~

~~(2) "Benefit" means receipt of money, or goods or anything of pecuniary value from an assistance program;~~

~~(3) "Provider" means an individual, corporation, association, facility, or institution which is providing or has been approved to provide medical assistance to recipients under the medical assistance program;~~

~~(4) "Assistance program" means any program administered by the department.~~]

Section 4. KRS 205.850 is amended to read as follows:

(1) Except as otherwise provided in KRS 205.510 to 205.600, no person shall knowingly solicit or receive any remuneration (including any kickback, bribe or rebate) for furnishing medical assistance benefits *or in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any goods, facility, service or item for which payment may be made pursuant to Title XIX of the Social Security Act*;

(2) No person shall unlawfully make, offer or receive payment, rebate of a fee, or charge for referring an individual to another person for furnishing of benefits;

(3) No person shall enter into an agreement, combination or conspiracy with the intent to defraud the department by obtaining or aiding another to obtain the payment or allowance of a fictitious, false or fraudulent claim;

(4) *No person shall make, present, or cause to be made or presented to an employe or officer of the department any false, fictitious or fraudulent statement, representation or entry in any application, claim, report or document used in determining rights to any benefit or payment or the extent of such entitlement to any benefit or payment, knowing such application, claim, report or document to contain any false, fictitious or fraudulent information* [~~No person shall, with intent to defraud, make, present or cause to be made or presented to an employe or officer of the department a claim for benefits upon or against the state knowing the claim to be false, fictitious or fraudulent~~];

(5) No person shall, with intent to defraud, knowingly make, or induce, or seek to induce the making of a false statement or false representation of a material fact with respect to the conditions or operations of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled nursing facility, intermediate care facility, home health agency or other provider of services to the medical assistance program.

(6) Subsections (1) and (2) of this section shall not apply to:

(a) A discount or other reduction in price obtained by a provider of services or other entity under this chapter if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this chapter; and

(b) Any amount paid by an employer to an employe (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

(7) The attorney general on behalf of the Commonwealth of Kentucky may commence proceedings to enforce this section in the 48th judicial circuit or in any county wherein the offense is committed; and the attorney general shall in undertaking such actions exercise all powers and perform all duties which the prosecuting attorney would otherwise perform or exercise.

Section 5. KRS 205.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 205.170 or 205.175 shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200) or imprisoned for not more than six (6) months or both.

(2) Any person who wilfully violates any of the provisions of KRS 205.310, or any rule or regulation thereunder, shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), or imprisoned for not more than thirty (30) days, or both. Each failure or violation shall constitute a separate offense.

(3) Any person who violates the provisions of subsections (1), (2) and (3) of KRS 205.850 shall be guilty of a Class D felony.

(4) *Any person who violates subsection (4) of KRS 205.850 shall be guilty of a Class A misdemeanor unless the sum total of benefits or payments claimed in any such application, claim, report or document, or in any combination or aggregation thereof, is valued at one hundred dollars ($100) or more in which case it shall be a Class D felony* [~~Any person who violates the provisions of subsection (4) of KRS 205.850 shall be guilty of a Class A misdemeanor unless the sum total of the false, fictitious or fraudulent claims for benefits is valued at one hundred dollars ($100) or more in which case it shall be a Class D felony~~].

(5) Any person who violates the provisions of subsection (5) of KRS 205.850 shall be guilty of a Class C felony.

(6) *Any person who violates subsections (1) to (6) of KRS 205.850 shall, in addition to any other penalties provided by law, forfeit and pay a civil penalty of:*

(a) Payment to the department in the amount of all benefits and payments to which the person was not entitled.

(7) Any provider who violates subsections (1) to (6) of KRS 205.850 shall, in addition to any other penalties provided by law, including the penalty set forth in KRS 205.990(6), forfeit and pay civil penalties of:

(a) Payment to the state treasury's general revenue fund in an amount equal to three (3) times the amount of such benefits and payments to which the person was not entitled; and

(b) Payment of all reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section [~~Recovery of all benefits to which a person was not entitled shall be awarded to the department as provided in KRS 431.200)~~].

HB 669, AN ACT relating to criminal abuse of persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of criminal abuse in the first degree when he intentionally abuses another person or permits another person of whom he has actual custody to be abused by:
(a) Placing him in a situation that may cause him serious physical injury; or
(b) Persistently causing torture, cruel confinement or cruel punishment; and
(c) Is a person twelve (12) years of age or less; or
(d) Is physically helpless or mentally helpless.
(2) "Persistently" means continuing to manifest such conduct over an unreasonable period of time.
(3) "Physically helpless" and "mentally helpless" means a person who lacks substantial capacity to defend himself or solicit protection from law enforcement agencies.
(4) Criminal abuse in the first degree is a Class D felony.

SECTION 2. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of criminal abuse in the second degree when he wantonly abuses another person or permits another person of whom he has actual custody to be abused by:
(a) Placing him in a situation that may cause him serious physical injury; or
(b) Persistently causing torture, cruel confinement or cruel punishment; and
(c) Is a person twelve (12) years of age or less; or
(d) Is physically helpless or mentally helpless.
(2) "Persistently" means continuing to manifest such conduct over an unreasonable period of time.
(3) "Physically helpless" and "mentally helpless" means a person who lacks substantial capacity to defend himself or solicit protection from law enforcement agencies.
(4) Criminal abuse in the second degree is a Class A misdemeanor.

Committee Substitute to **HB 669:**

HB 669, AN ACT relating to criminal abuse of persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of criminal abuse in the first degree when he intentionally abuses another person or permits another person of whom he has actual custody to be abused and thereby:
(a) Causes serious physical injury; or
(b) Places him in a situation that may cause him serious physical injury; or
(c) Causes torture, cruel confinement or cruel punishment;
To a person twelve (12) years of age or less, or who is physically helpless or mentally helpless.
(2) Criminal abuse in the first degree is a Class C felony.

SECTION 2. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of criminal abuse in the second degree when he wantonly abuses another person or permits another person of whom he has actual custody to be abused and thereby:

(a) Causes serious physical injury; or

(b) Places him in a situation that may cause him serious physical injury; or

(c) Causes torture, cruel confinement or cruel punishment;

To a person twelve (12) years of age or less, or who is physically helpless or mentally helpless.

(2) Criminal abuse in the second degree is a Class D felony.

SECTION 3. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of criminal abuse in the third degree when he recklessly abuses another person or permits another person of whom he has actual custody to be abused and thereby:

(a) Causes serious physical injury; or

(b) Places him in a situation that may cause him serious physical injury; or

(c) Causes torture, cruel confinement or cruel punishment;

To a person twelve (12) years of age or less, or who is physically helpless or mentally helpless.

(2) Criminal abuse in the third degree is a Class A misdemeanor.

SECTION 4. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

The following definitions apply in Sections 1 through 4 of this Act unless the context otherwise requires:

(1) "Abuse" means the infliction of physical pain, injury, or mental injury, or the deprivation of services by a person which are necessary to maintain the health and welfare of a person, or a situation in which an adult, living alone, is unable to provide or obtain for himself the services which are necessary to maintain his health or welfare.

(2) "Physically helpless" and "mentally helpless" means a person who lacks substantial capacity to defend himself or solicit protection from law enforcement agencies.

The Committee on Business Organizations and Professions reported **SB 293,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 293, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.290 is amended to read as follows:

(1) No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and 8 a.m., or at any time during the twenty-four hours of a Sunday, or during the hours the polls are open on any regular, primary, school or special election day, provided, that if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section; except that the city council, board of aldermen or other municipal legislative body of cities of the first, second or third class in which traffic in distilled spirits and wine is permitted under KRS chapter 242 shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries, and except further that the fiscal court of each county in which cities of the first, second or third class are located shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of such cities, except any portion in which distilled spirits and wine are prohibited from being sold. Provided, however, that no distilled spirits or wine may be sold in any portion of the counties containing cities of the first, second or third class during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in *subsections* [~~subsection~~] (2) *and (4)* of this section, and that no distilled spirits or wine may be sold on any election day while the polls are still open; and provided, also, that all stocks of distilled spirits and wine must be kept locked during the hours which the licensee is prohibited from selling same.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine is permitted under KRS chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?"

(3) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in *subsections* [~~subsection~~] (2) *and (4)* of this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

(4) In any county containing a city of the first or second class or urban-county government or in any city located therein in which sale of distilled spirits and wine is permitted under KRS Chapter 242, the respective legislative body of such city or fiscal court, of such areas, shall have the power by duly enacted ordinance, to permit the sale of distilled spirits and wine on Sunday from 1 p.m. until a closing hour to be established by the legislative body of the area concerned, by hotels, motels, convention centers, restaurants and commercial airports who are licensed for the retail sale of distilled spirits and wine by the drink and who have dining facilities with a minimum seating capacity of one hundred (100) people at tables and who receive at least fifty percent (50%) or more of their gross annual income from their dining facilities by the sale of food. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a special Sunday license.

Committee Substitute to **SB 293:**

SB 293, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.290 is amended to read as follows:

(1) No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and 8 a.m., or at any time during the twenty-four hours of a Sunday, or during the hours the polls are open on any regular, primary, school or special election day, provided, that if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section; except that the city council, board of aldermen or other [~~municipal~~] legislative body of cities of the first, second or third class *or urban county government* in which traffic in distilled spirits and wine is permitted under KRS chapter 242 shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries, and except further that the fiscal court of each county in which cities of the first, second or third class are located shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of such cities, except any portion in which distilled spirits and wine are prohibited from being sold. Provided, however, that no distilled spirits or wine may be sold in any portion of the counties containing cities of the first, second or third class during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in *KRS 243.050 and subsections* [~~subsection~~] (2), *(4) and (5)* of this section, and that no distilled spirits or wine may be sold on any election day while the polls are still open; and provided, also, that all stocks of distilled spirits and wine must be kept locked during the hours which the licensee is prohibited from selling same.

(2) In any county containing a city of the first or second class *or urban county government* in which the sale of distilled spirits and wine is permitted under KRS chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?"

(3) In any *area* [~~county containing a city of the first or second class~~] in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in *subsections* [~~subsection~~] (2), *(4) and (5)* of this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

(4) In any county containing a city of the first or second class or in any city located therein in which sale of distilled spirits and wine is permitted under KRS Chapter 242, the respective legislative body of such city or fiscal court, of such areas, shall have the power by duly enacted ordinance, to permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour to be established by the legislative body of the area concerned, by hotels, motels, and restaurants which are licensed for the retail

sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty percent (50%) or more of their gross annual income from their dining facilities by the sale of food.

(5) In any county containing an urban county government in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of such urban county government may by resolution or ordinance submit to the electorate a proposal to permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour specified in the proposal, by hotels, motels, convention centers, restaurants and commercial airports which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty percent (50%) or more of gross annual income from dining facilities by the sale of food. The proposal to be submitted to the electorate shall be so framed that any voter who wishes to vote in favor of such limited Sunday sales of distilled spirits and wine by the drink may signify his approval by voting "yes" and any voter who wishes to vote against such limited Sunday sales of distilled spirits and wine by the drink may do so by voting "no." Said election shall be held on a date stipulated by the legislative body and the cost of the election shall be borne by the urban county government. The proposal shall be published pursuant to KRS Chapter 424 and shall also be advertised by written or printed handbills posted at not less than five (5) conspicuous places in each precinct of the county for two (2) weeks before the election. The general election laws, including penalties for violations, shall apply to the election, except where those laws are inconsistent with the provisions of this section. Any such proposal submitted to the electorate shall be effective immediately if a majority of those voting on the proposal shall vote "yes."

Section 2. KRS 243.050 is amended to read as follows:

(1) The department may issue a railroad system license to a railroad company upon the payment of a fee of one thousand dollars ($1,000). This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages.

(2) The department may issue a commercial airlines system license to a commercial airlines system or charter flight system upon the payment of a fee of $1,000. This license fee shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages and the license may be renewed annually for a fee of $1,000. The license shall authorize the licensee to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly scheduled or charter flights of the licensee, into and out of the state of Kentucky. The license shall authorize the licensee to store alcoholic beverages for retail sale at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application.

(3) The department may issue a transporter's license to a commercial airline system, a charter flight system, or a commercial cargo system, upon the payment of $100. This license may be renewed annually for a fee of $100. The license shall authorize the licensee to transport distilled spirits and wine and malt beverages, into and out of the state of Kentucky, upon regularly scheduled or charter flights of the licensee. The license shall authorize, for the purpose of transportation, the storage of alcoholic beverages at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application. This license shall authorize an airline to transport if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship or receive the alcoholic beverages.

(4) Where it is determined by the department to be in the best interest of promoting tourism, conventions and the economic development of Kentucky or any part thereof, the department may issue a supplemental license for the retail sale of alcoholic beverages by the drink at convention centers, at horse race tracks licensed to conduct a race meeting under KRS Chapter 230, and at commercial airports through which more than five hundred thousand (500,000) passengers arrive or depart annually. Upon application by the holder of a retail alcoholic beverage license at a convention center, horse race track or commercial airport as provided above, the department may establish the days when the supplemental license will be valid at the specific location, including Sundays after 1 p.m. The supplemental license fee shall be one thousand dollars ($1,000) per year and shall be in addition to all other licenses and fees due by the holder in connection with the retailing of alcoholic beverages. The department may by regulation or special conditions of the supplemental permit establish such restrictions on the use of the license as will insure that it will be primarily for the benefit of the convention center business, the horse racing industry, and passengers at large commercial airports.

The Committee on Natural Resources and Environment reported **HB 661** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 661, AN ACT relating to fish and wildlife resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.022 is amended to read as follows:

(1) The department of fish and wildlife resources commission shall consist of nine (9) members, one (1) from each wildlife district, as set out by the commissioner with the approval of the commission, and not more than five (5) of the same political party.

(2) The governor shall appoint the members of the commission. Each of such members shall be appointed for a term of four (4) years.

(3) Vacancies through the expiration of terms of the members of the commission shall be filled by appointment by the governor from a list of five (5) names from each wildlife district, recommended and submitted by the sportsmen of each respective district. When the term of a member expires, the commissioner shall call a meeting of the sportsmen in that district not later than thirty (30) days prior to the expiration of such member's term. Notice of the meeting shall be given by publication pursuant to KRS Chapter 424. At such meeting, the sportsmen in attendance shall select and submit to the governor a list of five (5) residents and citizens of the district who are well informed on the subject of wildlife conservation and restoration. [~~Each sportsman may vote for one candidate only, and the list submitted to the governor shall be made up of the names of the five candidates receiving the five highest vote totals.~~] The governor shall appoint a successor to the member whose term is about to expire within sixty (60) days following the submission to him of the list hereinabove referred to, and in no event later than August 13.

(4) Upon appointment to the commission of the department of fish and wildlife resources, each commissioner shall execute a bond of one thousand dollars ($1,000) in favor of the department of fish and wildlife resources, the premium on said bond to be paid out of department funds.

(5) In the event of vacancies other than by expiration, the governor shall fill the vacancy for the unexpired part of the term from the names remaining on the list previously submitted for the district from which the vacancy arose.

(6) Each member of the commission shall take the constitutional oath of office.

(7) The governor may remove any member of the commission for inefficiency, neglect of duty, or misconduct in office; but shall first deliver to such member a copy of all charges in writing and afford to him an opportunity of being publicly heard in person or by counsel in defense of such charges, upon not less than ten (10) days' notice. If a member shall be removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against such member and his findings thereon, together with a complete record of the proceedings.

(8) Each member of the commission shall be entitled to reimbursement for actual and necessary traveling and other expenses incurred by him in the discharge of his official duties and to be paid from the game and fish fund.

(9) A majority of the commission shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power vested in the commission.

(10) The department shall have its principal office in Franklin County, and is authorized to purchase all supplies, equipment and printed forms and to issue such notices and publications as the commissioner may deem necessary to carry out the provisions of this chapter.

(11) The word "sportsman" as used in this section shall mean a resident hunter or fisherman who has been licensed in Kentucky for each of the past two (2) consecutive years.

Adjournment

Representative LeMaster moved that the House adjourn.

The House adjourned by voice vote.

THURSDAY, MARCH 11, 1982

FORTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Gene Carter, Pikeville, Church of Christ, Pikeville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All present except Representative Lile.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of March 10, 1982, be dispensed with and the same approved. Agreed.

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 313.**

Appropriations and Revenue: **SB 186.**

Banking and Insurance: **SB 223, HR 83.**

Business Organizations and Professions: **SB 220.**

Counties and Special Districts: **SB 347.**

Natural Resources and Environment: **SB 279.**

Report of Committees

The Committee on Rules reported **HB 611, HB 355, HB 415, HB 346, HB 555, HB 269, HB 526, HB 90, HB 632, HB 636, HB 677, HB 686, HB 820, HR 43, HCR 46, HCR 47, HCR 49, SB 82, SB 33, SB 52, SB 151, SB 159, SB 202,** and **SB 278** have been posted for passage in Orders of the Day, March 12, 1982.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 512, HB 144.**

State Government: **HB 581.**

The Committee on Agriculture and Small Business reported **HB 110** with Committee Substitute and Committee Title Amendment attached thereto, **HB 533, HB 744** with Committee Substitute attached thereto, **HB 799, HB 802** with Committee Amendment attached thereto, **HR 63,** and **HR 82** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 110, AN ACT relating to business licensing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "System" means the business registration and licensing center established by this Act and located in and under the administrative control of the department.

(2) "Master license" means the document designed for public display issued by the system which certifies individual state agency approval for licenses the state requires for any person subject to the provisions of this Act.

(3) "License" means any agency permit, license, certificate, approval, registration, charter, or any form of permission required by law, including agency rule, to engage in any activity.

(4) "Person" means any individual, sole proprietorship, partnership, association, cooperative, corporation, nonprofit organization, state or local government agency, and any other organization required to register with the state to do business in the state and to obtain one (1) or more licenses from the state or any of its agencies.

SECTION 2. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) There is established within the department a business registration and licensing system.

(2) The duties of the system shall be:

(a) To establish a service before July 30, 1982 that will provide information to persons detailing all state licenses required to engage in business in this state and the locations for applying for those licenses.

(b) To develop before January 1, 1983 a common system of identifying businesses by all state agencies.

(c) To recommend to the interim legislative committee having jurisdiction over small business matters on January 1, 1983 criteria for evaluation of existing and proposed forms of licensing authorization.

(d) To develop a computerized system before July 1, 1983 capable of storing, retrieving, and exchanging license information as well as issuing and renewing master licensing in an efficient manner.

(3) Every state agency shall review its licenses and recommend to the interim legislative committee having jurisdiction over small business matters on April 1, 1983 those licenses that should be eliminated or consolidated and justify those that should be retained.

(4) The plan for developing the system shall include a phased approach that:

(a) Will have completed before January 1, 1983 a requirements analysis and specification document, including overview system design.

(b) Will have completed before April 1, 1983 a detailed requirements analysis, including general systems design.

(c) Will have established before April 1, 1983 interagency procedures for effectuating the system.

(d) Will have selected before April 1, 1983 those licenses which will be included in the initial implementation of the system and the date and manner in which the licenses will be integrated into the system.

(e) Will have completed before July 1, 1983 a cost benefit analysis of the final implementation of this Act.

(f) Will have concluded before October 1, 1983 trial applications and a test of the system.

(5) The commissioner shall appoint a director of the system.

(6) The director of the system may promulgate administrative regulations as may be necessary to effectuate the provisions of this Act. The director shall confer with the interim legislative committee having jurisdiction over small business prior to submitting new regulations.

SECTION 3. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

The director of the system shall report to the interim legislative committee having jurisdiction over small business matters at its next regularly scheduled meeting following each date established in Section 2 of this Act. The report shall include the progress of the system in meeting the duties established in Section 2 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) The governor's executive cabinet as established by KRS 11.065 shall provide policy direction to the department as it establishes and operates the system.

(2) The governor's executive cabinet shall:

(a) Establish interagency policy guidelines for the system.

(b) Review the findings, status, and problems of system operations and recommend courses of action.

(c) Receive reports from industry and agency task forces.

(d) Recommend to the system in questionable cases whether a specific license comes within the scope of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly hereby directs the full participation by the following agencies in the implementation of this Act.

(a) Department of energy and agriculture.

(b) Secretary of state.

(c) Department for human resources.

(d) Department of revenue.

(e) Public protection and regulation cabinet.

(f) Commerce cabinet.

(g) Department of finance.

(h) Other departments as determined by the governor.

(i) Licensing boards and agencies.

(2) The general assembly hereby directs the department for natural resources and environmental protection to establish a program to meet the duties of Section 2 of this Act exclusively for that department's licenses and independent of the system. The department for natural resources and environmental protection shall, however, be subject to policy decisions of the governor's executive cabinet outlined in Section 4 of this Act.

(3) The department of technical services is hereby directed to participate with the system in fulfilling the duty of paragraph (d) of subsection 2 of Section 2 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

Irrespective of any authority delegated to the department to implement the provisions of this Act, the authority for determining if any requested license shall be issued shall remain with the agency otherwise legally authorized to issue the license.

Committee Substitute to **HB 110:**

HB 110, AN ACT relating to business licensing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Division" means the division of small business assistance.

(2) "Director" means the director of the division.

(3) "Task force" means the task force on business registration and licensing as established in this Act.

(4) "Council" means the small business advisory council as established in this Act.

(5) "Small business" means a business entity organized for profit, including but not limited to any individual partnership, corporation, joint venture, association or cooperative, which entity:

(a) Is not an affiliate or subsidiary of a business dominant in its field of operation; and

(b) Has twenty (20) or fewer full-time employes or no more than the equivalent of one million dollars ($1,000,000) in annual gross revenues in the preceding fiscal year.

(6) "Master application" means the document designed by the division for public use in supplying all information necessary for individual state agency approval for licenses the Commonwealth requires for any person subject to the provisions of this Act.

(7) "Master license" means the document designed for public display issued by the division which authorizes individual state agency approval for licenses the state requires for any person subject to the provisions of this Act.

(8) "License" means any agency permit, license, certificate, approval, registration, charter, or any form of permission required by law, including agency rule, to engage in any activity.

SECTION 2. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) There is established within the department a division of small business assistance.

(2) The duties of the division shall be:

(a) To provide staff assistance to the task force;

(b) To effectuate the recommendations of the task force;

(c) To collect, summarize and disseminate information helpful to minority businesses, including information on:

1. Market research;

2. New business opportunities;

3. Federal, state and local minority business programs; and

4. The availability of managerial assistance programs within the state educational system;

(d) To assist minority businesses with federal, state and local government agencies, regulations and procurement programs.

(e) Provide staff assistance to the council;

(f) Provide information on federal, state and local small business programs and regulations; and

(g) Make referrals to managerial assistance programs within the state educational system.

(3) The director is designated a small business ombudsman and shall:

(a) Receive and refer complaints of small business to the council and the appropriate administrative bodies;

(b) Coordinate the activities of all administrative bodies performing functions affecting the operation of small business in the Commonwealth;

(c) Represent the interests of the council and small businesses in the Commonwealth before federal, state and local administration and regulatory agencies; and

(d) Prepare an annual report of the activities and recommendations of the council and submit the report to the governor and the appropriate legislative committee having jurisdiction over small business matters.

SECTION 3. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) There is established a task force on business registration and licensing to make recommendations on implementing a one-stop permit program within the division.

(2) The membership of the task force shall include a representative from the following agencies:

(a) Department of energy and agriculture;

(b) Secretary of state;

(c) Department for human resources;

(d) Department of revenue;

(e) Public protection and regulation cabinet;

(f) Commerce cabinet;

(g) Department of finance;

(h) Department for natural resources and environmental protection;

(i) Other departments as determined by the governor.

(3) The task force shall be chaired by the representative of the commerce cabinet.

(4) The task force shall study and make recommendations before January 1, 1983, to the division and the appropriate legislative committee having jurisdiction over small business matters on:

(a) The steps necessary to establish a master licensing and application program;

(b) The costs included in developing and maintaining the program; and

(c) The benefits that would result from the program;

(d) The feasibility of implementing a one-stop permitting program.

(5) If one-stop permitting is deemed feasible, the task force shall make recommendations before July 1, 1983, to the division and the appropriate legislative committee having jurisdiction over small business matters on:

(a) A common system of identifying businesses by all state agencies;

(b) The development of a computerized system capable of storing, retrieving and exchanging license information as well as issuing and renewing master licensing in an efficient manner; and

(c) The selection of business categories and licenses which will be included in the initial implementation of one-stop permitting and the date and manner in which licenses will be integrated into the program. In this selection, the task force shall give priority consideration to the initial inclusion of those licenses that most directly affect small business and to business categories that primarily consist of small businesses.

SECTION 4. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) There is established a small business advisory council which shall serve in an advisory capacity to the division.

(2) The council shall be composed of ten (10) members who are officers or representatives of small businesses. The members of the council shall be appointed by the governor for four (4) year terms, except that five (5) of the initial members shall be appointed for two (2) year terms. Members may be reappointed.

(3) Members of the council shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the council.

(4) The council shall meet as soon as practicable after the initial ten (10) members are appointed, and thereafter shall meet at least twice a year and at the call of the director. The council shall annually elect one (1) of its members to serve as chairman.

(5) The council shall:

(a) Serve as a source of expertise and information on small businesses to the division;

(b) Keep the division informed with respect to problems of, and matters affecting, small businesses;

(c) Advise the division, upon request of the division, with respect to any matters relating to small businesses.

SECTION 5. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) The director of the division may promulgate administrative regulations as may be necessary to effectuate the provisions of this Act. The director may confer with the interim legislative committee having jurisdiction over small business prior to submitting new regulations.

(2) Irrespective of any authority delegated to the division to implement the provisions of this Act, the authority for determining if any requested license shall be issued shall remain with the agency otherwise legally authorized to issue the license.

Section 6. KRS 152.020 is amended to read as follows:

(1) There is hereby created an agency of the state government to be known as the department of commerce, which shall constitute a department of the state government within the meaning of KRS chapter 12. The department shall consist of a commissioner and such administrative bodies and employes as are provided by law.

(2) The department, subject to the provisions of KRS 12.010 to 12.141, shall be organized into a division devoted to industrial development, a division devoted to marketing development, a division devoted to research and planning, a division devoted to community and industrial services, a division devoted to *small business assistance* [~~development of small and minority business enterprise~~], a division devoted to international trade and reverse investment, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the department.

(3) The executive officer of the department shall be the commissioner of the department of commerce. The commissioner shall be appointed by the governor and shall serve at the pleasure of the governor. The commissioner shall have general supervision and direction over all activities and functions of the department and its employes, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be the chief executive officer of the department and, as such, shall have authority to enter into contracts, subject to the approval of the secretary of the development cabinet and the secretary of the department of finance, when such contracts are deemed necessary to implement and carry out the program of the department.

Committee Title Amendment to **HB 110:**

Amend printed copy of **HB 110,** page 1, title amendment, "AN ACT relating to the Department of Commerce"

HB 533, AN ACT relating to tobacco.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 248.510 is amended to read as follows:

(1) The Kentucky Tobacco Research Board is hereby created. The board shall be composed of *fourteen (14)* [~~thirteen~~] members as follows:

(a) *Ten (10)* [~~Nine~~] permanent members who shall be the following officeholders or shall be designated by the following organizations: the Kentucky Farm Bureau Federation; the Kentucky Division of the National Farmers Organization; the Commissioner of the Kentucky Department of Agriculture; the Dean of the University of Kentucky College of Agriculture; the Burley Growers Cooperative Association; the Tobacco Warehouse Association; the Dark Fired Tobacco Association; *the Kentucky Medical Association;* the Chairman of the Senate Committee on Agriculture and Natural Resources; and the Chairman of the House Committee on Agricultural and Natural Resources. Each officeholder and organization shall designate an alternate who is authorized to serve when the member cannot be present at a meeting.

(b) Three (3) members at large who shall be *appointed by the governor with the advice and consent of the legislative research commission* [~~elected and re-elected by the nine permanent members of the board. The board shall elect an alternate to each member to serve when the member cannot be present at the meeting~~].

(c) One (1) member who shall be selected by the *ten (10)* [~~nine~~] permanent members of the board, and who shall be the president or member of the board of directors of a tobacco company incorporated to do business in Kentucky.

(2) No member of the board shall receive any salary, fee or other remuneration for his services as a member of the board but each member shall be reimbursed for his ordinary travel expenses, including meals and lodging, incurred in the performance of his duties incident to implementation of the provisions of KRS 248.510 to 248.570.

(3) The term of the *ten (10)* [~~nine~~] members designated in paragraph (a) of subsection (1) of this section shall not change but shall be permanent members in terms of the organizations and offices named. At-large members and the tobacco industry member shall serve two-year terms.

(4) The board shall elect, by a majority vote of the *fourteen (14)* [~~thirteen~~] members, a chairman who shall be the presiding officer of the board, shall preside at all meetings, and coordinate the functions and activities of the board. The chairman shall be elected or re-elected annually and shall be a permanent member or an at-large member of the board. The board shall have such other organization as deemed necessary and approved by the board.

(5) Meetings of the board shall be held at least quarterly but may be held more frequently as deemed necessary subject to call by the chairman or by request of a majority of the board members. Board meetings shall concern, among other things, policy matters relating to tobacco research projects and programs, research progress reports, authorization of projects and financial plans, and such other matters as necessary to carry out the intent of KRS 248.510 to 248.570.

(6) *Eight (8)* [~~Seven~~] members of the board shall constitute a quorum for doing business. Each member shall have one (1) vote and a majority vote of the members present shall control on all questions.

Section 2. KRS 248.570 is amended to read as follows:

(1) The department of finance and the University of Kentucky shall maintain such records as necessary to account for all receipts and expenditures credited to or charged against the tobacco research-trust fund and shall establish such rules and regulations as may be necessary to implement the provisions of KRS 248.510 to 248.570.

(2) The University of Kentucky shall furnish to the Kentucky tobacco research board *and the legislative research commission* a quarterly financial report showing the status of funds and the status of all research projects authorized under the provisions of KRS 248.510 to 248.570.

HB 744, AN ACT providing for the establishment of agricultural districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 262.795 - 262.990 IS CREATED TO READ AS FOLLOWS:

(1) This section shall be known as "The Agricultural District and Conservation Act."

(2) It is the policy of the state to conserve, protect and to encourage development and improvement of its agricultural lands for the production of food and other agricultural products. It is also the policy of this state to conserve and protect the agricultural land base as a valuable natural resource which is both fragile and finite. The pressure imposed by urban expansion, transportation systems, water impoundments, surface mining of mineral resources, utility rights-of-way and industrial development has continually reduced the land resource base necessary to sufficiently produce food and fiber for our future needs. It is the purpose of this section to provide a means by which agricultural land may be protected and enhanced as a viable segment of the state's economy and as an important resource.

(3) The local governing administrative body for an agricultural district shall be the conservation district board of supervisors. The soil and water conservation commission shall be responsible for statewide administration of the agricultural district program and shall have sole authority to certify or deny agricultural district petitions.

(4) Any owner or owners of land may submit a petition to the local conservation district board of supervisors requesting the creation of an agricultural district within such county. Such petition shall include a description of the proposed area, description of each land parcel, location of the proposed boundaries, petitioners' names and addresses, adjacent landowners' names and addresses, and other pertinent information as required in the petition application. The boundary of an agricultural district shall be contiguous. No land shall be included in an agricultural district without the consent of the owner.

(5) Upon receipt of a petition, the local conservation district board of supervisors shall notify the appropriate local planning and zoning body, if any, by sending a copy of the petition and accompanying materials to that body.

(6) The following factors shall be considered by the local conservation district board of supervisors and the soil and water conservation commission when considering the formation of any agricultural district:

(a) The capability of the land to support agricultural production, as indicated by: soil, climate, topography or other natural factors;

(b) The viability of active farmlands, as indicated by: markets for farm products, extent and nature of farm improvements, present status of farming, anticipated trends in agricultural economic conditions and technology;

(c) That the proposed agricultural district meets the minimum size limit of five hundred (500) contiguous acres;

(d) County development patterns and needs and the location of the district in relation to any urban development boundaries within the county; and

(e) Any matter which may be relevant to evaluate the petition.

(7) The local soil and water conservation district board of supervisors shall review the petition application and submit a recommendation to the soil and water commission within sixty (60) days of receipt. The local conservation district recommendation shall be submitted to the commission in the form of approval, approval with modifications, or denial of the petition accompanied by justification for such a denial.

(8) The soil and water conservation commission shall review the recommendation of the district board of supervisors and certify or deny the agricultural district's petition within sixty (60) days of receipt.

(9) It shall be the policy of all state agencies to support the formation of agricultural districts as a means of preserving Kentucky's farmlands.

Committee Substitute to **HB 744:**

HB 744, AN ACT providing for the establishment of agricultural districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 262.795 - 262.990 IS CREATED TO READ AS FOLLOWS:

(1) This section shall be known as "The Agricultural District and Conservation Act."

(2) It is the policy of the state to conserve, protect and to encourage development and improvement of its agricultural lands for the production of food and other agricultural products. It is also the policy of this state to conserve and protect the agricultural land base as a valuable natural resource which is both fragile and finite. The pressure imposed by urban expansion, transportation systems, water impoundments, surface mining of mineral resources, utility rights-of-way and industrial development has continually reduced the land resource base necessary to sufficiently produce food and fiber for our future needs. It is the purpose of this section to provide a means by which agricultural land may be protected and enhanced as a viable segment of the state's economy and as an important resource.

(3) The local governing administrative body for an agricultural district shall be the conservation district board of supervisors. The soil and water conservation commission shall be responsible for statewide administration of the agricultural district program and shall have sole authority to certify or deny agricultural district petitions. The commission may apply for assistance and funds from the federal farmland protection act of 1981 (PL 97-377) which may be available for the development of the agricultural district program.

(4) Any owner or owners of land may submit a petition to the local conservation district board of supervisors requesting the creation of an agricultural district within such county. Such petition shall include a description of the proposed area, description of each land parcel, location of the proposed boundaries, petitioners' names and addresses, adjacent landowners' names and addresses, and other pertinent information as required in the petition application. The boundary of an agricultural district shall be contiguous. No land shall be included in an agricultural district without the consent of the owner.

(5) Upon receipt of a petition, the local conservation district board of supervisors shall notify the fiscal court and any local or regional planning or zoning body, if any, by sending a copy of the petition and accompanying materials to that body.

(6) The following factors shall be considered by the local conservation district board of supervisors and the soil and water conservation commission when considering the formation of any agricultural district:

(a) The capability of the land to support agricultural production, as indicated by: soil, climate, topography or other natural factors;

(b) The viability of active farmlands, as indicated by: markets for farm products, extent and nature of farm improvements, present status of farming, anticipated trends in agricultural economic conditions and technology;

(c) That the proposed agricultural district meets the minimum size limit of two hundred and fifty (250) contiguous acres;

(d) County development patterns and needs and the location of the district in relation to any urban development boundaries within the county; and

(e) Any matter which may be relevant to evaluate the petition.

(7) The local soil and water conservation district board of supervisors shall review the petition application and submit a recommendation to the soil and water commission within sixty (60) days of receipt. The local conservation district recommendation shall be submitted to the commission in the form of approval, approval with modifications, or denial of the petition accompanied by justification for such a denial.

(8) The soil and water conservation commission shall review the recommendation of the district board of supervisors and certify or deny the agricultural district's petition within sixty (60) days of receipt.

(9) Upon the approval of a petition by the soil and water conservation commission, the commission shall notify the area development district in which the agricultural district will lie and the secretary of the governor's cabinet.

(10) Land within the boundary of an agricultural district shall not be annexed; nor shall land within the boundaries of an approved plan in accordance with section 201 of the federal water pollution control act amendments of 1972 (PL 92-500) be included in an agricultural district.

(11) Any member of an agricultural district may withdraw from the district upon notifying the local conservation district board of supervisors in writing.

(12) It shall be the policy of all state agencies to support the formation of agricultural districts as a means of preserving Kentucky's farmlands and to mitigate the impact of their present and future plans and programs upon the continued agricultural use of land within an agricultural district.

(13) Nothing in this section shall be construed to confer the power to exercise the right of eminent domain.

HB 799, AN ACT relating to agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly hereby finds and declares that as a result of a variety of pressures, most notably the continual spiral of inflation and the increasingly serious effects of speculative land values, the opportunities in agriculture have been severely limited; that one of the major impediments to the purchase of agricultural land, machinery and equipment by farmers is their inability to secure adequate financing upon reasonable terms; and, that it is both necessary and desirable to institute policies and programs which will encourage agricultural pursuits from which the Commonwealth derives the numerous social, economic and environmental benefits which historically have proved beneficial to its citizens.

(2) The general assembly hereby finds and declares further that private enterprise and investment have not been able to produce, without assistance, the capital necessary to permit the small, family farm operators to continue to compete successfully in agricultural enterprises or to permit enterprising individuals to become farmers.

(3) The general assembly hereby finds and declares further that the purposes of this Act are to provide a financing instrumentality more closely allied with the department of agriculture in order that the benefits intended hereunder may be more effectively administered to those engaged in agriculture and related enterprises.

(4) The general assembly hereby finds and declares further that in order to accomplish the purposes herein set forth, the Kentucky agricultural finance corporation shall be and constitute a de jure municipal corporation and political subdivision of the Commonwealth created for the purpose of performing essential public functions and serving the public purposes in improving and promoting the health, welfare and prosperity of the people of the Commonwealth through the stimulation of existing agricultural enterprises and the promotion of new agricultural ventures.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

As used in this Act, the following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Applicant" means any person, partnership or corporation, engaged primarily in agricultural endeavors and related businesses, unable to procure financing on a conventional basis deemed by the board to be reasonable and prudent in light of the prospects of the particular project to be financed;

(2) "Board" means the board of directors of the corporation;

(3) "Bond resolution" or "resolution" means the formal document of the corporation authorizing its obligations;

(4) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation under this Act;

(5) "Commissioner" means the commissioner of the department of agriculture;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7) "Corporation" means the Kentucky agricultural finance corporation created by this Act;

(8) "Department" means the department of agriculture;

(9) "Governmental agency" means any city, county or other political subdivision of the Commonwealth and any department, division or public agency thereof, the federal government or any political subdivision of any other state and any nonprofit corporation or other entity legally empowered to act on behalf of any of the foregoing in the area of assistance to agriculture;

(10) "Issuing agency capacity" means the action of the corporation in authorizing revenue bonds for a qualified project in accordance with the provisions of KRS 103.200 through 103.285 in which the corporation's liability is limited primarily to fiduciary duties;

(11) "Lending agency capacity" means the action of the corporation in participating directly or indirectly in the making of loans to or the purchasing of loans of qualified applicants;

(12) "Obligations" means any bonds or notes authorized to be issued by the corporation under the provisions of this Act;

(13) "Project" means any undertaking to provide for the financing of the acquisition of land, buildings, machinery, equipment, and livestock in the area of agricultural enterprise; including growing, storing, processing, warehousing, marketing and distribution facilities in respect thereof; provided, however, it is not the intent of this Act to provide a means for refinancing existing agricultural facilities;

(14) "Trust agreement" means an indenture by and between the corporation and the corporate trustee setting forth the rights and duties of each relating to the authorization, sale, issuance, delivery and payment of the corporation's obligations; and

(15) "Umbrella obligation" means bonds or notes issued by the corporation in its issuing agency capacity or its lending agency capacity under the provisions of this Act, the proceeds of which may be used in the financing of multiple projects for two (2) or more applicants.

SECTION 3. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established the Kentucky agricultural finance corporation.

(2) The corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people through the promotion of agriculture throughout the Commonwealth.

(3) The corporation shall be governed by a board of directors, consisting of twelve (12) members, five (5) of whom shall be ex officio members of the board as follows:

(a) The commissioner or his designee;

(b) The secretary of finance or his designee;

(c) The lieutenant governor or his designee;

(d) The chairman of the senate committee which has jurisdiction over agriculture; and

(e) The chairman of the house committee which has jurisdiction over agriculture.

(4) Upon the organization of the corporation, the commissioner, with the consent of a majority of the ex officio members of the board, shall appoint seven (7) private members of the board to take office and to exercise all powers thereof immediately. Of the seven (7) directors of the corporation thus appointed, three (3) shall continue in office for terms of one (1) year, two (2) for terms of two (2) years, one (1) for a term of three (3) years and one (1) for a term of four (4) years respectively, as the commissioner shall designate; at the expiration of said original terms and for all succeeding terms, the commissioner shall appoint a successor to the board for a term of four (4) years in each case. Of the initial seven (7) private members of the board appointed by the commissioner, one (1) shall be an officer from a commercial lending institution, one (1) shall be an officer from a farm credit association, one (1) shall be an agricultural economist, one (1) shall be a tobacco farmer, one (1) shall be a cash grain farmer, one (1) shall be a livestock farmer and one (1) shall be a dairy farmer.

(5) Upon the expiration of the initial terms of the private members of the board, the commissioner shall appoint successors representing the same constituencies as the members succeeded for a term of four (4) years in each case. In the case of a vacancy, the commissioner may appoint a successor to hold office during the remainder of the term.

(6) The commissioner shall serve as chairman of the board.

(7) The board of directors shall annually elect one (1) of its members as vice-chairman and shall also elect or appoint, and prescribe the duties of, such other officers as the board deems necessary or advisable, including, but not limited to, an executive director, secretary and legal counsel, and shall fix the compensation therefor.

(8) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the board. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that such copies are true copies, and all persons dealing with the corporation may rely on such certifications.

(9) A majority of the board shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies; provided, however, that a majority of the board may elect from among its members an executive committee to act in its stead in the day to day conduct of the business of the corporation. Notwithstanding the foregoing, the full board shall hold at least one (1) meeting each calendar quarter in accordance with a schedule to be established by the board.

(10) Action may be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum exists called upon three (3) days written notice or upon the concurrence of at least seven (7) directors or by the board's executive committee.

(11) All members of the board shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties. Each appointed member of the board shall be entitled to a fee of fifty dollars ($50.00) for attendance at each meeting of the board or executive committee.

SECTION 4. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act including, but without limiting the generality of the foregoing, the power:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(2) To review the projects authorized to be financed by this Act in order to determine the following:

(a) The qualifications of the applicant as a party entitled to financing assistance under the provisions of this Act and the rules and regulations of the corporation;

(b) The qualifications of the applicant in the areas of experience, training and financial ability in relation to the project for which assistance is sought and such other areas as the corporation shall determine necessary and desirable in implementing the intent of this Act in the promotion of agriculture throughout the Commonwealth;

(c) The economic need for the project in the area; and

(d) The economic soundness of the project.

(3) To issue in its issuing agency capacity its negotiable revenue obligations for the purpose of financing qualified projects for qualified applicants in order to promote the general agricultural economy of the Commonwealth; and in addition to the powers conferred hereunder, to have all the authority delegated to cities and counties pursuant to the provisions of KRS 103.200 through 103.285; provided, however, that obligations issued by the corporation in its issuing agency capacity shall not be subject to the jurisdiction or approval of the industrial revenue bond oversight committee, the state property and buildings commission or the office of investment and debt management;

(4) To issue in its lending agency capacity its negotiable revenue obligations for the purpose of financing qualified projects for qualified applicants in order to promote the general agricultural economy of the Commonwealth; provided, however, that bonds issued by the corporation in its lending agency capacity in accordance with Section 6 of this Act shall be subject to the jurisdiction and approval of the state property and buildings commission and the office of investment and debt management;

(5) To make or participate in the making of insured mortgage loans to qualified applicants for the purpose of purchasing agricultural real estate and improvements in the Commonwealth; provided, however, that such loans shall be made only upon the determination by the corporation that the mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth upon reasonably equivalent terms and conditions;

(6) To purchase or participate in the purchase of mortgage loans made to qualified applicants for the purpose of purchasing agricultural real estate and improvements; provided, however, that such loans shall be made only upon the determination by the corporation that the mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth upon reasonably equivalent terms and conditions;

(7) To make or participate in the making of loans to qualified applicants for the purpose of purchasing machinery, equipment and livestock; provided, however, that such loans shall be made only upon the determination by the corporation that the mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth upon reasonably equivalent terms and conditions;

(8) To purchase or participate in the purchase of loans to qualified applicants for the purpose of purchasing machinery, equipment and livestock; provided, however, that such loans shall be made only upon the determination by the corporation that the mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth upon reasonably equivalent terms and conditions;

(9) To make or participate in the making or to purchase or participate in the purchase of loans to qualified applicants for the purpose of leasing equipment, introducing new agricultural commodities or enhancing agricultural markets; provided, however, that such loans shall be made only upon the determination by the corporation that the loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth upon reasonably equivalent terms and conditions;

(10) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(11) To acquire real and personal property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage and operate such real and personal property; to sell, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber such real and personal property where necessary or appropriate to the purchases of the corporation;

(12) To sell, at public or private sale, all or any part of any real estate mortgage or chattel mortgage or other instrument or document securing any loan permitted by this Act;

(13) To procure insurance against any loss in connection with its operations in such amounts and from such insurers, as it may deem necessary or desirable;

(14) To consent, whenever the corporation deems necessary or desirable in the fulfillment of its corporate purposes, to the modification of interest rates, time of payment of principal or interest, or any other terms of any loan, contract or agreement of any kind to which the corporation is a party;

(15) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, capitalized interest, consultant, advisory and legal fees and such other expenses as are necessary or incident to such borrowing;

(16) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(17) To make, execute and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership or other organization or entity, necessary to accomplish the purposes of this Act;

(18) To accept gifts, devises, bequests, grants, loans, appropriations and other assistance and any other aid from any source whatsoever and to agree to and to comply with conditions attached thereto;

(19) To sue and be sued in its own name;

(20) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(21) To employ fiscal consultants, engineers, attorneys, appraisers and such other agents and employes as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor; and

(22) To invest any funds held in sinking funds, reserve funds or trust fund accounts or any monies not required for immediate disbursement by the corporation and obligations of or guaranteed by the Commonwealth, United States of America or their respective agencies and instrumentalities; subject, however, to federal law and regulations relating to the investment of the proceeds of obligations the interest on which is exempt from federal income taxation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Obligations issued under the provisions of this Act shall not be deemed to constitute a debt, liability or obligation of the Commonwealth or any political subdivision thereof or a pledge of the faith and credit of the Commonwealth or any such political subdivision, but shall be payable solely from the revenues or assets of the corporation. Each obligation issued under the provisions of this Act shall contain on the face thereof a statement to the effect that the corporation shall not be obligated to pay the same nor the interest thereon, except from the revenues or assets pledged therefor, and that neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligations.

(2) Expenses incurred by the corporation in carrying out the provisions of this Act may be payable from funds provided pursuant to this Act and no liability shall be incurred by the corporation hereunder beyond the extent to which monies shall have been so provided.

SECTION 6. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) The corporation is hereby authorized to provide for the issuance in its lending agency capacity, at one (1) time or from time to time, of bonds or notes of the corporation; said limitation to exclude obligations issued by the corporation in its issuing agency capacity. The principal of and the interest on such bonds or notes shall be payable solely from the funds herein provided for such payment. Notes may be made payable from the proceeds of the bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or assets of the corporation.

(2) Bonds or notes of each issue shall be dated and may be redeemable prior to maturity at the option of the corporation under such terms and conditions as may be determined by the corporation.

(3) Bonds or notes shall bear interest at such rate or rates as may be determined by the corporation at a publicly advertised competitive sale or, at the discretion of the corporation, upon a private, negotiated basis.

(4) Bonds or notes shall mature as to principal and shall be payable as to interest upon such terms as the corporation shall determine in light of the conditions of the municipal bond market at the time of their authorization; provided, however, that obligations issued to finance personal property shall not have a term in excess of the expected useful life of the property financed.

(5) The corporation shall determine the form and manner of the execution of the bonds or notes, interest coupons, denominations and places of payment. In the event any officer of the corporation whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be an officer before the delivery thereof, such signature or facsimile shall nevertheless be valid and sufficient for all purposes as if said party had remained in office until delivery.

(6) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such a manner and under such restrictions as the corporation may determine in its bond resolution authorizing the issuance thereof or in the trust agreement.

(7) Bonds or notes authorized under the provisions of this Act may be issued only following the approval of the state property and buildings commission pursuant to the provisions of KRS 56.450(4) and shall be subject to the jurisdiction of the office of investment and debt management in accordance with KRS 42.400 to 42.420.

SECTION 7. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

In the discretion of the corporation, any obligations issued under the provisions of this Act may be secured by a trust agreement by and between the corporation and a corporate trustee, which may be any trust company or bank having powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such obligations may pledge or assign all or any part of the revenues or assets of the corporation, including, without limitation, mortgage loans, mortgage loan commitments, contracts, agreements and other security or investment obligations, the fees or charges made or received by the corporation, the monies received in payment of loans and interest thereon, and any other monies received or to be received by the corporation. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any such obligations as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the corporation in relation to the purposes to which the obligation proceeds may be applied, the disposition of the pledging of the revenues or assets of the corporation, the terms and conditions for the issuance of additional obligations, and the custody, safeguarding and application of all monies. It shall be lawful for any corporate trustee which may act as depository of the proceeds of obligations, revenues or other money hereunder to furnish such indemnifying bonds or to pledge such securities as may be required by the corporation. Any such trust agreement or resolution may set forth the rights and remedies of the holders of the obligations of the corporation and of the trustee, and may restrict the individual right of action by any such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the corporation may deem reasonable and proper for the security and source of payment of its obligations. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be paid from the revenues or assets pledged or assigned to the payment of the principal of and the interest on the obligations or from any other funds available to the corporation.

SECTION 8. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The pledge of any assets or revenues of the corporation to the payment of the principal of or the interest on any obligations of the corporation issued in its lending agency capacity shall be valid and binding from the time such pledge is made, and any such assets or revenues shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise, against the corporation, regardless of whether such parties have notice thereof. Nothing herein contained shall be construed to prohibit the corporation from selling any assets subject to any such pledge except to the extent that any such sale may be restricted by the terms of the trust agreement or resolution authorizing the issuance of such obligations.

SECTION 9. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The holder of obligations of the corporation issued in its lending agency capacity pursuant to the provisions of this Act and the trustee under any trust agreement or resolution authorizing the issuance of such obligations, except the rights herein given may be restricted by such trust agreement or resolution, may, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such trust agreement or resolution, or under any other contract executed by the corporation pursuant to this Act, and may enforce and compel the performance of all duties required by this Act or by such trust agreement or resolution to be performed by the corporation or any officer thereof.

SECTION 10. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any of the foregoing provisions of this Act or any recitals in any obligations issued pursuant to the authority granted hereunder, all such obligations shall be and are hereby made negotiable instruments under the laws of this state, subject only to any applicable provisions for registration as set forth in the trust agreement or resolution.

SECTION 11. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Obligations issued by the corporation in its lending agency capacity under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executives, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds, notes or obligations of the Commonwealth is now or may hereafter be authorized by law.

SECTION 12. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The corporation shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor and the general assembly. Each such report shall set forth a complete operating financial statement relating to the corporation during the year. The persons performing such audits shall furnish copies of the audit to the secretary of finance and the director of the office of investment and debt management, where they shall be placed on file and made available for inspection by the general public.

SECTION 13. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

No member of the board of directors or other officer of the corporation shall be made subject to any personal liability or accountability by reason of its execution of any obligations of the corporation nor the issuance thereof.

SECTION 14. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The corporation is authorized to accept and expend such monies as may be appropriated from time to time by the general assembly or such monies as may be received from any source, including income from the corporation's operations, for effectuating its corporate purposes including, without limitation, the payment of the initial expenses of administration and operation.

SECTION 15. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The corporation shall not be required to pay any taxes and assessments to the Commonwealth or any county, municipality or other governmental subdivision of the Commonwealth upon any of its property or upon its obligations or other evidences of indebtedness pursuant to the provisions of this Act, or upon any monies, funds, revenues or other income held or received by the corporation and the bonds or notes of the corporation and the income therefrom shall at all times be exempt from taxation, except for death and gift taxes and taxes of transfers; provided, however, that real or personal property owned by the corporation shall be exempt from all property taxation and special assessments of the Commonwealth or its political subdivisions, but the corporation shall pay, in lieu of such taxes, such amounts as would have been levied had not said real or personal property been owned by the corporation.

SECTION 16. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

To the extent the provisions of this Act delegate to the corporation powers concurrently now held by other governmental agencies, including, but not being limited to, the provisions of KRS 103.200 through 103.285 and KRS 154.010 through 154.170, the provisions hereof shall be regarded as supplemental and not in derogation of any powers now existing.

SECTION 17. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Upon the termination or dissolution of the corporation, all rights and properties of the corporation shall pass to and be vested in the Commonwealth, subject to the rights of lienholders and other creditors.

HB 802, AN ACT relating to grain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 251.480 is amended to read as follows:

(1) *The department shall develop a uniform contract required to be used by grain storage establishments licensed under the provisions of this chapter. A copy of such contract shall be given by the grain storage establishment to each person selling to or storing grain in the grain storage establishment. The contract shall clearly indicate the terms of the agreement between the seller or storer and the grain storage establishment and shall explain the seller's or storer's rights.*

(2) Each licensee of a grain storage establishment shall keep in a safe place complete and correct records of the storage and withdrawal of all grain handled in each grain storage establishment which he is licensed to operate, and complete records of all original and duplicate receipts or scale tickets issued by him, returned to him and cancelled by him, which shall be available for inspection by the department.

(3)[~~(2)~~] Licensee must issue receipts or scale tickets that meet the following requirements:

(a) Name and address of licensee.

(b) Date.

(c) Serial number.

(d) Provision for indicating "inbound" or "outbound".

(e) Name of depositor (inbound) or consignee (outbound).

(f) Kind of grain and grade, or moisture content and test weight and foreign materials, if applicable.

(g) Gross, tare and net weight and provision for adjustment of quality factors.

(h) Price, if sold.

(i) Provision for indicating if the grain is sold, purchase contract, delay pricing, open storage, receipted storage, or grain bank, etc.

(j) Driver on or off scale.

(k) Initials of weigher.

(l) If paragraphs (a) to (k) have been complied with, a statement on the ticket "approved by the Kentucky Department of Agriculture".

(4) Each grain storage establishment licensed under this chapter shall use a bookkeeping system acceptable to the department.

Section 2. KRS 251.410 is amended to read as follows:

As used in KRS 251.420 to 251.510, unless the context requires otherwise:

(1) "Person" means an individual storing grain for others and issuing a receipt for such grain *or a scale ticket.*

(2) "Firm" or "corporation" means an individual, corporation, partnership, or two or more persons having a joint or common interest in same venture, of storing grain for others and issuing a receipt for such grain *or a scale ticket.*

(3) "Department" means the Kentucky Department of Agriculture.

(4) "Stored grain" means grain received from a producer and unpaid for and held for a period longer than thirty days after delivery of the last load.

(5) "Board" means the State Board of Agriculture.

(6) "Owner" means a person whose grain is in storage and has been issued a grain storage receipt *or a scale ticket.*

Committee Amendment No. 1 to **HB 802:**

Amend printed copy of **HB 802,** page 1, lines 3 and 4, by deleting "*a uniform contract required*" and substituting therefor "*minimum provisions for forward pricing and storage contracts*"

HCR 63, A CONCURRENT RESOLUTION authorizing and directing a comprehensive study of the loss of farmland in Kentucky and the programs needed to prevent such loss.

WHEREAS, Kentucky lost approximately 760,000 acres of farmland between 1967 and 1977, over a third of which was prime farmland; and

WHEREAS, there is growing pressure to take farmland out of crop production due to other land uses such as mineral extraction, road expansion, urban and industrial development;

WHEREAS, there is growing pressure to place marginal farmland into crop production, thereby creating higher erosion hazards, higher production costs, and causing additional costs for installing conservation practices and cleaning up our waterways; and

WHEREAS, Kentucky's farmland is an important economic resource and must be preserved in order to maintain a viable economy and to prevent Kentucky from becoming a net importer of food; and

WHEREAS, it is the responsibility of the legislature to provide for the protection of Kentucky's farmland resource;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission conduct a study on the loss of farmland in Kentucky and the programs needed to prevent such loss. The Commission is charged with the responsibility to study and make recommendations on:

(1) The National Agricultural Land Study;

(2) The report of the Kentucky Agricultural Land Study and Policy Committee and the feasibility of legislative programs needed to implement the recommendations of the Committee;

(3) The programs implemented in other states to preserve farmland, the efficiency of such programs and the feasibility of implementing similar programs in Kentucky;

(4) The deferred taxation program for real property taxed as agricultural or horticultural use and converted to another use, the program changes needed to effectively collect these deferred taxes and the feasibility of using the collected deferred taxes to fund a Kentucky farmland preservation program.

Section 2. This report shall be submitted to the Legislative Research Commission and the Governor no later than July 1, 1983.

Section 3. Staff services to be utilized in completing this study are estimated to cost $20,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

HCR 82, A CONCURRENT RESOLUTION requesting that the Governor appoint an advisory committee to study farm credit and other economic problems of farmers in the state.

WHEREAS, agriculture is one of the largest and most important industries in Kentucky in terms of gross receipts and permanent employment; and

WHEREAS, Kentucky farmers have been hard-hit by inflation, high interest rates, and a national surplus resulting in depressed farm product prices and reduced net farm income; and

WHEREAS, increased costs of production and lower farm commodity prices are causing many Kentucky farmers to deplete their equity, creating a situation in which their very economic survival is at stake; and

WHEREAS, farm production has reached a level in Kentucky where we must now seek markets abroad for one (1) out of every three (3) acres and twenty-five percent (25%) of our total livestock, food and fiber products; and

WHEREAS, farmers must have sufficient farm credit, at interest rates they can pay from profits, to enable established farmers to stay in business and to encourage young people to go into farming so that production of essential food and fiber can be assured in the future;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Governor of the Commonwealth of Kentucky is requested to appoint an advisory committee to study farm credit and other current economic problems of Kentucky farmers. The committee's study should include an analysis of the current farm credit situation in Kentucky, and an examination of ways to improve and expand existing and traditional methods and sources of farm financing and to develop alternative methods and sources of financing Kentucky's agribusiness. In addition, the committee should explore and evaluate possibilities for developing and expanding domestic and foreign markets for Kentucky agricultural products and getting higher prices for those products. Particular emphasis should be placed on ways the General Assembly of Kentucky and the executive agencies of state government can be of assistance to farmers during these troubled economic times.

Section 2. The committee shall be composed of thirteen (13) persons, including three (3) farmers at large to be appointed by the Governor, the Chairman of the Kentucky Council on Agriculture or his designee, the Chairman of the Senate Agriculture and Natural Resources Committee or his designee, the Chairman of the House Agriculture and Small Business Committee or his designee, and a representative selected by each of the following organizations: Federal Land Bank, Federal Intermediate Credit Bank Association, Farmers Home Administration, Kentucky Bankers Association, Bank for Cooperatives, Kentucky Farm Bureau, and National Farmers Organization. The committee shall elect its chairman at its first meeting.

Section 3. A complete report of the committee's findings, including specific recommendations, shall be submitted to the Governor as soon as completed, and to the Legislative Research Commission for recommendations for appropriate action to be taken by the 1984 General Assembly.

Committee Amendment No. 1 to **HR 82:**

Amend printed copy of **HCR 82,** page 2, lines 17 and 18, by deleting "thirteen (13)" and inserting in lieu thereof "fourteen (14)"

and on page 2, line 19, by inserting after "Governor," the following: "one of whom shall be a farmer owner and operator of one-hundred fifty (150) acres or less,"

and on page 2, line 20, by inserting after "designee" the following: "the Commissioner of the Department of Agriculture or his designee"

The Committee on Labor and Industry reported **HB 542, HB 788,** and **SB 274** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 542, AN ACT relating to wages of employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.275 is amended to read as follows:

(1) Except as may otherwise be provided by this chapter, every employer shall pay to each of his employes wages at a rate of not less than *two dollars sixty cents ($2.60)* [~~two dollars ($2) an hour, beginning effective July 1, 1978 and two dollars fifteen cents ($2.15)~~] an hour [~~effective July 1, 1979~~].

(2) For any employe engaged in an occupation in which he customarily and regularly receives more than twenty dollars ($20) per month in tips from patrons or others, the employer may pay as a minimum fifty percent (50%) of the wage prescribed in subsection (1) of this section if he can establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in subsection (1) was received by the employe. No employer shall use all or part of any tips or gratuities received by employes toward the payment of the statutory minimum hourly wage as required by this section. Nothing, however, shall prevent employes from entering into an agreement to divide tips or gratuities among themselves.

HB 788, AN ACT relating to occupational safety and health of employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 338.021 is amended to read as follows:

(1) This chapter applies to all employers, employes, and places of employment throughout the Commonwealth except the following:

(a) Employes of the United States government.

(b) Employers, employes and places of employment over which federal agencies other than the *occupational safety and health administration of the* U.S. department of labor exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(2) Nothing in this chapter shall be construed to supersede or in any manner affect any *workers'* [~~workmen's~~] compensation law or to enlarge or diminish or affect in any manner the common law or statutory

rights, duties, or liabilities of employers or employes, under any law with respect to injuries, diseases, or death of employes arising out of, or in the course of employment.

Section 2. KRS 338.051 is amended to read as follows:

(1) There is hereby established in the department of labor the Kentucky occupational safety and health standards board consisting of the commissioner and twelve (12) members equally representing industry, labor, agriculture and the safety and health profession. The members shall be appointed by the governor for terms of three (3) years and until their successors are appointed and qualified, from lists of nominees submitted by bona fide associations representative of industry, labor, agriculture and the safety and health profession. Members shall receive twenty-five dollars ($25) per day for attending each meeting and shall be reimbursed for actual expenses incurred in carrying out their duties. The commissioner shall act as chairman of the board. No member of the board may have a concurrent term on the review commission.

(2) The board shall hold *semi-annual* [~~quarterly~~] meetings and additional meetings as needed. A majority of the board constitutes a quorum for the transaction of business.

(3) The board shall adopt and promulgate occupational safety and health rules, regulations, standards, and secure all expertise, testimony, and evidence necessary to accomplish the purposes of this chapter.

SB 274, AN ACT relating to workers' compensation and insurance ratemaking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

(1) A "market" is the interaction between buyers and sellers consisting of a product market component and a geographic market component. A product market component consists of identical or readily substitutible products including but not limited to consideration of coverage, policy terms, rate classifications, and underwriting. A geographic market component is a geographical area in which buyers have a reasonable degree of access to insurance sales outlets. Determination of a geographic market component shall consider existing market patterns.

(2) "Supplementary rate information" is any manual or plan of rates, classification, rating schedule, minimum premium, policy fee, rating rule, and any other similar information needed to determine the applicable rate in effect or to be in effect.

(3) "Supporting information" is the experience and judgment of the filer and the experience or data of other insurers or organizations relied on by the filer, the interpretation of any statistical data relied on by the filer, descriptions of methods used in making the rates, and any other similar information required to be filed by the commissioner.

(4) "Personal risks" are those covered by property and casualty insurance for personal, family, or household needs.

(5) "Commercial risks" are any kinds of risks that are not personal risks.

(6) "Joint underwriting" is a voluntary arrangement established on an ad hoc basis to provide insurance coverage for a commercial risk pursuant to which two (2) or more insurers separately contract with the insured at a price and under policy terms agreed on between the insurers.

(7) A "pool" is a voluntary arrangement, other than by a contract of reinsurance, established on a general and continuing basis pursuant to which two (2) or more insurers participate in the sharing of risks on a predetermined basis. A pool may operate through an association, syndicate or other pooling agreement.

(8) A "residual market mechanism" is an agreement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance that may be afforded applicants who are unable to obtain insurance through ordinary methods.

(9) An "advisory organization" is any organization which either has two (2) or more member insurers or is controlled by two (2) or more insurers and which assists insurers in ratemaking related activities. Two (2) or more insurers having a common ownership or operating in this state under common management or control constitute a single insurer.

(10) A "competitive market" is a market that has not been found to be noncompetitive pursuant to Section 4 of this Act and for which no such order is in effect.

(11) A "noncompetitive market" is a market for which there is an order in effect pursuant to Section 4 of this Act that a reasonable degree of competition does not exist.

(12) "Loss trending" is any appropriate procedure for projecting developed losses to the average date of loss for the period during which the policies are to be effective.

(13) "Expenses" are those portions of any rate attributable to unallocated loss adjustment expenses, acquisition, field supervision, and collection expenses, general expenses, and taxes, licenses, and fees. Expenses do not include those directly allocated by the insurer to the settlement of specific losses.

(14) "Profit" is the portion of any rate attributable to funds needed for growth, contingencies, and return to stockholders.

(15) "Pure premium" is the loss cost per unit of exposure plus the loss adjustment expense directly allocated to the settlement of specific losses.

SECTION 2. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

Sections 1 through 15 of this Act apply to all types of insurance written on risks in this state by any insurer authorized under this chapter to do business in this state, except:

(1) Life insurance;

(2) Annuities;

(3) Ocean marine insurance;

(4) Accident and health insurance;

(5) Reinsurance;

(6) Assessment or cooperative companies operating under the provisions of KRS Chapter 299; and

(7) Individual and group workers' compensation self-insurers.

SECTION 3. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

(1) In a noncompetitive market, rates shall be made in accordance with the following provisions:

(a) Manual, minimum, class rates, rating schedules or rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specially rated;

(b) Rates shall not be excessive inadequate or unfairly discriminatory;

(c) Due consideration shall be given:

1. To past and prospective loss experience within and outside this state;

2. To the conflagration and catastrophe hazards;

3. To a reasonable margin for underwriting profit and contingencies;

4. To dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers;

5. To past and prospective expenses both county-wide and those specially applicable to this state;

6. To all other relevant factors within and outside this state; and

7. In the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during a period of not less than the most recent three (3) year period for which such experience is available;

(d) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or group of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

(e) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks which may have a probable effect upon losses or expenses.

(2) Rates made in accordance with this section may be used subject to this subtitle.

SECTION 4. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

(1) A competitive market for any line of insurance is presumed to exist unless the commissioner, after a hearing, determines that a reasonable degree of competition does not exist in the market for such line and issues an order to that effect. Such an order shall expire no later than one (1) year after it is issued. In determining whether a reasonable degree of competition exists, the commissioner shall consider all relevant information pertaining to the market and the opportunities available to consumers in the market to acquire pricing and other consumer information, and to compare and obtain insurance from competing insurers.

(2) The commissioner shall monitor the degree of competition in this Commonwealth. In doing so, he may utilize existing relevant information or he may develop new relevant information. The activities may be conducted internally within the insurance department, in cooperation with other state insurance departments, through outside contractors, or in any other appropriate manner. The relevant information in determining the competitiveness of a specific market may include the number of insurers actively engaged in providing coverage, market shares, and changes in market shares and ease of entry.

SECTION 5. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

(1) In a competitive market, every insurer shall file with the commissioner rates and supplementary information to be used in this state for commercial risks as designated by the commissioner and for all personal risks. Such rates and supplementary rate information shall be filed not later than fifteen (15) days

after the date of first use of the rates, unless the commissioner finds after a hearing that an insurer's rates require closer supervision because of the insurer's financial condition. On such a finding, rates for both personal and commercial risks, supplementary rate information, and supporting information shall be filed with the commissioner at least thirty (30) days before the effective date of the rates. Such an order shall expire no later than one (1) year after it is issued.

(2) In a noncompetitive market, every insurer shall file with the commissioner all rates for that market, supplementary rate information, and supporting information at least thirty (30) days before the proposed effective date of the rates. On application of the filer, the commissioner may authorize an earlier effective date.

(3) Any rate filing in effect at the time the commissioner determines that competition does not exist pursuant to Section 4 of this Act shall be deemed to be effective until disapproved pursuant to the procedures and rating standards of this chapter.

(4) Every insurer shall file with the commissioner all rating manuals and underwriting rules that it uses in this state not later than fifteen (15) days after they become effective. Such manuals, rules and guidelines must be adhered to until amended. The commissioner may exempt an insurer from filing supporting information if it files by reference, with or without deviation, to a filing which is in effect for another insurer or an advisory organization.

(5) Rates and supplemental rating information for a residual market mechanism shall not become effective until approved by the commissioner.

(6) The commissioner shall review filings made in accordance with subsections (2) and (5) of this section as soon as reasonably possible after they have been made in order to determine whether they meet the applicable requirements of this chapter. Each filing shall be on file for a waiting period of thirty (30) days before it becomes effective, which period may be extended by the commission for an additional period not to exceed thirty (30) days if he gives written notice within such waiting period to the insurer which made the filing that additional time is needed for consideration of the filing. The commissioner may, when he deems it to be in the public interest, hold a public hearing on any filing before said filing becomes effective to determine whether the filing meets the requirements of this subtitle. The burden of establishing that the filing under consideration meets the requirements of this subtitle is on the insurer which makes such filing. A filing shall be deemed to meet the requirements of this subtitle unless disapproved by the commissioner within the waiting period or any extension thereof.

SECTION 6. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

(1) The information furnished in support of a filing may include:
(a) The experience or judgment of the insurer;
(b) The insurer's interpretation of any statistical data it relies on;
(c) The experience of other insurers; and
(d) Any other relevant factors.

(2) The commissioner may adopt reasonable rules for use by insurers to record and report to the commissioner their rates and other information determined by the commissioner to be necessary or appropriate for the administration of Sections 1 through 15 of this Act. However, except for workers' compensation reports, no insurer shall be required to report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The commissioner may designate one (1) or more advisory organizations to assist him in gathering, compiling, and reporting such information. Insurers shall record and report their workers' compensation experience on a classification basis consistent with that of an advisory organization designated by the commissioner.

SECTION 7. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

Existing rates in a noncompetitive market may be disapproved pursuant to the rating standards of this chapter after a hearing. Rates that have been filed in a noncompetitive market but that have not become effective may be disapproved pursuant to the rating standards of this chapter without a hearing. However, any insurer whose rates have been disapproved without a hearing shall be given a hearing on a written request made within thirty (30) days after the disapproval order. If a rate is disapproved, the commissioner shall issue an order specifying the reasons for disapproval. Any party aggrieved by the order of the commissioner may appeal therefrom as provided in KRS 304.2-370. The effect of an order shall be stayed during the pendancy of any such appeal and the existing rate shall remain in effect until the final conclusion thereof.

SECTION 8. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

(1) All rates, supplementary rate information, and supporting information filed under Sections 1 through 15 of this Act shall be open to public inspection at any reasonable time. Copies may be obtained by any person on request and on payment of a charge specified in KRS 304.4.

(2) The commissioner shall designate certain types of personal risks coverages for which the commissioner shall develop a consumer information system that will disseminate price and other relevant information on a readily available basis. Insurers, advisory organizations, and other persons or organizations involved in conducting the business of insurance in this state shall cooperate with the commissioner in the development and in the operation of a consumer information system. The reasonable cost of developing a consumer information system shall be assessed against insurers subject to this chapter on an equitable basis.

SECTION 9. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

(1) No advisory organization shall provide any service relating to the rates of an insurer unless it has obtained a license from the commissioner. The commissioner shall establish a written summary of information that must be included in an application for a license. If the commissioner finds that the applicant is trustworthy and qualified to provide the services proposed, and that the application for a license is complete, a license specifying the authorized activity of the applicant shall be issued. A license shall remain in effect until the licensee withdraws from the state, until it is suspended or revoked by the commissioner after a hearing, or until the advisory organization may fail to pay fees required by law for the continuance or renewal of its license. The failure of an advisory organization to comply with any requirement of Sections 1 through 15 of this Act is ground for the revocation of its license.

(2) Every advisory organization shall file with the commissioner every statistical plan, manual of rating rules, rating schedule, and modification of any of these proposed for use in this state not more than fifteen (15) days after it is distributed to its members.

SECTION 10. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

No advisory organization shall:

(1) Make an agreement with an insurer or another advisory organization that has the purpose or effect of substantially lessening competition in an insurance market;

(2) After January 1, 1983, compile or distribute recommendations relating to rates that include profit or expenses, except loss adjustment expenses; or

(3) File rates or other information on behalf of an insurer.

SECTION 11. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

An advisory organization may:

(1) Collect statistical data from members or any other source;

(2) Develop statistical plans including territorial and class definitions;

(3) Distribute pure premium data, adjusted for loss development and loss trending, in accordance with its statistical plans;

(4) Distribute manuals of rating rules and rating schedules, except that the manuals may not include final rates or permit calculation of final rates without outside information;

(5) Distribute information by circulars that are filed with the commissioner and open to public inspection;

(6) Conduct research and field inspections to prepare public fire defense classifications and to consult with public officials regarding public fire protection as it would affect members and others;

(7) Conduct research to identify and classify information on the causes or prevention of losses;

(8) Prepare policy forms and endorsements and consult with members and others on use and application;

(9) Conduct research and field inspections to collect information for calculating rates or collecting statistics relating to individual risks; and

(10) Compile and distribute past and current prices of insurers, if such information is filed with the commissioner and is made available to the public.

SECTION 12. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

(1) No insurer shall make an agreement with any other insurer, advisory organization, or person that has the purpose or effect of unreasonably restraining trade or of substantially lessening competition in an insurance market.

(2) No insurer shall agree with any other insurer or with an advisory organization to adhere to any rate, rating plan, rating schedule, rating rule, rate classification, rate territory, underwriting rule, or survey, except as needed to develop and maintain statistical plans permitted by Sections 1 through 15 of this Act.

(3) Two (2) or more insurers having a common ownership or operating in this state under common management or control may act in concert between or among themselves with respect to those activities authorized in this Act as if they were a single insurer.

SECTION 13. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may examine any insurer, pool, advisory organization, or residual market or joint underwriting mechanism as deemed necessary to ascertain compliance with Sections 1 through 15 of this Act. Any examination made by the commissioner or by examiners designated by him shall be at the expense of the organization examined as specified in subtitle 2 of KRS Chapter 304.

(2) Every insurer, pool, advisory organization, and residual market or joint underwriting mechanism shall maintain reasonable records, adapted to its method of operation, containing its experience or the experience of its members. Records shall include the statistics and other information used by it in its activities. The records shall be available at all reasonable times and at a reasonable location to enable the commissioner to determine whether the activities of an insurer, advisory organization, or other association formed pursuant to Sections 1 through 15 of this Act are in compliance with this Act.

(3) In lieu of an examination, the commissioner may accept the report of an examination by the insurance supervisory official of another state, if the report is made pursuant to the laws of that state.

SECTION 14. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding Section 12 of this Act, insurers participating in joint underwriting, pools, or residual market mechanisms may, in connection with such activity, cooperate in the making of rates, rating systems, policy forms, underwriting rules, surveys inspections and investigations, the furnishing of loss and expense statistics and other information, and the undertaking of research. A joint underwriting pool or residual market mechanism shall not be deemed an advisory organization.

(2) A pool shall file with the commissioner a copy of its constitution, bylaws, rules governing its activities, and articles of incorporation, agreement, or association. It shall also file with the commissioner a list of its members and the name and address of a resident of this state on whom notices or orders of the commissioner may be served.

(3) Any plan or agreement to implement a residual market mechanism shall be submitted to the commissioner for approval. The commissioner shall approve only those agreements that contemplate the use of rates that are adequate but not excessive, that are not unfairly discriminatory, and that are otherwise consistent with Sections 1 through 15 of this Act.

(4) If the commissioner finds after a hearing that an activity of an insurer participating in joint underwriting, a pool, or a residual market mechanism will tend to substantially lessen competition in an insurance market, or is otherwise inconsistent with the provisions of Sections 1 through 15 of this Act, an order may be issued specifying in what respects the activity is anticompetitive or inconsistent with Sections 1 through 15 of this Act and requiring the discontinuance of the activity.

SECTION 15. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 13 IS CREATED TO READ AS FOLLOWS:

(1) Every insurer or advisory organization shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard on written request to review the manner in which such rating system has been applied. If the insurer or advisory organization grants the request, the review shall be conducted within ninety (90) days of receiving the request. If the insurer or advisory organization fails to grant or rejects such request within thirty (30) days, the aggrieved person may proceed in the same manner as if the review produced no change in the application of the rate.

(2) Any party affected by the action made on the request for review may within thirty (30) days of written notice of such action appeal to the commissioner for further review of the application of the rating system. The commissioner shall hold a hearing on a showing of good cause after giving not less than ten (10) days written notice to the insurer or advisory organization. The commissioner may after the hearing issue an order affirming, modifying or reversing the action of the insurer or advisory organization.

SECTION 16. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of providing reinsurance for the special fund, the Kentucky reinsurance association is created as a nonprofit corporation with all the general corporate powers incidental thereto. Each insurance carrier authorized to write workers' compensation insurance, each self-insurance group operating under this chapter, and each individual self-insured employer operating under this chapter shall become a subscriber.

(2) The board of directors of the reinsurance association shall consist of fifteen (15) members, three (3) of whom shall be appointed by the Governor, and twelve (12) of whom shall be elected by ballot of the subscribers, in accordance with Section 207 of the Constitution. Members of the board of directors shall serve a term of three (3) years, except that of the original directors appointed by the Governor, one (1) shall be appointed for a term of one (1) year and one (1) shall be appointed for a term of two (2) years. One (1) or more of the directors appointed by the Governor shall be a representative of employes covered by this chapter selected from a list of five (5) or more candidates provided by the commissioner of labor. Election of directors by subscribers shall be held when and as provided by the bylaws of the association.

(3) The board of directors shall choose annually by ballot a president, who shall be a member of the board of directors, a secretary, a treasurer, and any other officers as the bylaws provide.

(4) Eight (8) members of the board of directors shall constitute a quorum for the transaction of business. Vacancies in any office may be filled as the bylaws provide.

(5) In any meeting of the subscribers each subscriber who has incurred a current year tax liability to be paid under either KRS 342.450 or 342.475 shall be entitled to one (1) vote. If a subscriber has paid tax under either KRS 342.450 or 342.475 he shall be entitled to one (1) vote for each one thousand dollars ($1,000) of taxes paid thereunder in the preceding calendar year. But no subscriber shall cast by his own right, or by right of proxy, more than ten (10) votes.

(6) No policy shall be issued until a list of the subscribers, together with such other information as the commissioner of insurance requires, has been filed with the commissioner of insurance.

(7) (a) Subscribers shall pay annually in cash the premiums required by the directors for the compensation for which the reinsurance association is liable.

(b) If the reinsurance association has no cash funds above its unearned premiums sufficient for the payment of incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses upon the subscribers liable to assessment therefor in proportion to their several liability.

(c) Every subscriber shall pay his proportional part of any assessments which may be laid by the reinsurance association, in accordance with law and his contract, on account of injuries sustained and expenses incurred while he is a subscriber.

(8) The reinsurance association may provide other forms of reinsurance of workers' compensation risks under this chapter as requested by one (1) or more of its subscribers and as provided in its bylaws. Such forms of reinsurance shall be filed with the commissioner of insurance and shall comply with the insurance laws of this state.

(9) The reinsurance association shall be a political subdivision of the Commonwealth and shall be attached to the department of finance for administrative purposes.

Section 17. KRS 342.120 is amended to read as follows:

(1) *There is created the division of the special fund in the department of labor which shall be responsible for the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.*

(2) A claimant may in the original application for benefits, or either party may by motion while the case is pending, accompanied by proper allegations *and by certification of the fact that a copy of the motion and the entire case file has been forwarded to the special fund at the cost of the movant, request the board to* and the board shall, *or* upon its own motion *the board may,* at any time before the rendition of the final award, cause the special fund to be made a party to the proceedings if either or both of the following appears:

(a) The employe is disabled, whether from a compensable injury, occupational disease, pre-existing disease, or otherwise, and has received a subsequent compensable injury by accident, or has developed an occupational disease;

(b) The employe is found to have a dormant non-disabling disease or condition which was aroused or brought into disabling reality by reason of a subsequent compensable injury by accident or an occupational disease.

(3)[~~(2)~~] When the special fund has been made a party the board *may* [~~shall~~] direct the procedures provided in KRS 342.121.

(4)[~~(3)~~] If it is found that the employe is a person mentioned in paragraphs (a) or (b) of subsection *(2)*[~~(1)~~] of this section and a subsequent compensable injury or occupational disease has resulted in additional permanent disability so that the degree of disability caused by the combined disabilities is greater than that which would have resulted from the subsequent injury or occupational disease alone, and the employe is entitled to receive compensation on the basis of the combined disabilities, the employer shall be liable [~~only~~] for the *payment of all income benefits until the benefits paid have reached a percentage of the full income benefits awarded by the board which is equal to the percentage* [~~degree~~] of disability which would have resulted from the latter injury or occupational disease had there been no pre-existing disability or dormant, but aroused disease or condition.

(5)[~~(4)~~] The remaining compensation for which such resulting condition would entitle the employe, including any compensation for disability resulting from a dormant disease or condition aroused into disabling reality by the injury or occupational disease, [~~but excluding all compensation which the provisions of this chapter would have afforded on account of prior disabling disease or injury had it been compensated thereunder,~~] shall be paid out of the special fund provided for in KRS 342.122. Such remaining compensation shall be paid directly to the employe [~~by the carrier or self-insured employer who is liable for compensation under subsection (3) of this section, and the carrier or self-insured employer shall be reimbursed for such payments from the special fund on a quarterly basis and~~] under such regulations as the *secretary of finance* [~~board~~] may provide for such purpose.

(6)[~~(5)~~] In making the computation for the apportionment of benefits under [~~subsections (3) and (4) of~~] this section, the board shall [~~first~~] determine the amount of the employe's weekly income benefits[~~;~~

~~exclude from the award the percentage thereof attributable to the pre-existing active disability or the prior disabling injury, disease or condition;~~] and apportion the *award* [~~balance~~] between the employer and special fund as *follows:*

(a) For benefits awarded under KRS 342.730(1)(b), the portions shall be based on the number of weeks stated therein;

(b) For all other benefits awarded under this chapter, the portions shall be based on the number of weeks shown in actuarial tables adopted by regulations promulgated by the board [~~provided in subsections (3) and (4) of this section~~].

Section 18. KRS 342.121 is amended to read as follows:

(1) If on a claim for compensation for disability resulting from a subsequent injury by accident or occupational disease any medical question shall be in controversy, or a determination thereof necessary to the proper apportionment of liability therefor, the board, *acting on a proper motion from any interested party, may* [~~shall~~] refer the case to a physician appointed by it for the purpose of investigating and reporting to the board on the medical questions involved. The physician shall make his report to the Workmen's Compensation Board in writing with respect to all medical questions at issue or necessary to the apportionment of disability between the subsequent injury and in the prior existing disability at the time of employment. The report shall show the date of prior disablement or latent, nondisabling disease, or condition, which, if in dispute, shall be deemed a medical question.

(2) The physician appointed as provided in subsection (1) of this section shall be allowed necessary traveling expenses and reasonable fees, to be fixed by the board to each physician for making such examination and report, plus a reasonable allowance for expenses incurred in making such examination. The board may also allow traveling expenses to the employe. Such fees and expenses so approved by the board shall be paid *by the requesting party* [~~out of the special fund~~].

(3) The physician shall, as soon as practicable after he has completed his consideration of the case, but not later than fifteen (15) days after the examination of the employe, report in writing his findings on every medical question in controversy. The physician shall also include in his report a statement indicating the physician or physicians, if any, who appeared before him, and what, if any medical reports and X-rays were considered by him.

(4) The board may consider the report of the physician along with the other evidence in the case in arriving at its decision or award, and any party in interest may take the deposition of the physician to be used as evidence in the case.

(5) The provisions of this section shall apply only to persons mentioned in KRS 342.120.

Section 19. KRS 342.122 is amended to read as follows:

(1) "Adjusted cost" as used in this section and in KRS 342.475 means all *liability incurred for* compensation, hospital and medical benefits *to be* paid *pursuant to this chapter, except that any employer defined in KRS 342.630(2) may compute "adjusted cost" on the basis of benefits paid rather than liability incurred. "Adjusted cost" for all employers shall include* [~~thereunder, plus~~] an additional factor of twelve percent (12%) of such total *liabilities or benefits paid* [~~payments, to cover the administrative cost of the employer. However in no event shall "adjusted cost" be less than twenty percent (20%) of the basic insurance premium computed by applying current manual rates for workmen's compensation insurance to the payroll of every employer~~]. *Each self-insured group and each employer* carrying his own risk [~~and for this purpose each such employer~~] shall annually furnish payroll data *and other information required to calculate "adjusted cost"* to the department of revenue. [~~"Adjusted cost" shall not include amounts paid for injuries occurring prior to March 22, 1962.~~]

(2) In addition to the taxes and assessments imposed by KRS 342.450 and 342.475, a special fund tax at the rate of three-fourths (¾) of one percent (1%) of the amount of premiums received shall be paid by every insurance carrier as defined in KRS 342.445, subject to the credits therein set out, and the department of revenue shall assess against the "adjusted cost" of every employer carrying his own risk a special fund tax computed by taking three-fourths (¾) of one percent (1%) of the "adjusted cost" determined as provided in KRS 342.475. The provisions of KRS 342.450, 342.455, 342.460, 342.465 and 342.470 shall, so far as applicable, also apply to the levy and collection of such additional tax of three-fourths (¾) of one percent (1%) of such premiums of insurance carriers.

(3) All taxes and assessments imposed by subsection (2) of this section shall be paid into the state treasury and shall be credited to the special fund *and the Kentucky reinsurance association and* [~~for the board, which fund~~] shall be used only for [~~the payment of~~] awards of compensation made by the board and chargeable against *the special* [~~said~~] fund, expenses of legal representation thereof, fees, [~~and~~] expenses of the physicians in connection therewith, *and expenses in connection with reinsurance obtained for the special fund* and shall be withdrawn for that purpose under the supervision of the *secretary of finance* [~~commissioner of labor~~].

(4) Any sum remaining in the special fund at the end of any fiscal year shall be set up by the department of finance to the credit of such fund for the next ensuing fiscal year.

(5) *(a) For liabilities for injuries and occupational diseases incurred on or after July 1, 1983:*

1. If *on an annual review of the special fund* the *secretary of finance* [~~commissioner of labor~~] finds that the special fund tax *to be* levied pursuant to this section *may be* [~~is~~] insufficient to pay *prospective amounts which may be* [~~such claims~~] awarded under the special fund provisions, he shall advise the *Kentucky reinsurance association* [~~commissioner of revenue~~] in writing of such fact *and shall further request and give specifications for the association to make a proposal for reinsuring the liabilities of the special fund and for distributing the cost of such reinsurance to the subscribers of the association. The proposal will contain a total cost for such reinsurance, including the administrative costs of making benefit payments and collecting premiums from subscribers. The total cost of reinsurance shall be distributed among the subscribers based on the "adjusted cost" of every subscriber unless the proposal sets forth another basis of cost distribution that the secretary of finance finds to be more equitable than "adjusted cost."*

2. The secretary of finance shall then advertise for bids from qualified bidders for reinsurance of the liabilities of the special fund as set out in the proposal of the Kentucky reinsurance association.

3. If no other qualified bidder offers an arrangement more advantageous than that proposed by the Kentucky reinsurance association, the secretary shall enter an agreement for reinsurance of the special fund liabilities with the association as specified in the original written request. If another qualified bidder makes a bid more advantageous according to criteria established in the specifications, the secretary shall enter an agreement with such bidder for reinsurance of the special fund liabilities.

(b) For liabilities for injuries and occupational diseases incurred before July 1, 1983:

1. The secretary of finance and the commissioner of labor may determine whether such liabilities could be reinsured or otherwise transferred to the Kentucky reinsurance association in a manner calculated to minimize the costs of such liabilities and the processing of payments in connection therewith.

2. If the secretary of finance and the commissioner of labor find that the special fund tax to be levied pursuant to this section is insufficient to pay such claims, they shall advise the commissioner of revenue in writing of such fact. The commissioner of revenue may then levy additional assessments against all insurance companies writing workmen's compensation insurance in Kentucky, *all self-insurance groups operating under this chapter, and* [~~including~~] every employer carrying his own risk. The amount of each [~~insurance company's~~] assessment shall be in the proportion that each *assessment payer's* [~~company's annual workmen's compensation premium writings in Kentucky bears to the total of all annual workmen's compensation premiums written in Kentucky. Such assessment will be based upon information contained in the insurance company's last filed annual statement with the department of insurance. Such assessments against every employer carrying his own risk will be based upon that proportion which the~~] "adjusted cost" [~~of such own risk carrier~~] bears to the total "adjusted cost" of all *assessment payers* [~~such own risk carriers. "Adjusted cost" reports filed with the board in accordance with KRS 342.475 will be the basis of such determination. Such additional assessment against insurance companies and employers carrying their own risk shall be apportioned between the two (2) classes as the total of premiums and the total of "adjusted cost" each bears to the combined total~~].

(6) Except for a two percent (2%) collection fee allowance, all moneys charged the insured for assessments and taxes under this chapter and KRS Chapter 136 shall be paid into the state treasury and credited to the appropriate fund for which said assessment or tax is charged. In no case shall the moneys turned over be less than ninety-eight percent (98%) of the moneys charged.

(7) The fund heretofore designated as the subsequent claim fund is abolished and there is substituted therefor the special fund as herein set out and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

Section 20. KRS 342.185 is amended to read as follows:

No proceeding under this chapter for compensation for an injury or death shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable after the happening thereof and unless an application for adjustment of claim for compensation with respect to such injury shall have been made with the board within two (2) years after the date of the accident, or in case of death, within two (2) years after such death, whether or not a claim has been made by the employe himself for compensation. Such notice and such claim may be given or made by any person claiming to be entitled to compensation or by someone in his behalf. If payments of *income benefits* [~~compensation~~] as such have been made voluntarily the filing of an application for adjustment of claim with the board within such period shall not be required, but shall become requisite within *two (2) years* [~~one (1) year~~] following the suspension of such voluntary payments or within two (2) years of the date of the accident, whichever is later.

Section 21. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employe was last exposed to the hazard of the occupational disease during any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973 shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners

previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator. Said employer shall have the right to contribution from each previous employer, as determined in an independent civil action, wherein the employe was similarly exposed to the hazard of said occupational disease, in a sum equal to the ratio that each exposure employment time bears to the total exposure employment time except as otherwise provided in paragraph (a) of subsection (13) of this section.

(b) The time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.

(2) (a) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to such disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter except that notice of claim shall be given to the employer as soon as practicable after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted such disease, or a diagnosis of such disease is first communicated to him, whichever shall first occur.

(b) The procedure with respect to filing of claims shall be as follows:

1. The application shall set forth the work history of the applicant with a concise description of injurious exposure to a specific occupational disease together with the names and addresses of employer or employers with the approximate date of employment and shall also include with the application two written medical reports supporting his claim. These medical reports shall be made on the basis of comprehensive clinical examinations and shall contain full and complete statements of the results thereof. The reports shall be made by duly licensed physicians. The clinical examinations shall include x-ray examinations. However, the failure of an x-ray examination to disclose the presence of an occupational disease shall not affect the legal presumption referred to in subsection (5) of this section.

2. The filing of a properly executed application for adjustment of claim, accompanied by the two medical reports described in subparagraph 1. of this paragraph, shall satisfy the requirements of the presumptive clause set out in subsection (5) of this section and the burden of proof shall immediately thereafter shift to the employer [~~and the special fund~~].

3. Immediately upon receipt of said application for adjustment of claim, the board shall notify the affected employer, the special fund and any other interested party of such claim and shall furnish them with a full and complete copy of the claim.

4. Upon receipt of notice of claim the employer, the special fund, and any other interested party shall have the right to have the claimant examined by competent medical experts, at their expense, including a reasonable sum for travel. After said examination, the claimant or his representative shall be furnished a copy of said medical report within a reasonable time.

5. Within ninety (90) days of the receipt of notice by the employer of the filing of the claim, the employer[~~, the special fund, and any other interested party~~] shall notify the board and the claimant whether or not the claim will be resisted. If the claim is not resisted, then the board shall within ten (10) days enter an order and award for the claimant. If the claim is resisted, the board shall set a date for a hearing and shall notify all parties thereof. In litigated claims the regular procedures prescribed by the workers' compensation board shall be followed.

(3) The right to compensation under this chapter for disability resulting from an occupational disease shall be forever barred unless a claim is filed with the workers' compensation board within three (3) years after the last injurious exposure to the occupational hazard or after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within said period, unless a claim therefor be filed with the workers' compensation board within three (3) years after such death; provided, however, that notice of such claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employe, and its cause was known to the employer. Provided, however, that the right to compensation for any occupational disease shall be forever barred unless a claim is filed with the workers' compensation board within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease, a claim must be filed within 20 years from the last injurious exposure to the occupational hazard.

(4) The amount of compensation payable for disability due to occupational disease or for death from such disease, and the time and manner of its payment, shall be [~~the same~~] as provided for [~~accidental injury or death~~] under the general provisions of the workers' compensation act, but in no event to exceed such amounts as were in effect at the time of the last injurious exposure, and provided further, that the time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, and provided further, that in case

of death where the employe has been awarded compensation or made timely claim within the period provided for in this section, an employe has suffered continuous disability to the date of his death occurring at any time within twenty (20) years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the workers' compensation act and in this section.

(5) Where the occupational disease is a compensable pneumoconiosis and there has been employment exposure for ten (10) years or more to an industrial hazard sufficient to cause the disability of pneumoconiosis there shall be a rebuttable presumption that the disability or death was due to the compensable pneumoconiosis.

(6) Where the employe is suffering or suffered from a chronic dust disease of the lung which:

(a) When diagnosed by chest roentgenogram, yields one or more large opacities (greater than one (1) centimeter in diameter) and would be classified in category A, B, or C in the international classification of radiographs of the pneumoconiosis by the international labor organization;

(b) When diagnosed by biopsy or autopsy, yields massive lesions in the lung; or

(c) When diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in paragraph (a) or (b) of this subsection if diagnosis had been made in the manner prescribed in paragraph (a) or (b) of this subsection, then there shall be an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis, as the case may be.

(7) In case of disability or death from silicosis, coal workers' pneumoconiosis, or any other compensable pneumoconiosis, complicated with tuberculosis of the lungs, pulmonary emphysema or other pulmonary dysfunction and there has been employment exposures to harmful dust or industrial hazards reasonably competent to produce such accompanying disease or dysfunction, there is a rebuttable legal presumption that all resultant disability therefrom is work related and compensable, and compensation shall be payable as for the uncomplicated disease, provided, however, that the disease or dysfunction was an essential factor in causing such disability or death.

(8) If an autopsy has been performed, no testimony relative thereto shall be competent unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(9) No compensation shall be payable for occupational disease if the employe at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of such disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(10) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, save only to after-born children of a marriage existing at the beginning of such disability.

(11) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury, disability or death which was the basis for such application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for such injury, disability or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the board when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required herein.

(12) When an employe has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier; except as otherwise provided herein.

(13) [~~(a)~~] The employer liable for compensation for occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, shall be the employer in whose employment the employe was last exposed to the hazard of such occupational disease. In those cases where disability or death are not conclusively proven to be the result of such last exposure all compensation shall be paid out of the special fund for all claims filed prior to January 1, 1973; and seventy-five percent

(75%) shall be paid by the special fund and twenty-five percent (25%) by the employer for all claims filed thereafter. In all other cases of occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, the compensation for disability or death due to such diseases shall be paid jointly by the employer and the special fund, and the employer shall be liable for sixty percent (60%) of the compensation due and the special fund shall be liable for forty percent (40%) of the compensation due. Provided, however, that when there is a joint award against the carrier or self-insured employer and the special fund under this section, all of the compensation awarded shall be paid *pursuant to KRS 342.120* [~~from the special fund and the special fund shall be reimbursed by the carrier or self-insured employer on a quarterly basis~~] and under such regulations as the board may provide for such purpose.

(b) In all claims for compensation partially payable by the special fund the commissioner of labor[~~, as custodian of said fund,~~] shall be designated as codefendant.

[~~(c) In all agreements for the payment of compensation and awards the amount payable by the employer and the amount payable out of the special fund shall be separately stated. An award against the employer shall be for only the percentage of the total compensation which the employer is obligated to pay. A separate award shall be made against the special fund for the balance of the compensation payable. Nothing in this section shall prohibit the commissioner of labor, as custodian of the special fund, from entering into agreements to pay the compensation for which it is liable; provided, however, that where compensation is payable by both the employer and the special fund, the commissioner shall not enter into an agreement unless the employer is a party to the agreement.~~]

Section 22. KRS 342.720 is amended to read as follows:

If death results from the injury, the employer shall pay the cost of burying in an amount not to exceed *$2,500* [~~$1,500~~] to any person who performed such service or incurred the liability for the service, whether or not the employe leaves dependents within the meaning of this chapter. Any such person is hereby authorized to file a petition with the board for the fixing of the amount of the service and for an order requiring the employer to pay the cost of the service. If death occurs while the employe is away from his usual place of business or residence the employer will be liable for the additional reasonable cost of transportation of the body to the employe's place of residence within the Commonwealth of Kentucky.

Section 23. KRS 342.730 is amended to read as follows:

(1) Income benefits for disability shall be paid to the employe as follows:

(a) For total disability, sixty-six and two-thirds percent (66 ⅔%) of the employe's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during such disability.

(b) For permanent, partial disability, sixty-six and two-thirds percent (66 ⅔%) of the employe's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by his percentage of disability caused by the injury or occupational disease as determined by "guides to the evaluation of permanent impairment," American medical association, 1977 edition, or by his percentage of disability as determined under KRS 342.620 (11), whichever is greater, for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks[~~, but such benefits shall not be paid after the employe becomes eligible for normal old age benefits under the federal old age, survivors and disability insurance act~~]. Any temporary total disability period within the maximum period for permanent, partial disability benefits shall [~~not~~] extend the maximum period *but shall not* [~~nor~~] make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of KRS Chapter 342 to the contrary, there shall be no minimum weekly income benefit for permanent partial disability *and medical benefits shall be paid for the duration of the disability.*

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) When an employe, who has sustained disability compensable under this section, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of 18 or incapable of self-support; or

(b) If there are both such a widow or widower and such a child or children, one-half to such widow or widower and the other half to such child or children; or

(c) If there is no such widow or widower but such a child or children, then to such child or children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750 or to both, in such proportions as the board may provide by regulation.

Section 24. The following KRS sections are repealed:
304.13-010 Purpose and intent of subtitle — Interpretation.
304.13-020 Scope of subtitle.
304.13-030 Rate standards.
304.13-040 Rate filings.
304.13-050 When filing becomes effective — Hearing on filing — Burden on insurer or rating organization.
304.13-060 Suspension or modification of requirement of filing or as to classes of risks.
304.13-070 Disapproval of filing — Notice.
304.13-080 Disapproval subsequent to review period.
304.13-090 Scope of disapproval power.
304.13-110 Acceptance of licensed rating organization filings on behalf of insurer.
304.13-120 Rating organizations — Existing licenses — Application for license — Issuance of license.
304.13-130 License fee.
304.13-140 Rules and regulations as to subscribers — Review of rules or rejection of subscribership.
304.13-150 Commissioner to be notified of changes.
304.13-160 Rule affecting payment of dividends, savings or unabsorbed premium deposits prohibited.
304.13-170 Technical services.
304.13-180 Stamping bureau.
304.13-190 Adherence to filings.
304.13-200 Deviations.
304.13-210 Appeal from rating organization.
304.13-220 Application for hearing as to filing — Hearing — Commissioner's order.
304.13-230 Information to be furnished insureds — Appeal by insureds.
304.13-240 Advisory organizations.
304.13-250 Joint underwriters and joint re-insurers.
304.13-260 Examination of rating and advisory organizations, joint underwriters and re-insurers, officers, managers, agents and employes — Examination costs.
304.13-270 Rules and statistical plans — Reports of loss or countrywide expense experience.
304.13-280 Exchange of information or experience data — Cooperation among rating organizations or among rating organizations and insurers.
304.13-290 Agreements for equitable apportionment of insurance unobtainable through ordinary methods.
304.13-300 Withholding information or giving false or misleading information.
304.13-310 Insurers authorized to act in concert.
304.13-330 Appeal from order or decision of commissioner.

The Committee on Natural Resources and Environment reported **HB 156,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 156, AN ACT relating to public recreational facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

(1) In enacting a parks establishment aid law, it is the intention of the general assembly to supplement local efforts to establish park and recreational facilities. The inadequacy of present facilities and the high cost of acquisition and establishment of park recreational facilities are hereby declared to be matters of public interest and concern and vital to the promotion of the health, welfare and prosperity of the inhabitants of the Commonwealth.

(2) The commissioner of the department of community and regional development shall cause to be established in the treasury a special fund to be known as the local government parks and recreational facilities fund, to be administered by the commissioner. The fund shall be comprised of grants, contributions, appropriations and intergovernmental transfers. Monies in the fund shall not lapse at the end of the fiscal year.

(3) The commissioner may, when he determines that a proposed local government plan for a park or other recreational facility would serve the public interest, use monies from the local government parks and recreational facilities fund to aid local governmental units in their acquisition and establishment of local parks and recreational facilities, provided that local governmental units must provide matching funds for the project. The department of community and regional development may grant an amount up to one hundred thousand dollars ($100,000) for any one (1) project, which amount shall not exceed fifty percent (50%) of the cost of the entire project. For the purposes of this section, local governmental units shall mean county governments and governments of cities of any class. Title to parks and recreational facilities acquired by the use of funds authorized by this section shall vest in the local governmental unit which proposed the project and provided the matching funds.

(4) The commissioner may prescribe standards for determining the amounts to be granted for local projects and such regulations as may be necessary to implement the provisions of this section. Funds granted by the department shall be spent by the local governing authorities only for the acquisition and establishment of parks and recreational facilities and shall not be used for operating or maintenance expenses.

Section 2. KRS 148.171, state aid for establishment of county and city parks, limits — use of funds, is repealed.

Committee Amendment No. 1 to **HB 156:**

Amend printed copy of **HB 156,** on page 1, line 10, by deleting "*prosperity of*" and substituting therefor: "*industrial development for*"; and

on page 1, line 12, by deleting "*community*" and by substituting therefor: "*local government*"; and

on page 1, line 13, by deleting "*and regional development*"; and

on page 2, line 7, by deleting "*community and regional development*" and by substituting therefor: "*local government*"; and

on page 2, line 18, by deleting "*The commissioner*" and by substituting therefor: "*In September of each year the commissioner shall determine the amount of funds available for distribution by December 31 of that same year. The commissioner*"; and

on page 2, line 24, by inserting after "*facilities*" the following: "*or major improvements or additions to existing parks*".

Committee Amendment No. 2 to **HB 156:**

Amend printed copy of **HB 156,** page 2, line 12, by inserting after the word "*governments*" the following "*, urban-county government,*"

Calendar

HB 507, HB 587, HB 631, HB 704, HB 711, HB 714, HB 733, SB 261, HB 753, SB 65, SB 237, HB 471, HB 658, HB 683, HB 701, HB 703, HB 730, HB 731, HB 791, HB 806, HB 232, HB 661, HB 536, HB 669, SB 293, HB 503, HB 416, HB 676, HR 67, SB 10, SB 213, HB 660, HB 758, HB 762, and **HR 59** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative LeMaster moved that **HB 260** be recommitted to the Committee on Agriculture and Natural Resources. Agreed.

HB 467, with Committee Amendments and Committee Title Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Committee Amendment No. 1 to **HB 467.** Agreed.

Representative Clarke moved that **HB 467,** as amended, be passed.

On the roll call the vote was yeas 83-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, LeMaster, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Worthington, Yates. Nays 2-Fryman, Rattliff.

HB 467, as amended, was passed.

Representative Clarke moved the adoption of the Committee Title Amendment to **HB 467.** Agreed.

Representative Clarke moved that the vote by which **HB 467,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 35, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Committee Amendment No. 1 to **SB 35.** Agreed.

Representative Johnson moved that **SB 35,** as amended, be passed.

On the roll call the vote was yeas 78-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clark, Cline, Cowan, Craddock, Crupper, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Farrow, Foster, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Yates. Nays 10-Allen, Endicott, Freibert, Holbrook, Holloway, Layman, Patrick, Seum, Turner, Van Horn.

SB 35, as amended, was passed and the title agreed to.

Representative Johnson moved that the vote by which **SB 35,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 559, with Committee Amendments and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Amendment No. 1 to **HB 559.** Agreed.

Representative Donnermeyer moved the adoption of the Committee Amendment No. 2 to **HB 559.** Agreed.

Representative Donnermeyer moved the adoption of the Floor Amendment No. 4 to **HB 559.** Agreed.

Representative Donnermeyer moved that **HB 559,** as amended, be passed.

On the roll cal lthe vote was yeas 57-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley,Bronger, Burch, Caldwell, Clark, Clarke, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Freibert, Hancock, Harper, Heleringer, Hines, Johnson, Kenton, Kidd, Lefevers, Little, Maggard, Mann, McBee, Meyer, Moore, Morris, Nett, O'Brien, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Van Horn, White, Yates. Nays 16-Allen, Burnette, Clapp, Dawahare, Farrow, Ford, Foster, Fryman, Haering, Holloway, Layman, Moberly, Patrick, Rattliff, Todd, Turner.

HB 559, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 559,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 113** had been examined and found correctly enrolled. **HB 113** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:40 p.m.)

HB 113 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

SB 100 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 100** be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brown, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, List, Long, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 2-Haering, Little.

SB 100 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 100** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 543, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Tobin moved the adoption of the Committee Substitute to **HB 543.** Agreed.

Representative Tobin moved that **HB 543,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 83-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cowan, Craddock, Curpper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, T. Jones, Kidd, Layman, Lefevers, LeMaster, Little, Long, Maggard, Mann, McBee, McNutt, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Haering.

HB 543, by way of Committee Substitute, was passed and the title agreed.

Representative Tobin moved that the vote by which **HB 543**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 566 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved that **HB 566** be passed.

On the roll call the vote was yeas 83-Allen, Arnold, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, Layman, Lefevers, LeMaster, Little, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Noland, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, White, Williams, Yates. Nays 3-Freibert, List, Rattliff.

HB 566 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 566** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 56 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomason moved that **SB 56** be passed.

On the roll call the vote was yeas 74-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, T. Jones, Kidd, Layman, Lefevers, LeMaster, Little, Long, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Noe, Noland, Overstreet, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Yates. Nays 7-Brown, Cyrus, Gray, Guenthner, Haering, Perkins, Schmidt.

SB 56 was passed and the title agreed to.

Representative Thomason moved that the vote by which **SB 56** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 293, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved that **HB 293** be passed.

Representative O'Brien moved the adoption of the Committee Amendment No. 1 to **HB 293.** Rejected.

Representative Turner moved that **HB 293** be laid on the Clerk's desk. Rejected.

On the roll call the vote was yeas 42-Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Cowan, Curd, Donnermeyer, Dunn, Foster, Gray, Guenthner, Handy, Hines, T. Jones, Kidd, LeMaster, Little, Mann, McBee, Moberly, Nett, O'Brien, Priddy, Rapier, B. Richardson, Riner, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, Williams, Worthington, Yates. Nays 50-Allen, Arnold, Barrows, Burnette, Caldwell, Clarke, Cline, Craddock, Crupper, Cyrus, Dawahare, Deskins, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Haering, Hancock, Harper, Head, Holbrook, Holloway, Johnson, R. Jones, Kenton, Lefevers, List, Long, Lundergan, Maggard, McNutt, Moore, Morris, Noe, Noland, Overstreet, Patrick, Pearman, Perkins, Petty, Rattliff, P. Richardson, Robinson, Schmidt, B. Smith, Tobin, Todd, Turner.

HB 293 was defeated.

HB 493, with Committee Amendment and Floor Amendments attached thereto, taken from orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Floor Amendment No. 1 to **HB 493.** Agreed.

Representative Boswell moved the adoption of the Floor Amendment No. 2 to **HB 493.** Agreed.

Representative Boswell moved that **HB 493,** as amended, be passed.

On the roll call the vote was yeas 74-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Bruce, Burch, Burnette, Clapp, Clark, Cline, Cowan, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gray, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Layman, Lefevers, LeMaster, List, Little, Maggard, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 12-Caldwell, Dawahare, Guenthner, Haering, T. Jones, Long, McBee, McNutt, Noe, Petty, Schmidt, Tobin.

HB 493, as amended, was passed and the title agreed to.

Representative Boswell moved that the vote by which **HB 493,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 551 taken from Orders of the Day and ordered read at length for the third time. Representative Donnermeyer moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved that **HB 551** be passed.

On the roll call the vote was yeas 85-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Kenton, Kidd, Layman, Lefevers, List, Little, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 8-Clarke, Guenthner, Holloway, Johnson, R. Jones, T. Jones, Long, B. Richardson.

HB 551 was passed and the title agreed to.

Representative Freibert moved that the vote by which **HB 551** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 596, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Donnermeyer moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of the Committee Amendment No. 1 to **HB 596.** Agreed.

Representative Riner moved that **HB 596,** as amended, be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Little, Long, Maggard, Mann, McBee, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 0.

HB 596 was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 596** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 41 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 41** be passed.

On the roll call the vote was yeas 57-Bendl, Bennett, Blandford, Boswell, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Gray, Harper, Head, Hines, Holbrook, Johnson, Kidd, Layman, Lefevers, LeMaster, Little, Maggard, Mann, McBee, Meyer, Moberly, Morris, Noland, Overstreet, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, B. Smith, F. Smith, Stone, Stumbo, Thomas, Van Horn, Williams, Yates. Nays 27-Allen, Arnold, Barrows, Bronger, Cowan, Farrow, Ford, Foster, Freibert, Guenthner, Haering, Hancock, Handy, Heleringer, Holloway, R. Jones, T. Jones, List, Long, McNutt, Nett, Noe, O'Brien, Patrick, Pearman, Todd, Turner.

HB 41 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 41** was passed be reconsidered and said motion be placed on the table.

HB 484 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved that **HB 484** be passed.

On the roll call the vote was yeas 71-Arnold, Bendl, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Ford, Foster, Freibert, Gray, Guenthner, Haering, Handy, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kidd, Lefevers, LeMaster, Little, Long, Maggard, Mann, McNutt, Moberly, Morris, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Seum, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, Williams, Yates. Nays 10-Allen, Barrows, Crupper, Farrow, Hancock, Head, Layman, Nett, Richards, B. Smith.

HB 484 was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 484** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 527 taken from Orders of the Day and ordered read at length for the third time. Representative Donnermeyer moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 527** be passed.

On the roll call the vote was yeas 82-Allen, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Cline, Cowan, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, List, Little, Long, Maggard, Mann, McBee, Meyer, Moberly, Morris, Nett, Noland, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, Williams, Yates. Nays 0.

HB 527 was passed and the title agreed to.

Speaker Pro Tempore Thomason presiding.

Representative Clarke moved that the vote by which **HB 527** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 528 taken from Orders of the Day and ordered read at length for the third time. Representtive Donnermeyer moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 528** be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomas, Tobin, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Moore, Patrick.

HB 528 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 528** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 594, with Committee Substitute, Committee Title Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkley moved the adoption of the Committee Substitute to **HB 594.** Agreed.

Representative Brinkley moved the adoption of the Floor Amendment No. 2 to the Committee Substitute to **HB 594.** Agreed.

Representative Brinkley moved that **HB 594,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 1-Haering.

HB 594, by way of Committee Substitute as amended, was passed.

Representative Brinkley moved the adoption of the Committee Title Amendment to the Committee Substitute to **HB 594.** Agreed.

Representative Brinkley moved that the vote by which **HB 594,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 646, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Committee Amendment No. 1 to **HB 646.** Agreed.

Representative Johnson moved that **HB 646,** as amended, be passed.

On the roll call the vote was yeas 87-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, Clark, Clarke, Cline, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Gray, Guenthner, Haering, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Tobin, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 0.

HB 646, as amended, was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 646,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 648, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Floor Amendment No. 1 to **HB 648.** Agreed.

Representative LeMaster moved that **HB 648,** as amended, be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Boswell, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, Clark, Clarke, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Haering, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rattliff, Richards, P. Richardson, Riner, Robinson, Schmidt, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Tobin, Todd, Turner, Van Horn, Williams, Yates. Nays 1-Rapier.

HB 648, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 648,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

The Speaker resumed the Chair.

Representative LeMaster moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

Representative Bruce moved the adoption of the following **HR 83** by Representatives Bruce and Morris:

HR 83, A RESOLUTION honoring Fort Campbell and recognizing A.U.S.A. Day in Hopkinsville, Kentucky and Christian County.

WHEREAS, Fort Campbell, officially named the 101st Airborne Division (Air Assault) has been in operation since 1942 and is the only Air Assault Division in the United States Army system; and

WHEREAS, there are 21,000 military personnel and 35,000 dependents of military personnel stationed at Fort Campbell; and

WHEREAS, 4,000 civilians are employed at Fort Campbell—45% of whom are Kentuckians; and

WHEREAS, Fort Campbell has an economic impact of some one and three quarter million dollars per day on the surrounding areas; and

WHEREAS, the Association of the United States Army (A.U.S.A.) is a non-profit civilian association which actively supports the United States Army and a strong national defense policy; and

WHEREAS, the A.U.S.A. has individual and corporate memberships which support and lobby for the military; and

WHEREAS, in recognition of their many activities and contributions to the area, March 11th has been declared to be A.U.S.A. Day in Hopkinsville, Kentucky and Christian County;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives proudly honors and commends Major General Charles W. Bagnal, Commanding Officer of Fort Campbell, as well as the many men and women, military and civilian, who are the lifeblood of Fort Campbell, for their exemplary and patriotic contributions made on behalf of our nation.

Section 2. That this honorable body recognizes and joins in the Hopkinsville and Christian County celebration of A.U.S.A. Day on March 11, 1982.

HR 83 was adopted by voice vote.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions.

Floor Amendment No. 1 to **HB 90,** by Representative Bennett:

Amend printed copy of **HB 90,** page 3, line 5, by inserting:

Section 2. KRS 118.015 is amended to read as follows:

(1) A "political party" within the meaning of this chapter, is an affiliation or organization of electors representing a political policy and having a constituted authority for its government and regulation, and which cast at least twenty percent (20%) of the total vote cast at the last preceding election at which presidential electors were voted for.

(2) The word "election" used in reference to a state, district, county or city election, includes the decisions of questions submitted to the qualified voters as well as the choice of officers by them.

(3) An "official ballot" means the voting machine ballot label, an absentee ballot, a special ballot or a supplemental paper ballot which has been authorized for the use of the voters in any primary, general or special election by the secretary of state or the county clerk.

(4) The word "Resident" used in reference to a candidate in a state, district, county or city election shall mean actual resident, without regard to the residence of the spouse of the candidate.

Floor Amendment No. 3 to Committee Substitute to **HB 194,** by Representative LeMaster:

Amend printed copy of Committee Substitute to **HB 194,** page 8, by adding the following to Section 3:

"*KRS 287.180 - Banking business, where done - Branch and agency bank is repealed.*

KRS 287.185 - Change of location - Approval by commissioner is repealed."

Floor Amendment No. 1 to **HB 240,** by Representative Bennett:

Amend printed copy of **HB 240,** page 9, after line 6, by inserting the following:

"Section 2. KRS 341.262 is amended to read as follows:

(1) Any employing unit [~~or any officer or agent of an employing unit~~] failing to *make and* file reports required under this chapter *on or before the due date of such reports, unless it is shown to the satisfaction*

of the department that the failure was due to reasonable cause, [~~within ten days after written notice sent by the department to the employing unit or to the officer or agent of the employing unit by certified mail~~] shall be subject, in addition to any other penalty provisions in this chapter to a penalty of *five percent (5%) per month or fraction thereof not to exceed twenty-five (25%) of the contributions due, provided, however, that in no case shall the penalty be less than ten dollars ($10.00).* [~~ten dollars for failure to file such reports. These penalties shall be collected in the same manner as provided for in KRS 341.300 and shall be paid into the same fund.~~]

(2) These penalties shall be collected in the same manner as provided for in KRS 341.300 and shall be paid into the same fund."

Floor Amendment No. 2 to **HB 269,** by Representative Schmidt:

Amend printed copy of **HB 269,** page 1, line 8, by deleting "*commissioner*" and inserting in its place "*fire marshal*"; line 20, by deleting "*commission and*"; line 21, by deleting "*with the*"; line 21, by adding after the punctuation point, ".", the following:

The fire marshal shall transmit a copy of each fire department's monthly summary to the commission.

page 2, line 3, by deleting "*commissioner*" and inserting in its place "*fire marshal*";

page 3, line 10, by deleting "*commissioner*" and inserting in its place "*fire marshal*";

after line 17, by inserting the following:

(d) The fire marshal shall transmit a copy of each municipality's report to the commissioner.

Floor Amendment No. 5 to **HB 345,** by Representative B. Smith:

Amend printed copy of **HB 345,** page 18, line 11, by adding the following:

"Section 23. Nothing in the Act shall be deemed to confirm Executive Order 81-55; provided, however, that any expenditure of funds made under said order prior to April 1, 1982 is hereby authorized.

Section 24. Whereas, the Supreme Court has determined that Executive Order 81-55 is invalid and the General Assembly does not desire to confirm said order, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor."

Floor Amendment No. 1 to **HB 456,** by Representative Van Horn:

Amend printed copy of **HB 456,** on page 1, line 20, by deleting "*a*"; and

on page 1, line 21, by deleting all of line 21; and

on page 2, lines 1 through 4, by deleting all of lines 1 through 4; and

on page 2, line 5, by deleting the underlined material, the bracket and the strike throughs; and

on page 2, lines 6 through 8, by deleting strike throughs and the bracket; and

on page 2, lines 11 through 15, by deleting all underlined material; and

on page 2, line 16, by deleting all underlined material, and by deleting the bracket and strike through; and

on page 2, lines 17 through 19, by deleting all strike throughs and the bracket.

Floor Amendment No. 2 to **HB 456,** by Representative Van Horn:

Amend printed copy of **HB 456,** on page 16, line 14, by deleting everything after "Section 6.";

and on page 16, lines 15 through 26, by deleting all of lines 15 through 26;

and on page 17, by deleting all of page 17;

and on page 18, by deleting all of page 18;

and on page 19, lines 1 through 4, by deleting all of lines 1 through 4;

and on page 19, line 5, by deleting "Section 7.".

Floor Amendment No. 1 to **HB 545,** by Representative LeMaster:

Amend printed copy of **HB 545,** page 27, line 15, after the word "*located*" delete the remainder of the sentence;

on line 16, delete "*lin County,*";

on page 28, line 20, delete "*Franklin Circuit Court or the*";

on page 29, line 7, delete "*or the*";

line 8, delete "*Circuit Court of Franklin County*"

Floor Amendment No. 2 to **HB 582,** by Representative B. Smith:

Amend printed copy of **HB 582,** page 2, line 2, after "*Chapter 75,*" by inserting the following: "*a water district created pursuant to KRS Chaper 74,*"; and

On page 23, lines 25 and 26, by deleting all of lines 25 and 26; and

On page 24, lines 1 through 26, by deleting all of lines 1 through 26; and

On page 25, lines 1 through 26, by deleting all of lines 1 through 26; and

On page 26, lines 1 through 26, by deleting all of lines 1 through 26; and

On page 27, lines 1 through 26, by deleting all of lines 1 through 26; and

On page 28, lines 1 through 26, by deleting all of lines 1 through 26; and

On page 29, lines 1 through 26, by deleting all of lines 1 through 26; and

On page 30, lines 1 through 26, by deleting all of lines 1 through 26; and

On page 31, lines 1 through 26, by deleting all of lines 1 through 26; and

On page 32, lines 1 through 5, by deleting all of lines 1 through 5; and

On page 32, line 6, by deleting "SECTION 25" and substituting therefor "SECTION 20" and by renumbering all subsequent sections accordingly; and

On page 98, lines 3 through 12, by deleting all of lines 3 through 12; and

On page 107, lines 21 through 26, by deleting all of lines 21 through 26; and

On page 108, lines 1 through 26, by deleting all of lines 1 through 26; and

On page 109, lines 1 through 26, by deleting all of lines 1 through 26; and

On page 110, lines 1 through 26, by deleting all of lines 1 through 26; and

On page 111, line 1, by deleting all of line 1.

Floor Amendment No. 1 to **HB 660,** by Representative LeMaster:

Amend printed copy of **HB 660,** page 2, line 23, after the period by inserting the following: "*The survey shall be entitled to a fee not to exceed fifty ($50.00) for the administration of this section.*"

Floor Amendment No. 1 to Committee Substitute to **HB 669,** by Represtnative Burch:

Amend printed copy of Committee Substitute to **HB 669,** on page 1, line 12, by deleting "*twelve (12)*" and inserting in lieu thereof "*fourteen (14)*"

and on page 2, line 7, by deleting "*twelve (12)*" and inserting in lieu thereof "*fourteen (14)*"

and on page 2, line 23, by deleting "*twelve (12)*" and inserting in lieu thereof "*fourteen (14)*"

Floor Amendment No. 1 to **HB 686,** by Representative Williams:

Amend printed copy of **HB 686,** page 1, line 10, by deleting the period after 173.100 and adding the following language: "and tela missas".

on page 12, line 12, after the colon by adding the following language "tela missas".

Floor Amendment No. 1 to **SB 75,** by Representative Barrows:

Amend printed copy of **SB 75,** page 1, line 17, following "(2)" to delete the remainder of the line

and on page 1, lines 18 through 20, to delete the same

and on page 1, line 21, to delete "*the county jail*" and to delete the bracket before "~~Criminal~~" and to delete the strike through of "~~Criminal littering is a Class~~" and "~~mis~~"

and on page 1, line 21, to insert "*A*" before "~~B~~" and to place brackets around "~~B~~"

and on page 2, line 1, to delete the strike through of "~~demeanor~~" and delete the bracket after "~~demeanor~~"

and on page 4, line 4, to delete "*shall be fined not less than one hundred*"

and on page 4, lines 5 and 6, to delete the same

and on page 4, line 7, to delete "*twelve (12) months in the county jail*" and delete the bracket before the word "~~is~~" and to remove the strike through from "~~is guilty of a~~"

and on page 4, line 8 to delete the strike through from "~~class~~" and "~~misdemeanor~~" and insert "*A*" before "~~B~~" and to place brackets around "~~B~~" and delete the bracket after the word "~~misdemeanor~~"

Floor Amendment No. 1 to **SB 177,** by Representative Pearman:

Amend printed copy of **SB 177,** page 1, after line 9, insert the following:

"Section 2. KRS 16.010 is amended to read as follows:

As employed in KRS 16.030 to 16.170, unless the context requires otherwise:

(1) "Department" means the department of justice;

(2) "Secretary" means the secretary of justice;

(3) "Commissioner" means the commissioner of the bureau of state police;

(4) "Officer" means any member of the Kentucky state police who possesses the powers of a peace officer;

(5) "Civilian" means such experts, statisticians, clerks, *specialists* and other assistants who *may* [~~do not~~] possess the powers of a peace officer *as determined by the commissioner in his discretion*;

(6) "Board" means the state police personnel board;

(7) "Bureau" means the bureau of state police.

Section 3. KRS 281.770 is amended to read as follows:

(1) The commissioner, bureau of state police, is hereby authorized to issue commissions to employes of the bureau as law enforcement officers, and such employes when so commissioned shall have all the powers of peace officers in respect to the enforcement of this chapter and all the statutes and regulations relating to motor vehicles operated as private or for-hire carriers.

(2) Peace officers commissioned as provided herein may be assigned additional duties in enforcing other provisions of law [~~for specified limits of time during an emergency or time of special needs~~] as determined by the commissioner in his discretion."

Floor Amendment No. 2 to Committee Substitute to **SB 190,** by Representative McBee:

Amend printed copy of Committee Substitute to **SB 190,** at the end of page 24, by inserting the following:

"SECTION 6. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) Statement by an owner or by anyone in control of the object concerning its use;

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any State or Federal law relating to any controlled substance;

(3) The proximity of the object, in time and space, to a direct violation of this Act;

(4) The proximity of the object to controlled substances;

(5) The existence of any residue of controlled substances on the object;

(6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this Act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this Act shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(7) Instructions, oral or written, provided with the object concerning its use;

(8) Descriptive materials accompanying the object which explain or depict its use;

(9) National and local advertising concerning its use;

(10) The manner in which the object is displayed for sale;

(11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(12) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

(13) The existence and scope of legitimate uses for the object in the community;

(14) Expert testimony concerning its use."

Floor Amendment No. 1 to **SB 274,** by Representative F. Smith.

Amend printed copy of **SB 274,** on page 43, after line 2, insert the following new section and renumber the subsequent sections accordingly:

Section 22. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of the board. No attorney fees shall be allowed or approved against any party not represented by said attorney, nor shall any attorney fee be allowed or approved exceeding an amount equal to 20 per cent of the first $25,000.00, 15 percent of the next $10,000.00 and 5 percent of the remainder of the amount recovered as actuarily determined on past and future benefits according to the American Experience Table of Mortality and the Remarriage Tables of the Dutch Royal Insurance Institute. In no case shall the fee exceed $6,500.00. Provided, however, the board, in making an allowance of attorney fees, shall in each case examine the record to ascertain the extent of the services rendered, and fix a reasonable fee for the services rendered, not to exceed the maximum authorized by this section. The board may reduce the attorney's fee to an amount commensurate with the services performed, or may deny or reduce an attorney's fee upon proof of solicitation of employment. Any award made to a claimant in a nonresisted claim as established under the provisions of KRS 342.316 (2)(b), paragraph 5, shall result in an award of an attorney fee not exceeding $750.00.

(2) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the board, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The entire attorney's fee in a lump sum shall be paid directly to the attorney of record, and the board in allowing or approving an attorney's fee, as provided in this section, shall order the payment of same directly to the attorney, commuting sufficient of the final payments of compensation payable under the award to a lump sum for that purpose.

(3) The general assembly declares that by the enactment of subsections (2)(b) and (7) of KRS 342.316, it is the legislative intent to encourage settlement and prompt administrative handling of such claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the board shall give due regard to such legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(4) The board shall approve any contract between attorney and client if the limits on fees enumerated below are followed:

(a) When the claim is uncontested under the provisions of KRS 342.316 (2)(b), paragraph 5, the attorney fee shall not exceed an amount equal to $750.00.

(b) In all other claims, the fee of the attorney shall not exceed a sum equal to twenty percent (20%) of the amount recovered, or $5000.00, whichever is less.

(c) When an order or award is appealed to the Court of Appeals, the attorney fee shall not exceed 20 percent of the amount recovered, or $6000.00, whichever is less.

(5) Whenever an order or award of the board is reopened by the defendant-employer, said defendant-employer shall be responsible for and shall pay all attorney fees incurred by the plaintiff-employe in an amount commensurate with the services performed, not to exceed the maximum authorized by this section.

Floor Amendment No. 2 to **HB 545,** by Representative Bruce:

Amend printed copy of **HB 545,** page 33, after line 15, and before line 16, by adding the following:

SECTION 18. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Bank" means any institution organized under this chapter or the National Bank Act, as amended, to do a banking business, and having its principal place of business in this state; provided, however, it shall not include an "interim bank" chartered solely for the purpose of facilitating the acquisition of an existing bank.

(b) "Bank holding company," "company" and "control" have the meanings accorded them in the Federal Bank Holding Company Act of 1956, as amended.

(c) "Deposit" has the meaning accorded it in the Federal Deposit Insurance Act, as amended, and regulations promulgated thereunder; excluded, however, from deposits are all interbank deposits and all deposits in foreign branches and international banking facilities, as shown in the reports made by all banks to their respective supervisory authorities.

(2) Any bank holding company with its principal place of business in this state may acquire control of any other bank or bank holding company, except any bank holding company may not acquire control of any of the shares of another bank which has been in existence less than five (5) years at the time of such acquisition and which was chartered after January 31, 1982.

(3) No bank holding company may acquire control of any other bank or bank holding company if, upon such acquisition, such bank holding company would control banks holding more than twenty percent (20%) of the total deposits in all banks in Kentucky, as reported in the most recent year-end reports made by such banks to their respective supervisory authorities which are available at the time of such acquisition.

(4) No bank holding company may acquire control of more than three (3) banks during any twelve (12) month period.

(5) No persons as individuals or copartners shall engage in the business of private banking in this state.

(6) No banking institution incorporated under the laws of another state shall transact any banking business in this state except to lend money.

(7) No person who hereafter owns or acquires more than one-half (½) of the capital stock of a bank shall act as insurance agent or broker with respect to any insurance except credit life insurance, credit health insurance and insurance of the interest of the real property mortgagee in mortgaged property, other than title insurance; as used herein, "person" includes a natural person, partnership, corporation, association, business trust, voting trust, or similar organization.

(8) No bank incorporated under the laws of this state shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, except that a bank may take property of any kind to satisfy or protect a loan previously made in good faith and in the ordinary course of business; and stock so purchased or acquired shall, within six (6) months from the date of its purchase, be sold or disposed of at public or private sale. This subsection shall not affect or modify in any way KRS 386.025, but said section shall remain in full force and effect.

Section 19. KRS 287.990 is amended to read as follows:

(1) Any person who violates subsection *(5) of Section 1 of this Act* [~~(1) of KRS 287.030~~] shall be fined not less than twenty ($20.00) nor more than fifty dollars ($50.00) for each day he is engaged in the private banking business.

(2) Any institution that fails to make the report required by KRS 287.420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420, shall pay a penalty of two hundred dollars ($200) to be sued for and collected by the commissioner in the name of the state.

(3) If any person violates subsection (4) of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection (4) of KRS 287.440 shall immediately report such fact to the commissioner of banking and securities, who shall remove the person so offending.

(4) Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall be subject to the same penalties provided for solvent institutions and officers so offending.

(5) Any directors of a bank who knowingly violate, or knowingly permit any officer or employe of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors

and stockholders for any loss or damage resulting from such violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the attorney general, shall institute proceedings to revoke the corporate powers of the bank.

(6) Any deputy commissioner or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of such facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred ($100) nor more than two thousand dollars ($2,000) for each offense.

(7) Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who wilfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000) for each offense.

(8) Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in such report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of twenty-five dollars ($25.00) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed two hundred and fifty dollars ($250).

(9) Each person, bank or trust company that wilfully makes or transmits a false report or refuses to submit its books, papers and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than one hundred ($100) nor more than five hundred dollars ($500).

(10) Whenever any penalty imposed by subsections (4), (6), (7), (8), or (9) is not paid, the attorney general shall institute an action, in the name of the state, in the Franklin Circuit Court or the circuit court of the county in which the offense was committed, for the recovery of the penalty.

(11) Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars ($50.00) nor more than two thousand dollars ($2,000).

(12) Any person who willfully makes charges in excess of those permitted by KRS 287.710 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five-hundred dollars ($500.00) or by imprisonment for not more than six (6) months, or both.

(13) Any bank which violates any provision of KRS 287.710 to 287.770, except as a result of an accidental or bona fide error shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of such finance charge; provided such action is commenced within two (2) years from the date such violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 287.760.

(14) Notwithstanding the provisions of subsections (12) and (13) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.

Section 20. KRS 287.030, Limitation on right to engage in business and own stock, is repealed.

page 33, line 16, after "Section" by deleting "18" and inserting in lieu thereof "21"

page 33, line 24, after "Section" by deleting "19" and inserting in lieu thereof "22"

page 34, line 1, after "and" by inserting "Sections 1 through 17 and Section 21" and deleting "Section 4"

page 34, after line 2, by adding:

"Section 23. Sections 18, 19, and 20 of this Act shall become effective on July 1, 1984."

Representative Bruce moved that the rules be suspended to reconsider the vote by which **HB 194** was defeated, placed it on its passage today, and offer floor amendments.

Representative Tobin moved that the House adjourn until 10:00 a.m., March 12.

On the roll call the vote was yeas 38-Allen, Arnold, Barrows, Bendl, Blevins, Brown, Burnette, Crupper, Curd, Dawahare, Farrow, Ford, Foster, Freibert, Hancock, R. Jones, T. Jones, Layman, Lefevers, LeMaster, List, Little, Long, Maggard, McBee, Moberly, Moore, Noland, O'Brien, Perkins, Rapier, Rattliff, Riner, Robinson, Seum, Tobin, Van Horn, Worthington. Nays 51-Blandford, Boswell, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Gray, Guenthner, Haering, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Lundergan, Mann, McNutt, Meyer, Morris, Nett, Overstreet, Patrick, Petty, Richards, B. Richardson, Schmidt, B. Smith, F. Smith, Stone, Stumbo, Thomason, Turner, White, Williams.

The motion that the House adjourned was rejected.

Representative Farrow moved that **HB 194** be read in its entirety.

The Chair ruled that **HB 194** was not under consideration and the request was out of order.

Representative Holbrook moved that the rules be suspended to add additional time to the motion hour.

The Chair ruled Representative Holbrook's motion out of order because a motion to suspend the rules was pending.

Representative Tobin moved that the House recess for thirty minutes to study Representtive Bruce's motion.

On the roll call the vote was yeas 28-Allen, Barrows, Bendl, Bennett, Blevins, Brown, Burnette, Ford, Foster, Freibert, Hancock, T. Jones, Layman, Lefevers, List, Long, Maggard, McBee, Moore, Noe, Noland, Perkins, Priddy, Rapier, Rattliff, Riner, Seum, Tobin. Nays 52-Boswell, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Gray, Haering, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Little, Lundergan, Mann, McNutt, Meyer, Moberly, Morris, Nett, O'Brien, Overstreet, Petty, Richards, B. Richardson, Schmidt, F. Smith, Stone, Stumbo, Thomason, Van Horn, White, Williams.

The motion that the House recess was rejected.

Representative Bruce moved that his motion to suspend the rules be withdrawn.

Representative Schmidt moved that the time for the motion hour be extended to one hour.

The Chair ruled that the motion hour had ended.

Representatives Morris and Bruce appealed the ruling of the Chair.

Representatives Morris and Bruce moved that their appeal of the ruling of the Chair be withdrawn. Agreed.

Speaker Pro Tempore Thomason presiding.

Representative LeMaster moved that the rules be suspended for Introduction of Resolutions and Report of Committees. Agreed.

Introduction of Resolutions

HR 84, by Representatives Guenthner, Cowan, Bendl, Bennett, Bronger, Burch, Clark, Dunn, Handy, Heleringer, Hines, Holloway, Kidd, Nett, O'Brien, Priddy, Riner, Seum, Williams, and Yates: A RESOLUTION commending the NCAA selection committee.

HR 85, by Representatives Nett, Perkins, Brinkley, Noe, B. Smith, White, Moberly, and Dawahare: A RESOLUTION commending the Board of Directors of the Tennessee Valley Authority for its decision with respect to electric power generation.

HR 86, by Representatives Nett, Noe, Brinkley, B. Smith, White, Moberly, and Dawahare: A RESOLUTION commending the International Energy Symposium on its recommendation as to the use of coal in the foreign aid program.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HJR 69, HB 460.**

Health and Welfare: **SB 241.**

Education: **HB 722, HB 754, HB 818, HB 220, HB 318, HB 591, HB 629, HB 694, HB 742, HB 751, HB 749, HB 795, HR 57, SB 77.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 807,** with Committee Amendment attached thereto, and **HB 813,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 807, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.227 is amended to read as follows:

The taxable situs of a motor vehicle is presumed to be the county of registration as of the assessment date [~~When a person changes his domicile before the property tax on his vehicle becomes due, and renewal of registration of such vehicle is requested in the new county of domicile, he must present proof that the tax was paid in the county of previous registration or the tax shall be due in the county where the renewal is sought. The clerk shall prepare a new bill based on the value of the vehicle on the previous January 1 and the applicable tax rates of the county in which renewal is requested. If the tax bill is not paid before the registration is issued, the clerk shall file a lien as provided in KRS 134.148(2). A copy of the paid bill shall be sent to the clerk of the county where the vehicle was previously registered~~].

Section 2. KRS 132.485 is amended to read as follows:

(1) [~~The county clerk shall furnish weekly to the property valuation administrator a copy of the registration certificate for each motor vehicle and housetrailer registered. The address including the county in which the owner of the motor vehicle or housetrailer resides shall be shown on the copy of the registration certificate furnished. The property valuation administrator shall forward to the appropriate property valuation administrator all registration certificates showing a county of residence other than his own. All copies of transfers of registered motor vehicles and housetrailers dated on or before May 1 in the current year shall be forwarded by the county clerk to the property valuation administrator. The property valuation administrator is authorized to list the motor vehicle or housetrailer listed on the registration certificate on the property tax rolls without notifying the taxpayer.~~

~~(2)~~] The registration of a motor vehicle or housetrailer with the county clerk in order to operate it or permit it to be operated upon the highways shall be deemed consent by the registrant thereof for the motor vehicle or housetrailer to be assessed by the property valuation administrator at a valuation determined from a standard manual prescribed by the department of revenue for valuing motor vehicles or housetrailers for assessment unless the registrant appears in person before the property valuation administrator to assess the vehicle.

(2)[~~(3)~~] The registration of a motor vehicle on or before the date that the registration of such vehicle is required is prima facie evidence of ownership on January 1.

(3)[~~(4)~~] This section does not apply to motor vehicles and housetrailers owned and operated by public service companies, common carriers or agencies of the state and federal governments.

Section 3. KRS 132.590 is amended to read as follows:

(1) The compensation of the property valuation administrator shall be based on (1) the area, (2) the population, and (3) the assessed value of property in the county in accordance with the provisions of the following scale, with one (1) point per each ten (10) square miles or fraction thereof of the area of the county; one (1) point per one thousand (1,000) population of the county; one (1) point per million dollars of assessment on the first one hundred (100) million and one-half (½) point per million dollars of assessment over one hundred (100) million:

Number of Points		Grade
At Least	But Less Than	Classification
5,000	—	22
1,000	5,000	21
350	1,000	20
300	350	19
225	300	18
150	225	17
125	150	16
100	125	15
—	100	14

Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

(2) The grade classification system provided in subsection (1) of this section shall in all respects, be equivalent to the grade classification for state employes as established by the department of personnel and subject to the provisions of subsection (4) of this section and be determined on the basis of the total area of the county as determined from information provided by the Kentucky agricultural statistics or other reliable data, the United States Bureau of the Census and the assessment of property subject to state tax as certified by the department of revenue, including the amount of assessment on which taxes are deferred under the provisions of the agricultural and horticultural land act, except that the amount of assessment of livestock and farm machinery shall be excluded in determining the grade classification.

(3) The provisions of this section shall be computed on the 1978 assessment and on each annual assessment thereafter.

(4) Each property valuation administrator shall upon taking office for the first time be placed in the first step in grade and shall annually, effective January 1 after serving no less than twelve months, be advanced one step in grade; except, that any person appointed or elected to fill a vacancy in the office of property valuation administrator shall be eligible for advancement one step in grade effective January 1 following completion of at least six months service. The department of revenue is authorized to make grade classification changes corresponding to any approved for department employes in comparable positions so long as such changes do not violate the integrity of the classification system and, except further, subject to availability of funds, that the department may extend cost-of-living increases approved for department employes to the property valuation administrators by advancement in grade.

(5) Deputy property valuation administrators and other authorized personnel likewise may be advanced one step in grade upon completion of twelve (12) months continuous service and given such other benefits relating to reclassification of position or cost-of-living adjustments as are provided in subsection (4) of this section for property valuation administrators.

(6) The property valuation administrator's office shall be allowed by the state as compensation for deputies, other authorized personnel, and for other authorized expenditures, one and one-quarter cents on each one hundred dollars ($100) of the property assessed, including *motor vehicles and* the amount of assessment on which taxes are deferred under the agricultural and horticultural land act but exclusive of livestock and farm machinery, on the first two hundred fifty million dollars ($250,000,000) and one cent (1¢) on each one hundred dollars ($100) of the property assessed over two hundred fifty million dollars ($250,000,000); but the total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the *amount fixed by the department of revenue.* [~~limits set forth in the following table:~~

~~Assessed Value of Property of:~~		
~~At Least~~	~~But Less Than~~	~~Limit~~
—	$ ~~300,000,000~~	$ ~~35,000~~
$ ~~300,000,000~~	~~500,000,000~~	~~50,000~~

~~Assessed Value of Property of:~~		
~~At Least~~	~~But Less Than~~	~~Limit~~
~~500,000,000~~	~~2,000,000,000~~	~~100,000~~
~~2,000,000,000~~	—	~~The amount fixed by the department of revenue~~]

However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for one full time deputy. Each property valuation administrator shall submit each biennium to the department of revenue a budget for his office which shall be based upon the state, county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. Each property valuation administrator may appoint any persons approved by the department of revenue to assist him in the discharge of his duties. Each deputy must be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the department of revenue and shall be subject to the approval of the department of revenue. Any deputy property valuation administrator employed, or promoted to a higher position may be examined by the department of revenue in accordance with standards of the department of personnel, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the department of revenue prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(7) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280 an amount determined as follows:

Assessment Subject to County Tax of:		
At Least	But Less Than	Amount
—	$100,000,000	$.005 for each $100 of the first $50,000,000 and $.002 for each $100 over $50,000,000.
$100,000,000	150,000,000	$.004 for each $100 of the first $100,000,000 and $.002 for each $100 over $100,000,000.
150,000,000	300,000,000	$.004 for each $100 of the first $150,000,000 and $.003 for each $100 over $150,000,000.
300,000,000	—	$.004 for each $100.

(8) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (7) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to County Tax of:		
At Least	But Less Than	Limit
—	$ 700,000,000	$ 25,000
$ 700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	—	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

(9) Annually, after appropriation by the county of funds required of it by KRS 132.590(7), the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the state treasury and shall be expended by the department of revenue only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the state treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated, shall be returned to the county from which they were received and shall be subject to the provision of subsection (10) of this section. Each property valuation administrator shall at the end of each month file a claim with the fiscal court for expenses of his office other than personnel incurred during the month which are payable from county funds. The court shall order payment made provided the total of all claims filed with the court does not exceed the total sum available under this section. During county election years the property valuation administrator shall not be allowed to expend in excess of forty percent of the allowances available to his office from county funds during the first five months of the fiscal year in which the general election is held.

(10) Any county funds appropriated under the provisions of this section but unexpended by the close of each fiscal year for which such funds are appropriated shall carry over and be added to the amount required to be appropriated for the next fiscal year except that the department of revenue may release such funds or any part thereof that the department deems not necessary for operations of the property valuation administrator's office.

(11) The provisions of this section shall apply to urban-county governments. In an urban-county government, all the rights and obligations conferred on fiscal courts by the provisions of this section, shall be exercised by the urban-county government.

(12) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars ($100,000) for any urban-county government with an assessment subject to county wide tax of less than three billion dollars ($3,000,000,000), one hundred twenty-five thousand dollars ($125,000) for an urban-county government with an assessment subject to county-wide tax between three billion dollars ($3,000,000,000) and five billion dollars ($5,000,000,000) and two hundred thousand dollars ($200,000) for an urban-county government with an assessment subject to county-wide tax in excess of five billion dollars ($5,000,000,000). For purposes of this subsection the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.

(13) Notwithstanding the provisions of subsection (1) of this section, any property valuation administrator whose county classification would be reduced from that existing as of June 17, 1978 shall not have his compensation reduced but shall continue to be compensated at his then current salary until such time as an increase in points earned by his county or a departmental adjustment, under subsection (4) of this section, qualify him for an increase in compensation.

(14) The county classification system provided in subsections (1) and (2) of this section shall in no way affect reclassification approved prior to this enactment nor shall they be construed to affect any future reclassifications provided under subsection (4) of this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) The department shall develop and administer a centralized ad valorem tax system for all motor vehicles as defined in KRS 186.010. This system shall be designed to allow the collection of state, county, school, and special taxing district ad valorem taxes due on each motor vehicle at the time of registration of the motor vehicle by the party charged with issuing such registration. The department shall supervise and instruct the property valuation administrators and other officials with respect to their duties in relation to this system.

(2) Except as otherwise provided by law, the tax rate levied by the state, counties, schools, cities, and special tax districts on motor vehicles shall not exceed the rate levied on motor vehicles by the district on the January 1, 1983 assessments. All counties, schools, cities, and special taxing districts proposing to levy an ad valorem tax on motor vehicles shall submit to the department on or before October 1 of the year preceding the assessment date, the tax rate to be levied against valuations as of that assessment date.

(3) The compensating tax rate and maximum possible tax rate allowable for counties, schools, cities, and special taxing districts on property other than motor vehicles for the 1984 and subsequent tax periods shall be calculated excluding all valuations of and tax revenues from motor vehicles from the base amounts used in arriving at these general rates.

(4) The department of transportation shall provide access to all records of motor vehicle registrations to the department and the property valuation administrators as necessary to prepare and maintain a complete tax roll of motor vehicles throughout each year.

(5) The property valuation administrator shall, subject to the direction, instruction, and supervision of the department, have primary responsibility for accessing all motor vehicles other than those assessed under KRS Chapter 136 as part of public service companies. The department may provide standard valuation guidelines for use in valuation of motor vehicles.

(6) The property valuation administrator shall provide to the department by December 1 of each year a recapitulation of motor vehicles to be assessed as of January 1 of the next year.

(7) Procedures for protest, appeal, and correction of erroneous assessments shall be the same as for other properties subject to ad valorem taxes.

Section 5. KRS 134.148 is amended to read as follows:

(1) The sheriff *may* [~~shall~~], at the time he settles his accounts with the fiscal court, pursuant to KRS 134.310 provide the county clerk with a list of taxpayers whose tax bills on motor vehicles or trailers are delinquent.

(2) The county clerk *may* [~~shall~~] file a lien on such vehicle or trailer on behalf of the state, county, city, special district and school district and record such lien on the face of the certificate of title and registration and in the manner in which lis pendens are recorded. Delinquent tax bills shall be subject to interest at the rate of one percent (1%) per month or fraction thereof from the date the lien is filed until paid.

(3) (a) No licensed automobile dealer shall be responsible for any tax lien not recorded on the certificate of title and registration presented to the dealer by the seller at the time of the dealer's purchase of the motor vehicle or trailer.

(b) In the event that a tax lien was recorded on the clerk's copy of the certificate of title and registration, but not on the copy of the certificate of title and registration presented to the dealer by the seller at the time of the dealer's purchase of the motor vehicle or trailer, prior to the purchase of the motor vehicle or trailer by the dealer, upon presentation of proof to the county clerk that such was the case, the county clerk shall file such proof with his copy of the certificate of title and registration and shall remove the lien.

(4) In the event that a bona fide purchaser for value without notice purchases a motor vehicle or a trailer on which no lien has been filed on the certificate of title of such motor vehicle or trailer as provided for in subsection (2) of this section, such person shall not be held responsible for paying delinquent ad valorem taxes or lien fees on the certificate of title of such motor vehicle or trailer if such lien was placed on the certificate of title after same person's purchase of the motor vehicle or trailer.

(5) Upon proof being presented to the county clerk that the motor vehicle or trailer was transferred to a bona fide purchaser for value without notice prior to the placing of a lien on a certificate of title and registration, the clerk shall file such proof with the certificate of title and registration and shall then remove the lien.

(6) The lien filing fee, as provided for in KRS 64.012, shall be added to the tax bill and be payable with the lien releasing fee by the registrant at the time of payment of the delinquent tax to the county clerk.

(7) The county clerk shall give a receipt to the registrant and make a report to the department of revenue, the county treasurer and the other proper officials of all taxing districts that are due proceeds from the payment on the last working day of each month. He shall pay to the department of revenue for deposit with the state treasurer all monies collected by him due to the state, to the county treasurer, all monies due to the county and to the proper officials of all other taxing districts, the amount due each district. He shall pay the amount of fees, costs, commissions, and penalties to the persons, agencies or parties entitled thereto.

Section 6. KRS 134.290 is amended to read as follows:

(1) In counties where the state taxes charged to the sheriff for the year are less than $75,000, he shall be allowed by the department of revenue, for collecting such taxes, a commission of ten percent (10%) upon the first $10,000 and four percent (4%) upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first $5,000 and four *and one-quarter percent (4.25%)* [~~percent (4%)~~] upon the residue.

(2) In counties where county taxes and special district taxes, excluding school taxes, charged to the sheriff for the year are less than $150,000, he shall be allowed by the county treasurer for collecting such taxes ten percent (10%) upon the first $10,000 and four percent (4%) upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first $5,000 and four *and one-quarter (4.25%)* [~~percent (4%)~~] upon the residue.

SECTION 7. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

The county clerk shall be collector of all state, county, school, and special taxing district ad valorem taxes on motor vehicles.

SECTION 8. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

(1) The county clerk shall be allowed by the department of revenue for collecting state ad valorem taxes on motor vehicles a commission of two percent (2%) on state taxes collected.

(2) The county clerk shall be allowed by the county treasurer for collecting county and special district ad valorem taxes on motor vehicles a commission of two percent (2%) on county and special taxes collected.

(3) The county clerk shall be allowed a commission of two percent (2%) of the school district taxes collected.

(4) For filing a lien for delinquent taxes on motor vehicles, the county clerk shall be allowed a fee of six dollars ($6) to be added to the amount of taxes, penalty and interest due and collected upon payment by the taxpayer of the delinquent tax claim.

SECTION 9. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

(1) All state, county, school and special taxing district ad valorem taxes shall be due and payable on or before the last day of the month in which registration is required by law for all motor vehicles renewed or transferred.

(2) All state, county, school and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the end of the month in which registration is required by law.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. The county clerk shall file a lien on any motor vehicle for which taxes have become delinquent on behalf of the state, county, school, and special taxing districts and record such lien on the face of the certificate of title and registration, and also record the lien in the manner in which lis pendens are recorded.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the purchaser shall become liable for the taxes on said motor vehicle.

SECTION 10. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

(1) The county clerk shall, by the tenth of each month, report under oath and pay to the state, county, school, and special taxing districts all taxes on motor vehicles collected by him for the preceding month. The county clerk shall be required to deposit state collections in a manner consistent with procedures established by the department for the prompt payment to the state of other state tax monies collected by the county clerk.

(2) Any county clerk who fails to pay over any taxes collected by him on motor vehicles as required by this Act shall be required to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof, plus interest at the legal rate per annum of such taxes.

(3) The county clerk may be granted an extension, not to exceed fifteen (15) days, for filing the monthly report to each district required by this section.

(4) In the event a motor vehicle is registered in a county other than that in which the vehicle had a taxable situs as of the most recent assessment date, the county clerk in the new county of registration shall be charged with collecting the ad valorem taxes due for the state, county, school and special tax districts in which the vehicle had situs. The county clerk making such collections shall receive commissions on collections as set out for other collections on motor vehicles.

(5) All monies collected under this section by a county clerk on motor vehicles which had a taxable situs in another county shall report and deposit such collections with the state, after receiving the appropriate commissions due from these collections, for distribution to the proper tax district.

(6) The department shall provide procedures governing receipt and disbursement of all monies collected under subsections (4) and (5) of this section.

SECTION 11. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

(1) Each county clerk shall annually, by January 31 of each year, make a settlement with the state, county, school, and special taxing districts for all ad valorem taxes on motor vehicles collected for the prior tax period. In the event that any county clerk resigns, dies or otherwise vacates his office, a settlement with all districts shall be made within thirty (30) days from the date the office is vacated.

(2) On final settlement, the clerk shall pay the state, county, school, or special taxing districts all monies remaining in his hands to which they are entitled.

Section 12. KRS 136.120 is amended to read as follows:

(1) Every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company, telephone company, telegraph company, *commercial air carrier, air freight carrier* [~~bus line company, regular route common carrier~~

~~trucking company, air transport company~~], pipeline company, common carrier water transportation company, *privately owned regulated sewer company, cable television company*, and every other like company or business performing any public service, *except bus line companies, regular and irregular route common carrier trucking companies, and taxicab companies*, shall annually pay a tax on its operating property to the state and to the extent such property is liable to taxation shall pay a local tax thereon to the county, incorporated city, and taxing district in which its operating property is located.

(2) The property of such taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property. Nonoperating intangible property within the taxing jurisdiction of the commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services, and operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.

(3) The department of revenue shall have sole power to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not such operating property, nonoperating tangible property, or nonoperating intangible property has heretofore been assessed by said department, and shall, except as provided in subsection (4) of this section, allocate such assessment as provided by KRS 136.170, and shall certify operating property liable to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180. All of the property assessed by the department pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien therefor shall attach as of such assessment date. Provided, however, that in the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the department shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the department under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

(4)(a) The department of revenue shall likewise have sole power to value and assess all the property within the taxing jurisdiction of this commonwealth of every *passenger, sleeping, freight, and private car company, which is hereby defined as any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in or across this state or any part thereof, any kind of railroad car including but not necessarily limited to flat, tank, refrigerator, passenger, or similar type car* [~~refrigerator car company, tank car company, coal car company, every like car company, and every irregular route common carrier truck company. Any other statute to the contrary notwithstanding, the department of revenue shall, in determining the proportion of the value of the rolling stock of every irregular route common carrier truck company, apportion the value of such property within the taxing jurisdiction of Kentucky according to the truck mileage performed in Kentucky by such irregular route common carrier~~]. The department shall not certify the assessment of the rolling stock of such companies to any county, city, or taxing district, but shall apportion and certify the operating property, other than rolling stock, to the counties, cities, and taxing districts where such property is located. *On or before November 1, 1982, and each year thereafter, the department of revenue shall establish the state tax rate for rolling stock of private car lines based on average tax rate for tangible property within the Commonwealth subject to state, county, school and applicable city levy.* The rolling stock of such companies shall be taxable for state purposes only [~~at the rate of one dollar ($1.00) upon each one hundred dollars ($100) of value,~~] and shall not be subject to taxation by a county, city, or other taxing district.

(b) The property of taxpayers within the meaning of paragraph (a) of this subsection shall likewise be classified as operating property, nonoperating tangible property, and nonoperating intangible property. The nonoperating intangible property of the companies within the meaning of this subsection which are within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes at the same rate as the intangible property of nonpublic service taxpayers.

Section 13. KRS 160.500 is amended to read as follows:

(1) School taxes shall be collected by the sheriff for county school districts and by the regular tax collector of the city or special tax collector for the independent school districts at the same time and in the same manner as other local taxes are collected, except as provided in this section and in KRS 160.510. The bond of the regular or special tax collector shall be made to cover his duties as the tax collector of the school district or districts for which he collects taxes. The tax collector shall be entitled to a fee equal to his expense but not *less than one and one-half percent (1 ½%) and not* to exceed the rate of four percent (4%) for the collection of school taxes, which fee may be charged only for collecting or receiving school taxes or school funds received from the local school levy. No allowance shall be made for the collection of school taxes to any collecting officer who continues to collect taxes after his term that would not be allowed him had he collected the taxes during his term.

(2) An independent school district may select a special tax collector to collect its school taxes, and in the event such independent school district does so select a special tax collector, a majority of the members

of the independent school district board of education shall fix a fee for such special tax collector at a rate of not *less than one and one-half percent (1 ½%) and not* more than four percent (4%) of the school taxes or school funds collected by such special tax collector from the local school levy in such independent school district. The special tax collector shall be required to execute bond in the same manner as provided in KRS 160.560 for the execution of a treasurer's bond, and the penal sum of the bond shall not be less than the aggregate of the tax bills that come into the hands of the special tax collector.

(3) The clerk shall include all school taxes on the regular tax bills furnished the tax collector except in case an independent district has selected a special tax collector, in which case the school taxes shall be listed by the clerk on a separate bill. The clerk shall be allowed a fee not to exceed three cents (3¢) for each separate school tax bill, to be paid by the independent district board of education.

(4) The county clerk shall be the ad valorem tax collector for motor vehicle taxes for county and independent school districts, and shall be allowed a commission of two percent (2%) of all such monies collected for any school district.

SECTION 14. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

No county clerk shall issue a registration for renewal or transfer for any motor vehicle on which state, county, school, or special taxing district ad valorem taxes are due and have not been paid.

Section 15. Section 5 of this Act shall be effective for the tax year beginning January 1, 1982.

Section 16. Sections 1 through 4 and Sections 6 through 14 of this Act shall be effective January 1, 1984.

Committee Amendment No. 1 to **HB 807:**

Amend printed copy of **HB 807,** page 13, line 14, by inserting after the word "*rate*" and before the word "*levied*", the following: *that could have been*

page 14, line 19, by inserting after the word "*same*" and before the word "*as*", the following: *the motor vehicles*

page 19, after line 24, by adding the following:

(5) In the event that an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration are due and payable on or before the last day of the first birth month following said assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

page 25, line 4, by deleting the date "*1982*" and inserting in lieu thereof the date "*1984*"

line 7, by inserting before the word "*property*" the word "*personal*", and by inserting after the word "*property*" and before the word "*within*" the following: "*except motor vehicles*"

page 27, after line 20, by adding the following:

"*(5) For collections related to January 1, 1984 assessments other than motor vehicles, no county or independent school district shall fix a fee for the sheriff or special tax collector at a lesser percentage rate than was fixed in the prior year.*"

after line 26, by inserting the following:

"Section 15. KRS 133.240 is amended to read as follows:

(1) The county clerk shall be allowed thirty cents (30¢) for calculating the state, county and school tax and preparing a tax bill for each individual taxpayer for the sheriff or collector under the provisions of KRS 133.220, and one dollar ($1) for each tax bill made in case of an omitted assessment.

(2) The county clerk shall present his account to the fiscal court, verified by his affidavit, together with his receipt from the sheriff for the tax bills and his receipt from the department of revenue for the recapitulation sheets. If found correct, the court shall allow the account, and order one-half (½) of it paid out

of the county levy and the other one-half (½) out of the state treasury. The county clerk shall certify the allowance to the executive department for finance and administration, which shall draw a warrant on the state treasurer in favor of the county clerk for the state's one-half (½).

(3) The above allowance shall likewise be paid to the county clerk for calculation of the state, county, school and special district tax for each individual motor vehicle taxpayer, based upon certification from the Department of Revenue of the number of accounts as of January 1 each year. The department shall recover from the county clerk those costs incurred by the department directly associated with the calculation of said taxes in the centralized ad valorem tax system for motor vehicles."

and renumbering subsequent sections to conform.

HB 813, AN ACT relating to fees and costs for utilizing state services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.200 is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be *seventy-five dollars ($75)* [~~seventy dollars ($70)~~]; however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202A, 202B and 387. The filing fee shall be paid to the clerk at the time the case is filed.

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a)	Filing a third-party complaint	$10.00
(b)	Preparing a certification	1.00
(c)	Providing a copy of a document (per page)	.25
(d)	Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e)	Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk at the disposition of the action by the party against whom the costs have been assessed as follows:

(a)	For a jury of more than six (6) persons	$25.00
(b)	For a jury of six (6) persons	12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

(a)	Service of process (per process)	$ 3.00

(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

Section 2. KRS 24A.170 is amended to read as follows:

(1) The filing fee for a civil case in district court shall be paid to the clerk at the time the case is filed and shall be *thirty dollars ($30)* [~~twenty-five dollars ($25)~~], except as provided below:

(a) Where the amount in controversy is five hundred dollars ($500) or less, the fee shall be *fifteen dollars ($15)* [~~ten dollars ($10)~~].

(b) Where the case involves the probate of an estate, the fee shall be ten dollars ($10).

(c) Where the case involves the appointment of guardians, committees, and curators and is not related to a pending probate proceeding, the fee shall be ten dollars ($10) for each appointment.

(d) Where the matter involves a name change for a natural person, the fee shall be ten dollars ($10).

(e) Where the case involves a paternity determination under KRS Chapter 406, the fee shall be ten dollars ($10).

(f) Filing forcible detainer actions - - $10.00.

(2) Additional fees shall be charged in district court civil cases as follows:

(a)	Filing a third-party complaint	$10.00
(b)	Preparing a certification	1.00

(c) Providing a copy of a document (per page)	.15
(d) Issuing orders of attachment; executions; writ of possession after judgment	10.00
(e) Issuing garnishments	2.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) The jury fee shall be assessed as costs and shall be paid to the clerk by the party against whom the costs have been assessed as follows:

For a jury of six (6) persons	12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request:

(a) Service of process (per process)	3.00

(b) Mileage for service of process (per mile) shall be paid at the prevailing rate applicable for state employes.

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

(8) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

Section 3. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the district court shall be:

(a) For an offense for which prepayment is permitted under KRS 189.394, 431.451, or 431.452 and for which prepayment has been made prior to trial as required by law	*$27.00*[~~$20.00~~]
(b) For an offense for which prepayment is not permitted or has not been made	*$32.00*[~~$25.00~~]

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3) Additional costs shall be assessed in district court criminal matters as follows:

(a) Preparing an attestation	$ .50
(b) Preparing a certification	1.00
(c) Preparing a copy of a document (per page)	.25

(4) Taxation of costs against a defendant, upon conviction, shall be mandatory and shall not be probated or suspended.

(5) The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5.00) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail.

Section 4. KRS 186.450 is amended to read as follows:

(1) Any person who, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a permanent operator's license, may make application for and obtain an instruction permit, to be issued by the circuit court clerk in the county of the applicant's residence, and such permit shall be valid for not more than sixty (60) days. *The applicant shall pay to the clerk a fee of eighteen dollars ($18.00).* The permit holder shall have this permit in his possession and be accompanied by a licensed operator occupying the seat beside the operator at all times while operating a motor vehicle upon the highway.

(2) Any person who, except for his lack of instruction in operating a motorcycle or moped, would otherwise be qualified to obtain a permanent motorcycle operator's license, may make application for and obtain an instruction permit, to be issued by the circuit court clerk in the county of the applicant's residence, and such permit shall be valid for not more than sixty (60) days. The permit holder shall have this permit in his possession at all times while operating a motorcycle upon the highway.

(3) The clerk, after determining that the applicant has fully complied with the laws governing the issuance of instruction permits shall, upon the request of the applicant, issue a permanent moped license. Any valid motor vehicle operator license may also be used in the operation of a moped.

Section 5. KRS 287.480 is amended to read as follows:

The following fees shall be paid to the commissioner of banking and securities by corporations engaged in a banking or trust business:

(1) For the investigation incident to the approval of articles of incorporation and to the approval of applications for branch banks, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense;

(2) For each report, a filing fee of *$2.40* [~~$2.00~~];

(3) For each examination of the institution of other than assets held by it in a fiduciary capacity, *$0.072* [~~$0.06~~] on each $1,000 of assets, or fractional part up to $200,000,000 and *$0.042* [~~$0.035~~] per $1,000

of assets or fractional part in excess of $200,000,000, and in addition a flat fee as follows: Institutions having assets of not more than $1,000,000, a fee of *$96.00* [~~$80.00~~]; on each institution having assets of $1,000,000 and not more than $2,000,000, a fee of *$150* [~~$125~~]; on each institution having assets of $2,000,000 and not more than $3,000,000, a fee of *$210* [~~$175~~]; on each institution having assets of $3,000,000 and not more than $5,000,000, a fee of *$360* [~~$300~~]; on each institution having assets of $5,000,000 and not more than $10,000,000, a fee of *$600* [~~$500~~]; and on each institution having assets of $10,000,000 and not more than $20,000,000, a fee of *$720* [~~$600~~] on each institution having assets of $20,000,000 or more a fee of *$960* [~~$800~~]; and

(4) For the examination of the assets held by the institution in a fiduciary capacity, the expenses of such examination, not exceeding *$36.00* [~~$30.00~~] per day for the services of each examiner actively engaged in the examination. The commissioner shall accept examinations made of the trust department in combined banks and trust companies by examiners for the federal reserve system, federal deposit insurance corporation, or a certified public accountant, if the report of such audit or examination is furnished to him.

(5) Extraordinary services performed, in addition to examinations, for any financial institution, including institutions in liquidation under the supervision of the commissioner, shall be paid for by such institution upon the basis of fair compensation for time and actual expense.

Section 6. KRS 291.430 is amended to read as follows:

(1) The capital stock of any such industrial loan corporation shall not be less than one hundred thousand dollars ($100,000) if located in counties containing a city of the first or second class, or not less than fifty thousand dollars ($50,000) if located in any other county. The amount of the capital stock shall be paid in full, and in money, before the corporation may transact any business other than that relating to its formation and organization.

(2) At the time an industrial loan corporation applies for a certificate it shall file with the commissioner a statement verified by its president and secretary showing its assets and liabilities, and the address at which it proposes to operate its business. A separate certificate shall be required for each place of business.

(3) Each industrial loan corporation at the time of making application shall pay *sixty* [~~fifty~~] dollars *($60.00)* [~~($50.00)~~] to the commissioner as a fee for investigating the application, and the additional sum of *three* [~~two~~] hundred [~~and fifty~~] dollars *($300)* [~~($250)~~] as an annual fee for the privilege of doing business for the period terminating on the succeeding January 15. If the application is filed after June 30 in any year, the payments shall be one hundred and *fifty* [~~twenty-five~~] dollars *($150)* [~~($125)~~] as a fee for the privilege of doing business in addition to the fee for investigation. The annual fee shall be paid for each place of business. In addition to the annual fee for the privilege of doing business, every corporation organized under the provisions of KRS 291.410 to 291.600 shall pay a fee for examinations by the department of banking and securities, which fee shall be computed by the department of banking and securities on the basis of fair compensation for time and actual expenses.

Section 7. KRS 292.330 is amended to read as follows:

(1) It is unlawful for any person to transact business in this state as a broker-dealer or agent, unless he is registered under this chapter. It is unlawful for any broker-dealer or issuer to employ an agent unless the agent is registered. It is unlawful for any person to transact business in this state as an investment adviser unless:

(a) he is so registered under this chapter, or

(b) he is registered as a broker-dealer under this chapter, or

(c) his only clients in this state are investment companies as defined in the Investment Company Act of 1940 or insurance companies.

(2) A broker-dealer, agent, or investment adviser may apply for registration by filing with the director an application together with a consent to service of process pursuant to KRS 292.430 and payment of the fee prescribed in subsection (10). Registration of a broker-dealer automatically constitutes registration of any agent who is a partner, officer or director or a person occupying a similar status or performing similar functions (except any partner, officer or director or other such person whose registration as an agent is denied, suspended or revoked under subsection (12)) without the filing of applications for registration as agents or the payment of fees for registration as agents. The application shall contain whatever information the director requires concerning such matters as:

(a) The applicant's form and place of organization;

(b) The applicant's proposed method of doing business;

(c) The qualifications and business history of the applicant and in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser; and in the case of an investment adviser, the qualifications and business history of an employe;

(d) Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; and

(e) The applicant's financial condition and history.

(3) If no denial order is in effect and no proceeding is pending under subsection (12), registration becomes effective at noon of the thirtieth day after an application is filed. The director may specify an earlier effective date and he may by order defer the effective date until noon of the thirtieth day after the filing of any amendment.

(4) The director may require as a condition of registration that the applicant (and, in the case of a corporation or partnership, the officers, directors or partners) pass a written examination as evidence of knowledge of the securities business.

(5) The director may by rule require the existence and maintenance of a minimum liquid net capital for registered broker-dealers and investment advisers and a minimum ratio between net capital and aggregate indebtedness, or both.

(6) The director may by rule require registered broker-dealers, agents and investment advisers to post surety bonds in an amount up to $25,000, and may determine their conditions, except under this subsection that no such bond may be required of any registrant whose net capital exceeds $100,000. An appropriate deposit of cash or securities shall be accepted in lieu of any required surety bond. Every surety bond shall provide for suit thereon by any person who has a cause of action under KRS 292.480, and every such bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within two (2) years after the sale or other act upon which it is based.

(7) The director may by rule require registered broker-dealers to carry fidelity bonds, covering its agents, general partners, and officers, in such form, covering such risks, and in such amounts (not exceeding $250,000) as he deems necessary for the protection of the public; and he may by rule require registered broker-dealers to furnish satisfactory evidence that they have such bonds.

(8) Every registration of a broker-dealer, agent or investment adviser shall be effective until March 1 of the following year and may be renewed as hereinafter provided. The registration of an agent is not effective during any period when he is not associated with an issuer or a registered broker-dealer specified in his application or a notice filed with the director. When an agent begins or terminates a connection with an issuer or registered broker-dealer, the agent and the issuer or broker-dealer shall promptly notify the director.

(9) Registration of a broker-dealer, agent or investment adviser may be renewed by filing with the director prior to the expiration thereof an application containing such information as the director may require to indicate any material change in the information contained in the original application or any renewal application for registration as a broker-dealer, agent or investment adviser filed with the director by the applicant, payment of the prescribed fee and, in the case of a broker-dealer, a financial statement showing the financial condition of such broker-dealer as of a date within ninety (90) days. A registered broker-dealer or investment adviser may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the year without payment of any fee.

(10) The fee for initial or renewal registration shall be one hundred *twenty* dollars *($120)* [~~($100)~~] for a broker-dealer, *sixty* [~~fifty~~] dollars *($60.00)* [~~($50.00)~~] for an investment adviser, *eighteen* [~~fifteen~~] dollars *($18.00)* [~~($15.00)~~] for an agent, and *six* [~~five~~] dollars *($6.00)* [~~($5.00)~~] for transfer of an agent, none of which fees shall be refundable.

(11) (a) Every registered broker-dealer and investment adviser shall make and keep all accounts, correspondence, memoranda, papers, books, and other records which the director by rule prescribes. All records required shall be preserved for three (3) years unless the director by rule prescribes otherwise for particular types of records. All required records shall be kept within this state or shall, at the request of the director, be made available at any time for examination by him either in the principal office of the registrant or by production of exact copies thereof in this state.

(b) Every registered broker-dealer and investment adviser shall file such reports as the director by rule prescribes.

(c) If the information contained in any document filed with the director is or becomes inaccurate or incomplete in any material respect, the broker-dealer shall promptly file a correcting amendment.

(d) The director may make periodic examinations, within or without this state, of each broker-dealer and investment adviser at such times and in such scope as he determines. These examinations may be made without prior notice to the broker-dealer or investment adviser. The expense reasonably attributable to any such examination shall be paid by the broker-dealer or investment adviser whose business is examined but the expense so payable shall not exceed an amount which the director by rule prescribes. For the purpose of avoiding unnecessary duplication of examinations, the director, insofar as he deems it practicable in administering this subsection, may cooperate with securities administrators of other states, the securities and exchange commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934.

(e) The director may by rule prohibit unreasonable charges, profits, commissions or other compensation of broker-dealers and investment advisers.

(f) The director may prescribe rules for the conduct of business by broker-dealers and investment advisers which he finds appropriate in the public interest and for the protection of investors.

(12) (a) The director may by order deny, suspend or revoke registration of any broker-dealer, agent or investment adviser if he finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer, or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

1. Has filed an application for registration under this section which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

2. Has wilfully violated or wilfully failed to comply with any provision of this chapter or a predecessor law or any rule or order under this chapter or a predecessor law;

3. Has been convicted, within the past ten (10) years, of any misdemeanor involving a security or any aspect of the securities business, or any felony;

4. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

5. Is the subject of an order of the director denying, suspending, or revoking registration as a broker-dealer, agent, or investment adviser;

6. Is the subject of an order entered within the past five (5) years by the securities administrator of any other state or by the securities and exchange commission denying or revoking registration as a broker-dealer or agent, or the substantial equivalent of those terms as defined in this chapter, or is the subject of an order of the securities and exchange commission suspending or expelling him from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or is the subject of a United States post-office fraud order; but a. the director may not institute a revocation or suspension proceeding under this paragraph more than one (1) year from the date of the order relied on, and b. he may not enter any order under this paragraph on the basis of an order unless that order was based on facts which would currently constitute a ground for an order under this section;

7. Has engaged in dishonest or unethical practices in the securities business;

8. Is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature; but the director may not enter an order against a broker-dealer or investment adviser under this paragraph without a finding of insolvency as to the broker-dealer or investment adviser; or

9. Is not qualified on the basis of such factors as training, experience, or knowledge of the securities business, except as provided in paragraph (b) below; or the director may by order, deny, suspend or revoke any registration if he finds that the order is in the public interest and that the applicant or registrant:

a. Has failed reasonably to supervise his agents if he is a broker-dealer or his employes if he is an investment adviser; or

b. Has failed to pay the proper filing fee; but the director may enter only a denial order under this clause, and he shall vacate any such order when the deficiency has been corrected. The director may not institute a suspension or revocation proceeding on the basis of a fact or transaction known to him when registration became effective unless the proceeding is instituted within the next thirty (30) days.

(b) The following provisions govern the application of subparagraph 9 of paragraph (a) of this subsection:

1. The director may not enter an order against a broker-dealer on the basis of the lack of qualification of any person other than the broker-dealer himself if he is an individual or an agent of the broker-dealer;

2. The director may not enter an order against an investment adviser on the basis of the lack of qualification of any person other than the investment adviser himself if he is an individual or any other person who represents the investment adviser in doing any of the acts which make him an investment adviser;

3. The director may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both;

4. The director shall consider that an agent who will work under the supervision of a registered broker-dealer need not have the same qualifications as a broker-dealer;

5. The director shall consider that an investment adviser is not necessarily qualified solely on the basis of experience as a broker-dealer or agent. When he finds that an applicant for initial or renewal registration as a broker-dealer is not qualified as an investment adviser, he may by order condition the applicant's registration as a broker-dealer upon his not transacting business in this state as an investment adviser;

6. The director may by rule provide for an examination, which may be written or oral or both, to be taken by any class of or all applicants, as well as persons who represent or will represent an investment adviser in doing any of the acts which make him an investment adviser.

(c) The director may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. Upon the entry of the order, the director shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent, that it has been entered and of the reasons therefor and that within fifteen (15) days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.

(d) If the director finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, agent, or investment adviser, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the director may by order cancel the registration or application.

(e) Withdrawal from registration as a broker-dealer, agent, or investment adviser becomes effective thirty (30) days after receipt of an application to withdraw or within such shorter period of time as the director may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within thirty (30) days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the director by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the director may nevertheless institute a revocation or suspension proceeding under subparagraph 2. of paragraph (a) of this subsection within one (1) year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

(f) No order may be entered under any part of this section except the first sentence of paragraph (c) of this subsection without appropriate prior notice to the applicant or registrant (as well as the employer or prospective employer if the applicant or registrant is an agent), opportunity for hearing, and written findings of fact and conclusions of law.

Section 8. KRS 292.380 is amended to read as follows:

(1) Except as otherwise expressly provided in this chapter a registration statement under this chapter becomes effective when the director so orders. The director may require as a condition of registration under this chapter that a prospectus containing any designated part of the appropriate information specified in this chapter be sent or given to each person to whom an offer is made before or concurrently with: (a) the first written offer made to him (otherwise than by means of a public advertisement) by or for the account of the issuer or any other person on whose behalf the offering is being made, or by any underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by him as a participant in the distribution, (b) the confirmation of any sale made by or for the account of any such person, (c) payment pursuant to any such sale, or (d) delivery of the security pursuant to any such sale, whichever first occurs; but the director shall accept for use under any such requirement a current prospectus or offering circular regarding the same securities filed under the Securities Act of 1933 or regulations thereunder.

(2) A registration statement may be filed by the issuer, any other person on whose behalf the offering is to be made, or a registered broker-dealer. Any document filed under this chapter or a predecessor law within five years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate. The director may by rule or otherwise permit the omission of any item of information or document from any registration statement.

(3) The director may require as a condition of registration by qualification or coordination that (a) the proceeds from the sale of the registered security be impounded until the issuer receives a specified amount or (b) any security issued within the past three years, or to be issued, to a promoter for a consideration substantially different from the public offering price, or to any person for a consideration other than cash, be delivered in escrow. The director may by rule or order determine the conditions of any escrow or impounding required hereunder. The director shall not reject a depository solely because of location in another state. All securities delivered in escrow to the director or some other depository satisfactory to him prior to January 1, 1968 which have not previously been released shall be released from escrow and all securities delivered in escrow to the director or some other depository satisfactory to him subsequent to January 1, 1968 which have not previously been released shall be released from escrow no later than ten (10) years after the date of delivery into escrow.

(4) The director may also require as a condition of registration by qualification that the issuer undertake to keep the securities registered under this chapter for a period of up to five years or until the securities become exempt securities under KRS 292.410, and that the issuer forward to its security holders audited annual financials during the period for which the shares are registered. The director may by rule or order impose other undertakings.

(5) For the registration of securities by notification or coordination, or qualification, there shall be paid to the director an examination fee of one hundred *twenty-five* dollars *($125)* [~~($100)~~] and a registration fee of *three-fiftieths* [~~one-twentieth~~] of one percent of the aggregate offering price of the securities which are to be offered in this state, but the registration fee shall in no case be less than *sixty* [~~fifty~~] dollars *($60.00)* [~~($50)~~] nor more than one thousand *two hundred* dollars *($1,200)* [~~($1,000)~~]. The examination fee and the

registration fee shall be payable in separate checks. When a registration statement is withdrawn before the effective date or a pre-effective stop order is entered under KRS 292.390, the director shall retain the examination fee. For the registration of securities issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the Investment Company Act of 1940, a new registration fee and examination fee shall be paid each year that the registration remains in effect, based upon the aggregate offering price of such securities which are to be offered in this state during that year, even though the maximum fee was paid the preceding year; and the registration statement for such securities may be amended to increase the amount of securities to be offered. For a registration by notification for market-making purposes only the examination fee need be paid.

(6) When securities are registered by notification or by coordination or by qualification, they may be offered and sold by the issuer, any other person on whose behalf they are registered or by any registered broker-dealer. Every registration statement is effective for one year from its effective date, or any longer period during which the security is being offered or distributed in a nonexempted transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by any underwriter or broker-dealer who is still offering part of an unsold allotment or subscription taken by him as a participant in the distribution, except during the time a stop order is in effect under KRS 292.390. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any nonissuer transaction (1) so long as the registration statement is effective and (2) between the thirtieth day after the entry of any stop order suspending or revoking the effectiveness of the registration statement under KRS 292.390 (if the registration statement did not relate in whole or in part to a nonissuer distribution) and one year from its effective date if any securities of the same class are outstanding. A registration statement may be withdrawn otherwise only in the discretion of the director.

(7) The director may require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering. The director shall impose a fee of *six* [~~five~~] dollars *($6.00)* [~~($5.00)~~] for each such report filed with him.

Section 9. KRS 350.060 is amended to read as follows:

(1) No operator shall engage in strip mining without having first obtained from the department a permit designating the area of land affected by the operation. Permits shall authorize the operator to engage in strip mining upon the area of land described in his application for a period of not less than two (2) years notwithstanding the date of issuance. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage;

(2) An operator desiring a permit shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area within five hundred (500) feet of any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post-office addresses of the applicant;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not every officer, partner, director or any individual owning of record or beneficially (alone or with associates) if known, ten percent (10%) or more of any class of stock of the applicant, is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify;

(3) The application for a permit shall be accompanied by five (5) copies of a United States geological survey topographic map or such other map acceptable to the department on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map;

(4) The application for a permit shall be accompanied by five (5) copies of an enlarged United States geological survey topographic map or such other map acceptable to the department meeting the requirements of the subsections below. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS chapter 322. The certification shall be in the form as provided in subsection (5) below;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining and the boundaries of surface properties and names of owners on the affected area and within five hundred (500) feet of any part of the affected area;

(d) Be of a scale of not less than four hundred (400) feet to the inch and not to exceed six hundred and sixty (660) feet to the inch;

(e) Show the names and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(f) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(g) Show the date on which the map was prepared, the north point and the quadrangle name;

(h) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge;

(5) The certification of the maps by the professional engineer shall read as follows: "I, the undersigned, hereby certify that this map is correct, and shows to the best of my knowledge and belief all the information required by the strip mining laws of this state." The certification shall be signed and notarized. The department may reject any map as incomplete if its accuracy is not so attested;

(6) The application for a permit shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the department of transportation attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges;

(7) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto;

(8) Each application shall also be accompanied by a statement of consent to have strip mining conducted upon the area of land described in the application for a permit. The statement of consent shall be signed by each holder of a freehold interest in such land. Each signature shall be notarized. No permit shall be issued if the application therefor is not accompanied by the statement of consent. This statement of consent shall not be required for coal mined under the provisions of KRS chapters 351 and 352;

(9) A basic fee set by regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed *three* [~~two~~] hundred *seventy-five* [~~fifty~~] dollars *($375)* [~~($250)~~] plus a fee set by regulation but not to exceed *seventy-five* [~~fifty~~] dollars *($75)* [~~($50)~~] for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued. The operator shall file with the department a bond payable to the Commonwealth of Kentucky with surety satisfactory to the department in the penal sum to be determined by the department on the recommendation of the secretary of not less than five hundred dollars ($500) nor more than three thousand dollars ($3,000) for each acre or fraction thereof of the area of land affected, with a minimum bond of five thousand dollars ($5,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the department. In determining the amount of the bond within the above limits, the department shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required. In a particular instance where the circumstances are such as to warrant an exception, the department, in its discretion, may reduce the amount of the bond for a particular operation to less than the required minimum;

(10) The department shall promulgate rules and regulations setting forth operation requirements for the extraction of coal for commercial purposes where the strip mining operation affects two (2) acres or less. Such regulations shall not be more stringent than those imposed on strip mining operations affecting more than two (2) acres. All performance, procedural, and notice requirements for strip mining operations which affect two (2) acres or less shall be promulgated by regulation pursuant to this subsection, except the enforcement provisions of KRS 350.130, the penalty provisions of KRS 350.990, the permit requirements in subsection (1) of this section, and the bonding requirements set forth in subsection (9) of this section;

(11) Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), and the public notice requirements of this chapter shall not apply unless it is established and written findings by the department are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present strip coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for any renewal requested in such application as well as any additional bond the department might require; or

(e) Any additional revised or updated information required by the department has not been provided; Prior to the approval of any renewal of permit the department shall provide notice to the appropriate public authorities;

(12) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new land areas shall be subject to the full standards applicable to new applications under this chapter;

(13) Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made not later than thirty (30) working days prior to the expiration of the valid permit.

(14) Any permit validly issued by the department under the interim regulatory program in effect on March 21, 1980 and which would expire at any time after May 1, 1980 and before eight (8) months after approval of the permanent regulatory program by the United States secretary of the interior, shall be extended and remain in effect until eight (8) months after approval of the permanent regulatory program. Any interim permit so extended shall continue as a valid existing permit for purposes of this subsection if the permittee so requests and files an application for a permit with the department within two (2) months of the date of approval of the permanent regulatory program. The permittee may conduct operations under that existing permit beyond the eight (8) month period if an application has been filed in accordance with this subsection, but the initial administrative decision has not been rendered. The department shall not accept interim permit applications after August 1, 1980 or after December 1, 1980 if the United States secretary of the interior has not approved the Commonwealth's permanent regulatory program by September 3, 1980. The department shall receive and act on all substantially complete permit applications tendered to it on or before August 1, 1980 or December 1, 1980, whichever date is applicable, under the interim program.

Section 10. KRS 350.060, (1980 Acts Chapter 62, Section 5, and Chapter 377, Section 1, effective on primacy), is amended to read as follows:

(1) No person shall engage in surface coal mining and reclamation operations without having first obtained from the department a permit designating the area of land affected by the operation. Permits shall authorize the operator to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period of not to exceed five (5) years; provided that if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the department may grant a permit for such longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

(2) All operators who wish to engage in surface coal mining and reclamation operations and who have a valid permit from the department and who are in expectation of operating such mines after the expiration of eight (8) months from the approval by the secretary of the interior of the permanent regulatory program shall within two (2) months of the effective date of such approval apply for a new permit for such mines in compliance with the requirements of this section. The department for natural resources and environmental protection shall establish procedures and programs consistent with this chapter to issue or deny such permits within eight (8) months of such approval. The general assembly finds the fact that, due to the large number of permitted operations within the Commonwealth, the eight-month period may be administratively impracticable, and hereby authorizes the secretary to devise procedures to comply with this section in the most expeditious and reasonable manner possible, and a filing shall be deemed timely for the purposes of this subsection and surface coal mining operations may continue under an existing permit if that filing is in substantially complete form and submitted within the time limits set forth herein.

(3) Any permit validly issued by the department under the interim regulatory program in effect on March 21, 1980 and which would expire at any time after May 1, 1980 and before eight (8) months after approval of the permanent regulatory program by the United States secretary of the interior, shall be extended and remain in effect until eight (8) months after approval of the permanent regulatory program. Any interim permit so extended shall continue as a valid existing permit for purposes of this subsection if the permittee so requests and files an application for a permit with the department within two (2) months of the date of approval of the permanent regulatory program. The permittee may conduct operations under that existing permit beyond the eight (8) month period if an application has been filed in accordance with this subsection, but the initial administrative decision has not been rendered. The department shall not accept interim permit applications after August 1, 1980 or after December 1, 1980 if the United States secretary of the interior has not approved the Commonwealth's permanent regulatory program by September 3, 1980. The department shall receive and act on all substantially complete permit applications tendered to it on or before August 1, 1980 or December 1, 1980, whichever date is applicable, under the interim program.

(4) No permit or revision application shall be approved unless the application affirmatively demonstrates and the department finds in writing on the basis of the information set forth in the application or

from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(5) An operator desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post-office addresses of the applicant;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not every officer, partner, director or any individual owning of record or beneficially (alone or with associates) if known, ten percent (10%) or more of any class of stock of the applicant, is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify;

(h) A listing of any and all violations of this chapter, P.L. 95-87, and any law, rule or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three-year period prior to the date of an application. Such a list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is not in compliance with current reclamation standards, if so then identify the needed reclamation work.

(6) The application for a permit shall be accompanied by an official document (and an affidavit attesting to the document's authenticity) which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, then an affidavit so stating.

(7) The application for a permit shall be accompanied by copies, in numbers satisfactory to the department, of a United States geological survey topographic map or such other map acceptable to the department on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(8) The application for a permit shall be accompanied by copies, in numbers satisfactory to the department, of an enlarged United States geological survey topographic map or such other map acceptable to the department meeting the requirements of the subsections below. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (10) below;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining and the boundaries of surface properties and names of owners on the affected area and adjacent to any part of the affected area;

(d) Be of a scale of 1:24,000 or larger;

(e) Show the names, and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(f) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(g) Show the date on which the map was prepared, the north point and the quadrangle name; and

(h) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(9) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the department of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability; provided, however, that this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. Provided further, that the permit shall not be approved until such information is available and is incorporated into the application.

(10) All certifications required by this chapter to be made by professional engineers shall state that the information or documentation contained in the application is correct, and shall show that to the best of

his or her knowledge and belief all the information required by the applicable laws and regulations of this state is included. The certification shall be signed and notarized. The department may reject any document or map as incomplete if its accuracy is not so attested. The certification shall be done in the form prescribed by the department.

(11) The application shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the department of transportation attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges. All trucks hauling coal on a fully controlled limited access highway shall be covered by a tarp or equivalent cover to prevent spillage.

(12) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto.

(13) The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the department for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by regulations of the department. Such coverage shall be maintained in full force and effect during the terms of the permit and any renewal thereof, and until reclamation operations are completed.

(14) A basic fee set by regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed *three* [~~two~~] hundred *seventy-five* [~~fifty~~] dollars *($375)* [~~($250)~~] plus a fee set by regulation but not to exceed *seventy-five* [~~fifty~~] dollars *($75.00)* [~~($50.00)~~] for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued. The operator shall file with the department a bond payable to the Commonwealth of Kentucky with surety satisfactory to the department in the penal sum to be determined by the department for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the department. In determining the amount of the bond the department shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required and the probable difficulty of reclamation giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the department in the event of forfeiture. The department shall promulgate regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of such bonds. Where a surface coal mining operation affects two (2) acres or less and the circumstances are such as to warrant an exception, the department, in its discretion, may reduce the amount of the bond for a particular operation to less than the required minimum.

(15) Surface coal mining and reclamation operations which affect two (2) acres or less shall be exempt from the requirements of this chapter, except that the department shall promulgate reasonable minimal regulations for permitting, bonding, controlling offsite water quality, refuse piles, and use of explosives; and shall prohibit disposal of soil over the outslope in an uncontrolled manner. Such regulations shall recognize the distinct difference between two (2) acre operations and other surface coal mining operations and shall be less stringent than those imposed on other surface coal mining operations affecting more than two (2) acres, and in no event shall the department require that the highwalls left by such operations be eliminated. In no event shall the bond be more than one thousand dollars ($1,000) per acre. The department shall promulgate a short form application which will require the basic business information and a brief description of the method of operation. These applications shall be processed within thirty (30) calendar days. All procedural provisions and the penalty provisions of KRS 350.990 shall, however, apply to operations conducted and permits granted pursuant to this subsection. The department shall enforce this subsection consistent with KRS Chapter 350 except that the department shall not issue orders requiring cessation of operations for mere failure to abate a violation.

(16) The department shall promulgate rules and regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The department shall recognize the distinct differences between the surface effects of underground mining and surface coal mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the department shall require that the areas overlaying underground workings not affected by the operation be permitted only for purposes of subsidence control and shall not be subject to the payment of acreage fees or bond requirements of subsection (14) of this section.

(17) Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), subsequent to the fulfillment of the public notice requirements of this chapter unless it is established and written findings by the department are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the department might require; or

(e) Any additional revised or updated information required by the department has not been provided; Prior to the approval of any renewal of permit the department shall provide notice to the appropriate public authorities.

(18) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(19) Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred and twenty (120) days prior to the expiration of the valid permit.

(20) Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three (3) years of the issuance of the permit. However, the department may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

Committee Amendment No. 1 to **HB 813:**

Amend printed copy of **HB 813,** page 6, lines 9 and 10, by deleting the sentence: *The applicant shall pay to the clerk a fee of eighteen dollars ($18.00).*

and inserting in lieu thereof the following: *An applicant for relicensing after revocation shall pay the clerk a fee of twenty-five dollars ($25.00).*

The Committee on Natural Resources an Environment reported **HJR 62** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 62, A JOINT RESOLUTION establishing the Kentucky Water Management Task Force.

WHEREAS, water is essential to life; and

WHEREAS, Kentucky has more miles of streams than any state in the 48-contiguous states; and

WHEREAS, this abundant supply of water is not always available where it is needed or at the time it is needed; and

WHEREAS, the ever-increasing demand for water is placing an even greater priority on its importance;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission shall appoint members to serve on the Kentucky Water Management Task Force, the chairman of which shall be a member of the General Assembly. The task force shall consist of legislative members from both houses of the General Assembly; the agency head, or designee from each of the following agencies: Department for Natural Resources and Environmental Protection, Water Resources Authority of Kentucky, Flood Control Advisory Commission, Kentucky River

Task Force, Kentucky Geological Survey, and Department of Energy; one member from each of the following: Kentucky Municipal League, Kentucky Association of Counties, Kentucky Rural Water Association, Inc., and Kentucky Rivers Coalition; and such other members as the commission desires; however, the total membership of the task force shall not exceed 15 members.

Section 2. That the primary mission of the task force shall be the development of a plan for the total management of the state's water resource. The task force shall consider all of the uses of water and its quantity and quality in developing a management plan for the state's water. An important aspect of this state water management plan shall be an evaluation of the present organization of state government relating to water and a determination of the proper organization of state government for the management of the water resource. This management plan, along with all other findings, conclusions, recommendations, and legislative proposals shall be reported to the Legislative Research Commission not later than July 1, 1983.

Section 3. That each of the state agencies having a member on the task force shall assign a staff person to work with the task force to assure that the task force can accomplish its purpose. The role of the Legislative Research Commission staff shall be to coordinate the staff assigned by the state agencies.

Section 4. That the members of the task force shall be reimbursed their expenses in attending meetings. It is estimated that the operation of the task force will cost approximately $24,000, such monies to be provided from the regular budget of the Legislative Research Commission.

The Committee on State Government reported **HB 681** with Committee Amendment attached thereto, **HR 44, HCR 61** with Committee Amendment attached thereto, **HJR 75,** and **SB 169** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 681, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18 IS CREATED TO READ AS FOLLOWS:

As used in this Act, "employe" means any officer or employe of the executive branch of government. The provisions of this Act do not apply to employes of the general assembly, the legislative research commission, or the court of justice, or to any constitutional officer.

SECTION 2. A NEW SECTION OF KRS CHAPTER 18 IS CREATED TO READ AS FOLLOWS:

(1) An annual increment of not less than five percent (5%) of the gross annual salary or wages of each state employe shall be granted to each employe.

(2) The biennial budget report submitted to the general assembly under KRS 45.040 shall include a request for the amount of the annual increment expressed as a percentage of each employe's gross salary or wages and a request for the total appropriation needed to fund the annual increment. The annual increment shall be uniform for all employes. The financial plan enacted under the provisions of KRS 45.050 shall contain the annual increment expressed as a percentage of each employe's gross salary or wages, and the total appropriation needed to fund the annual increment.

SECTION 3. A NEW SECTION OF KRS CHAPTER 18 IS CREATED TO READ AS FOLLOWS:

(1) When the general assembly is not in session, the annual increment may be increased or decreased as provided by this section.

(2) Any increase or reduction in the annual increment shall be uniform for all employes.

(3) An increase or reduction in the annual increment shall be approved by the secretary of the personnel and management cabinet, the commissioner of the department of personnel and the secretary of the department of finance.

(4) A reduction in the annual increment shall not be made unless the secretary of the department of finance shall, at least sixty (60) days prior to a reduction in the annual increment:

(a) Determine the financial condition of state government, its departments and agencies;

(b) Suspend all increments or grants or increases in salary or wages, however designated, with the exception of the annual increment;

(c) Determine the amount of savings anticipated by the suspension of all such increases in salaries or wages; and

(d) Recommend appropriate measures to resolve the financial deficit including, if he determines necessary, the reduction of the annual increment.

(5) During the period a reduction in the annual increment is in effect, no other increment, or grant, or increase in salary or wages, however designated, shall be made to any employe.

(6) Prior to its implementation, a determination to increase or reduce the annual increment shall be transmitted to the interim joint committee on appropriations and revenue by the secretary of the personnel and management cabinet. The reasons for the increase or reduction shall be stated in writing. If the interim joint committee on appropriations and revenue disapproves the determination, the secretary of the personnel and management cabinet shall:

(a) Revise the determination to comply with the objections of the committee;

(b) Rescind the determination; or,

(c) Determine to proceed with the increase or reduction presented to the committee for review.

The decision made by the secretary under the provisions of this subsection shall be communicated in writing to the committee within thirty (30) days of the committee's disapproval.

(7) The decisions of the committee and the responses of the secretary shall be transmitted by the committee to the legislative research commission for transmittal to the general assembly when next convened.

Committee Amendment No. 1 to **HB 681:**

Amend printed copy of **HB 681,** page 1, line 4, after "government" insert the following:

Who is a full-time employe or a part-time employe working at least one hundred (100) Hours per month.

and on line 12, after "employe." insert:

The five percent (5%) annual increment shall be divided by the number of pay checks to be received annually and that figure shall be added to each check provided the salary does not exceed the employes salary range for his or her classification. If the employe is in the final longevity step of his or her salary range for a period of two (2) years the five percent (5%) increment shall be a lump sum payment awarded on the employes anniversary date, no more often than once every two (2) years.

and, insert the following language after the word "*finance*":

"*has made a determination that a reduction is necessary in order to prevent a deficit. The secretary*"

HR 44, A RESOLUTION honoring Frank Ramsey upon the occasion of being elected to the Naismith Memorial Basketball Hall of Fame.

WHEREAS, Frank Ramsey earned all-state basketball honors at Madisonville High School in Madisonville, Kentucky; and

WHEREAS, Frank Ramsey, a 6 foot 3 guard, played on the 1951, 1952 and 1954 University of Kentucky basketball teams, of which the 1951 team won the NCAA title; and

WHEREAS, Frank Ramsey earned All-American status in 1952 and 1954; and

WHEREAS, during his basketball career at the University of Kentucky, Frank Ramsey scored 1,344 points, averaging 14.7 points per game; and, was awarded the Chandler Trophy which exemplifies the qualities of leadership, scholarship, character and ability for all three years; and

WHEREAS, Frank Ramsey was a member of the Boston Celtics for nine years, averaging 13.4 points per game as a pro; and

WHEREAS, out of the nine years he played for the Celtics, Frank Ramsey significantly contributed to the team's seven championship titles; and

WHEREAS, because of his numerous contributions to the enhancement of the sport, Frank Ramsey has been elected to the Naismith Memorial Basketball Hall of Fame;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House honors and commends Frank Ramsey upon the occasion of being elected to the Naismith Memorial Basketball Hall of Fame.

Section 2. That this honorable body hails Frank Ramsey as an outstanding citizen and exemplary representative of the Commonwealth.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to Frank Ramsey.

HCR 61, A CONCURRENT RESOLUTION requesting the Kentucky Horse Park Board and staff to study the feasibility of establishing, at the Kentucky Horse Park, a Hall of Fame relating to all aspects of the horse industry.

WHEREAS, the Kentucky Derby is recognized as the premier racing event in the world and is run on the first Saturday in May in Louisville; and

WHEREAS, the World Championship Horse Show is held each August in Louisville; and

WHEREAS, the Commonwealth of Kentucky is the home of four thoroughbred race tracks and two standardbred race tracks; and

WHEREAS, the Commonwealth of Kentucky is the breeding capital of the world for the thoroughbred industry; and

WHEREAS, the Kentucky Horse Park has not realized its full potential; and

WHEREAS, there exists no Hall of Fame nor similar facility which pertains to the entire horse industry;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Kentucky Horse Park Board and staff be directed to study the feasibility of establishing at the Kentucky Horse Park, a Hall of Fame relating to all aspects of the horse industry and shall submit their findings to the members of the Interim Joint Committee on Appropriations and Revenue.

Section 2. That if the Kentucky Horse Park Board and staff find in the study that such a facility is feasible for the enhancement of the park and is warranted, then the board shall pursue efforts to establish such a facility.

Committee Amendment No. 1 to **HCR 61:**

Amend printed copy of **HCR 61,** page 1, immediately above "NOW, THEREFORE," by inserting the following:

"WHEREAS, the Kentucky Saddlebred is the only horse that actually originated in the Commonwealth of Kentucky;"

HJR 75, A JOINT RESOLUTION urging the United States to adopt a National Strategy of Peace Through Strength.

WHEREAS, the Soviet Union has exploited U.S. peace initiatives to build-up its strategic and conventional warfare capabilities; and

WHEREAS, this has given the Soviet Union the means to support increasingly bolder worldwide aggression; and

WHEREAS, there is basis for concern that the Soviets may next use these forces in Pakistan, Iran, Poland and Yugoslavia; and

WHEREAS, the Soviet Union has demonstrated an unwillingness to live by international law; and

WHEREAS, the United States is the one world power that can stop Soviet expansionism; and

WHEREAS, it will take the combined efforts of hundreds of organizations to achieve the adoption of a National Strategy of Peace Through Strength;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the State of Kentucky urges the United States to adopt a National Strategy of Peace Through Strength. The general principles of a Peace Through Strength strategy being:

(a) To inspire, focus and unite the national will and determination to achieve this goal of peace and freedom; and

(b) To achieve overall military and technological superiority over the Soviet Union; and

(c) To create a strategic defense and a civil defense which would protect U.S. citizens against nuclear war at least as well as the Soviets defend their citizens; and

(d) To accept no arms control agreement which in any way jeopardizes the security of the United States or its allies, or locks the U.S. into a position of military inferiority; and

(e) To reestablish effective security and intelligence capabilities; and

(f) To pursue positive non-military means to roll back the growth of Communism; and

(g) To help our allies and other non-Communist countries defend themselves against Communist aggressions; and

(h) To maintain a strong economy and protect our overseas sources of energy and other vital raw materials.

Section 2. That the Clerk of the House is directed to transmit a copy of this resolution to President Reagan, Secretary of State Alexander Haig, Secretary of Defense Casper Weinberger and the members of the Kentucky Congressional Delegation.

SB 169, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The general assembly confirms the reorganization of the Department for Natural Resources and Environmental Protection and its subdivisions as effected by executive orders, as follows:

(1) Reorganized and consolidated the Divisions of Water Quality, Sanitary Engineering and Water Resources into a single division known as the Division of Water (executive order 80-611);

(2) Transferred the Division of Orphan Land Reclamation from the Bureau of Surface Mining Reclamation and Enforcement to the Bureau of Natural Resources, and changed the name to Division of Abandoned Lands (executive order 80-724);

(3) Transferred the duties of the Facilities Management Section of the Division of Hazardous Materials and Waste Management to the Office of the Secretary (executive order 80-1058);

(4) The Office of Policy and Program Analysis renamed the Office of Special Projects (executive order 81-21); and

(5) The Division of Hazardous Materials and Waste Management renamed the Division of Waste Management (executive order 81-22).

Committee Amendment No. 1 to **SB 169:**

Amend printed copy of **SB 169,** on page 2, following line 2, after the words "(executive order 81-22)" insert the following language:

Section 2. KRS 224.012 is amended to read as follows:

There is established within the department a bureau of natural resources, a bureau of environmental protection, [~~and~~] a bureau of surface mining reclamation and enforcement *and a bureau of administrative services. The bureau of administrative services shall be comprised of the division of personnel management, division of administration and fiscal affairs, division of management services and operations and any other administrative units which the secretary deems necessary to perform the functions and to fulfill the duties of the bureau.* Each bureau shall be headed by a commissioner appointed by the secretary with the approval of the governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers and duties as provided by law and as the secretary may prescribe.

Section 3. To carry out the purposes of Section 2 of this Act in fiscal years 1982-83 and 1983-84, it is the intent of the general assembly that the secretary of the department for natural resources and environmental protection shall be empowered and directed to transfer reasonable and necessary funds from the other appropriation units within the department to the bureau of administrative services. Thereafter, the bureau of administrative services shall exist as a separate appropriation unit within the department.

The Committee on Appropriations and Revenue reported **HB 571** with Committee Substitute attached thereto, **HB 673,** and **HB 809** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 571, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" means the total amount of the sale, lease or rental price, as the case may be, of "retail sales," or "sales at retail," valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with such rules and regulations as the department may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property;

(b) The cost of the materials used, labor or service cost, interest paid, losses or any other expense;

(c) The cost of transportation of the property prior to its sale to the purchaser.

(2) The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale;

(b) All receipts, cash, credits and property of any kind;

(c) Any amount for which credit is allowed by the seller to the purchaser.

(3) "Gross receipts" do not include any of the following:

(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);

(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(c) The price received for labor or services used in installing or applying the property sold;

(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;

(e) Sales of gasoline and special fuels subjected to tax under KRS chapter 138;

(f) The sales price of any motor vehicle as defined by KRS 138.450(2) which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(11) and 189.010(16)*;*

(g) Sales of distilled spirits, wine and malt beverages subjected to tax under KRS 243.720.

(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the department that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Section 2. KRS 243.720 is amended to read as follows:

(1) There is levied upon [~~the use, sale or distribution by sale or gift of~~] distilled spirits, *wine and malt beverages a tax equal to ten percent (10%) of the amounts received or receivable from the sale at wholesale of such beverages to persons in this state* [~~a tax of one dollar and ninety-two cents ($1.92) on each wine gallon of distilled spirits, and a proportional rate per gallon on all distilled spirits used, sold or distributed in any container of more or less than one (1) gallon, but the rate of the excise tax on spirits in retail containers of one-half (½) pint shall be twelve cents (12¢).~~

~~(2) There is levied upon the use, sale or distribution by sale or gift of wine, a tax of fifty cents (50¢) on each gallon of wine, and a proportional rate per gallon on the wine used, sold or distributed in any container of more or less than one (1) gallon, but in no event shall the tax be less than four cents (4¢) on the sale or distribution of any retail container of wine.~~

~~(3)(a) There is levied upon the sale or distribution by sale or gift of malt beverages an excise tax of two dollars and fifty cents ($2.50) on each barrel of thirty-one (31) gallons and a proportional rate per gallon on malt beverages sold or distributed in any container of more or less than thirty-one (31) gallons.~~

~~(b) Each brewer producing malt beverages in this state shall be entitled to a credit of fifty percent (50%) of the tax levied on each barrel of malt beverages sold in this state, up to 200,000 barrels per annum~~].

(2)[~~(4)~~] This section shall not apply to:

(a) Wine manufactured, sold, given away or distributed and used solely for sacramental purposes; or

(b) Distilled spirits and wine purchased by holders of special licenses provided for in KRS 243.320 and 243.330 and purchased and used in the manner authorized by those licenses.

Section 3. KRS 243.730 is amended to read as follows:

(1) (a) Wholesalers of distilled spirits [~~and~~] wine *and malt beverages* shall pay and report the tax levied by KRS 243.720 [~~(1) and (2)~~] on or before the *twentieth* [~~fifteenth~~] day of the calendar month next succeeding the month in which possession or title of the *distilled spirits, wine and malt beverages is transferred from the wholesaler to retailers or consumers in this state* [~~alcoholic beverages is acquired~~], in accordance with rules and regulations of the department of revenue designed reasonably to protect the revenues of the Commonwealth.

(b) [~~Brewers of malt beverages shall pay and report the tax levied by KRS 243.720(3) on or before the fifteenth day of the calendar month next succeeding the month in which the brewer sells, transfers, or passes title of the malt beverage to a distributor, retailer or consumer within this state, in accordance with rules and regulations of the department of revenue designed reasonably to protect the revenues of the Commonwealth.~~

~~(c)~~] Every other person selling, transferring, or passing title of distilled spirits, wine or malt beverages to [~~distributors,~~] retailers or consumers shall report and pay the tax levied by KRS 243.720[~~(1), (2) or (3)~~] on or before the *twentieth* [~~fifteenth~~] day of the calendar month next succeeding the month in which possession or title of distilled spirits, wine or malt beverages is transferred to a [~~distributor,~~] retailer or consumer in this state, in accordance with rules and regulations of the department of revenue designed reasonably to protect the revenues of the Commonwealth.

(c)[~~(d)~~] Every [~~distributor,~~] retailer or consumer possessing, using, selling or distributing distilled spirits, wine or malt beverages in this state upon which the tax levied by KRS 243.720[~~(1), (2) or (3)~~] has not been paid shall be jointly and severally liable for reporting and paying the tax due, in accordance with rules and regulations of the department of revenue designed reasonably to protect the revenues of the Commonwealth. Such liability shall not be extinguished until the tax has been paid to the department.

(2) Every wholesaler of distilled spirits or wine before using, selling or distributing by sale or gift distilled spirits and wine shall qualify with the department of revenue. In order to so qualify, each wholesaler shall furnish to the department of revenue a certified copy of the bond required to be filed with the department of alcoholic beverage control under the provisions of KRS 243.400(2).

(3) *Every wholesaler of malt beverages,* [~~Notwithstanding the provisions of KRS 243.400(1), every brewer~~] before selling or distributing by sale or gift malt beverages, or before importing malt beverages into the state, shall qualify with the department of revenue by filing with the department a corporate surety bond in the minimum amount of one thousand dollars ($1,000) or an amount equal to three (3) times his average monthly [~~Kentucky malt beverage tax~~] liability *levied under KRS 243.720,* whichever is greater. The bond shall be on a form prescribed by the department and shall have corporate surety registered by the department of insurance. The *wholesaler of malt beverages* [~~brewer~~] shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the *wholesale of malt beverages* [~~brewer~~] to the department of revenue of all [~~malt beverage~~] taxes *levied under KRS 243.720* [~~due~~], with penalties and interest.

(4) The department shall have the power to require a bond from any other person liable for [~~Kentucky distilled spirits, wine or malt beverage~~] taxes *levied under KRS 243.720* provided such person is not otherwise required to post a bond under the provisions of this section. The amount of the bond for persons liable for [~~Kentucky distilled spirits or wine~~] tax *levied under KRS 243.720* shall be computed as provided in KRS 243.400(2). The amount of the bond for persons liable for [~~Kentucky malt beverage~~] tax *levied under KRS 243.720* shall be computed as provided in subsection (3) of this section.

Section 4. KRS 243.850 is amended to read as follows:

For the purpose of assisting in the enforcement of KRS 243.720 to 243.850 or any amendments thereof, every licensee, except retailers, whether subject to the payment of taxes imposed by said sections or any amendments thereof, shall, on or before the *twentieth* [~~fifteenth~~] day of each month, render to the department of revenue a sworn or affirmed statement, in writing, of all his trafficking in alcoholic beverages during the preceding month. Such statement shall be taken directly from the records of the reporting licensee, and shall set forth on forms furnished by the department of revenue such information as shall be required by it. Such statement shall include alcohol destined for sale outside the state, as well as alcoholic beverages subject to the tax imposed by KRS 243.720 to 243.850 or any amendments thereof. Provided, That the department of revenue shall have authority to require from retail licensees and other licensees, other reports and statements at such times as are necessary for the enforcement of KRS 243.720 to 243.850 or any amendments thereof.

Section 5. KRS 243.990 is amended to read as follows:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of KRS 243.020 to 243.670, for which no other penalty is provided, shall, for the first offense, be fined not less than one hundred (100) nor more than two hundred dollars ($200), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the second and each subsequent violation, he shall be fined not less than two hundred (200) nor more than five hundred dollars ($500), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license.

(2) Any person who, by himself or through another, directly or indirectly, violates subsection (1) of KRS 243.030 shall, for the first offense, be fined not less than one hundred (100) nor more than two hundred dollars ($200), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; for the second offense he shall be fined not less than two hundred (200) nor more than five hundred dollars ($500), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the third and each subsequent offense, he shall be fined not less than five hundred (500) nor more than five thousand dollars ($5,000), or be imprisoned in the penitentiary for not more than five (5) years, or both.

(3) Any person who violates subsection (3) of KRS 243.020 shall be fined not less than one hundred (100) nor more than five hundred dollars ($500).

(4) Any person who violates KRS 243.620 with respect to a license issued under KRS 243.050 shall be fined not less than fifty (50) nor more than five hundred dollars ($500).

(5) Any person who violates any of the provisions of KRS 243.720 or 243.730 or any regulation issued thereunder shall be fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or be imprisoned for not less than thirty (30) days nor more than one (1) year, or both.

(6) Any person required to pay any tax or file any report or statement provided by KRS *243.720* [~~243.710~~] to 243.850, who fails to pay the tax or file any report or statement when due shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty of ten dollars ($10) or an amount equal to twenty per cent (20%) of the tax due and delinquent, whichever is greater.

(7) In every case, any tax imposed by KRS [~~243.710 to~~] 243.720 which is not paid on or before the due date shall bear interest at the rate of eight percent (8%) per annum from the due date until the date of payment.

SECTION 6. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

Every retailer of distilled spirits, wine or malt beverages shall, within fifty (50) days from the effective date of this Act, report and pay to the department of revenue a floor stocks tax equal to ten percent (10%) of the purchase price of distilled spirits, wine and malt beverages in the possession of such retailers in this state at the close of business on the day immediately preceding the effective date of this Act. A credit against such floor stocks tax shall be allowed at the proportional rate of one dollar and ninety-two cents ($1.92) on each wine gallon of distilled spirits, fifty cents (50¢) on each gallon of wine and two dollars and fifty cents ($2.50) on each barrel of thirty-one (31) gallons of malt beverages. Wholesalers of distilled spirits, wine and malt beverages shall be entitled to similar credit on their tax paid inventory of alcoholic beverages on the effective date of this Act. Such credit shall be offset against the tax levied by this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

Receipts derived from taxes assessed and collected under the provisions of this chapter shall be appropriated for general fund purposes.

Section 8. KRS 243.010 is amended to read as follows:

(1) As used in KRS *Chapter 243* [~~243.020 to 243.710~~], unless the context requires otherwise, the words and terms defined in KRS 241.010 have the meaning given to them in KRS 241.010, except that in KRS 243.720 to 243.850 the word "department" means the department of revenue, and the word "commissioner" means the commissioner of revenue.

(2) As used in KRS 243.720 to 243.850, unless the context requires otherwise:

(a) "Alcohol," "alcoholic beverage," "bottling," "licensee," "malt beverage" and "manufacturer" have the meaning given to them in KRS 241.010 and "department" means the department of revenue.

(b) "Distilled spirits" means any alcoholic beverage, except malt beverages and wine.

(c) "Retail container" means any bottle, can, barrel or other container which, without a separable intermediate container, holds alcoholic beverage and which is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.

(d) "Retail outlet" means retailers, hotels, restaurants, railroad dining cars, clubs and any person who sells alcoholic beverages to consumers or to any person other than a manufacturer licensed by this state or some other state or a wholesaler licensed by this state or some other state or a retail outlet licensed by this state or some other state or a state alcoholic beverage corporation.

(e) "Retail sale" means sale by a retail outlet.

(f) "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of retail outlet.

(g) "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne, sparkling and fortified wine of an alcoholic content not exceeding twenty-four percent (24%) by volume. It includes preparations or mixtures vended in retail containers if such preparations or mixtures contain not exceeding fifteen percent (15%) of alcohol by volume.

Section 9. KRS 243.710 Wholesaler's tax on distilled spirits, is repealed.

Committee Substitute to **HB 571:**

HB 571, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" means the total amount of the sale, lease or rental price, as the case may be, of "retail sales," or "sales at retail," valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with such rules and regulations as the department may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property;

(b) The cost of the materials used, labor or service cost, interest paid, losses or any other expense;

(c) The cost of transportation of the property prior to its sale to the purchaser.

(2) The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale;

(b) All receipts, cash, credits and property of any kind;

(c) Any amount for which credit is allowed by the seller to the purchaser.

(3) "Gross receipts" do not include any of the following:

(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);

(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(c) The price received for labor or services used in installing or applying the property sold;

(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;

(e) Sales of gasoline and special fuels subjected to tax under KRS chapter 138;

(f) The sales price of any motor vehicle as defined by KRS 138.450(2) which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(11) and 189.010(16);

(g) Sales of distilled spirits, wine and malt beverages subjected to tax under KRS 243.720.

(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the department that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Section 2. KRS 243.720 is amended to read as follows:

(1) There is levied upon [~~the use, sale or distribution by sale or gift of~~] distilled spirits, *wine and malt beverages a tax equal to fifteen percent (15%) of the amounts received or receivable from the sale at wholesale of such beverages to persons in this state* [~~a tax of one dollar and ninety-two cents ($1.92) on each wine gallon of distilled spirits, and a proportional rate per gallon on all distilled spirits used, sold or distributed in any container of more or less than one (1) gallon, but the rate of the excise tax on spirits in retail containers of one-half (½) pint shall be twelve cents (12¢).~~

~~(2) There is levied upon the use, sale or distribution by sale or gift of wine, a tax of fifty cents (50¢) on each gallon of wine, and a proportional rate per gallon on the wine used, sold or distributed in any container of more or less than one (1) gallon, but in no event shall the tax be less than four cents (4¢) on the sale or distribution of any retail container of wine.~~

~~(3)(a) There is levied upon the sale or distribution by sale or gift of malt beverages an excise tax of two dollars and fifty cents ($2.50) on each barrel of thirty-one (31) gallons and a proportional rate per gallon on malt beverages sold or distributed in any container of more or less than thirty-one (31) gallons.~~

~~(b) Each brewer producing malt beverages in this state shall be entitled to a credit of fifty percent (50%) of the tax levied on each barrel of malt beverages sold in this state, up to 200,000 barrels per annum~~].

(2)[~~(4)~~] This section shall not apply to:

(a) Wine manufactured, sold, given away or distributed and used solely for sacramental purposes; or

(b) Distilled spirits and wine purchased by holders of special licenses provided for in KRS 243.320 and 243.330 and purchased and used in the manner authorized by those licenses.

Section 3. KRS 243.730 is amended to read as follows:

(1) (a) Wholesalers of distilled spirits [~~and~~] wine *and malt beverages* shall pay and report the tax levied by KRS 243.720 [~~(1) and (2)~~] on or before the *twentieth* [~~fifteenth~~] day of the calendar month next succeeding the month in which possession or title of the *distilled spirits, wine and malt beverages is transferred from the wholesaler to retailers or consumers in this state* [~~alcoholic beverages is acquired~~], in accordance with rules and regulations of the department of revenue designed reasonably to protect the revenues of the Commonwealth.

(b) [~~Brewers of malt beverages shall pay and report the tax levied by KRS 243.720(3) on or before the fifteenth day of the calendar month next succeeding the month in which the brewer sells, transfers, or passes title of the malt beverage to a distributor, retailer or consumer within this state, in accordance with rules and regulations of the department of revenue designed reasonably to protect the revenues of the Commonwealth.~~

~~(c)~~] Every other person selling, transferring, or passing title of distilled spirits, wine or malt beverages to [~~distributors,~~] retailers or consumers shall report and pay the tax levied by KRS 243.720[~~(1), (2) or (3)~~] on or before the *twentieth* [~~fifteenth~~] day of the calendar month next succeeding the month in which possession or title of distilled spirits, wine or malt beverages is transferred to a [~~distributor,~~] retailer or consumer in this state, in accordance with rules and regulations of the department of revenue designed reasonably to protect the revenues of the Commonwealth.

(c)[~~(d)~~] Every [~~distributor,~~] retailer or consumer possessing, using, selling or distributing distilled spirits, wine or malt beverages in this state upon which the tax levied by KRS 243.720[~~(1), (2) or (3)~~] has not been paid shall be jointly and severally liable for reporting and paying the tax due, in accordance with rules and regulations of the department of revenue designed reasonably to protect the revenues of the Commonwealth. Such liability shall not be extinguished until the tax has been paid to the department.

(2) Every wholesaler of distilled spirits or wine before using, selling or distributing by sale or gift distilled spirits and wine shall qualify with the department of revenue. In order to so qualify, each wholesaler shall furnish to the department of revenue a certified copy of the bond required to be filed with the department of alcoholic beverage control under the provisions of KRS 243.400(2).

(3) *Every wholesaler of malt beverages,* [~~Notwithstanding the provisions of KRS 243.400(1), every brewer~~] before selling or distributing by sale or gift malt beverages, or before importing malt beverages into the state, shall qualify with the department of revenue by filing with the department a corporate surety bond in the minimum amount of one thousand dollars ($1,000) or an amount equal to three (3) times his average monthly [~~Kentucky malt beverage tax~~] liability *levied under KRS 243.720,* whichever is greater. The bond shall be on a form prescribed by the department and shall have corporate surety registered by the department of insurance. The *wholesaler of malt beverages* [~~brewer~~] shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the *wholesale of malt beverages* [~~brewer~~] to the department of revenue of all [~~malt beverage~~] taxes *levied under KRS 243.720* [~~due~~], with penalties and interest.

(4) The department shall have the power to require a bond from any other person liable for [~~Kentucky distilled spirits, wine or malt beverage~~] taxes *levied under KRS 243.720* provided such person is not otherwise required to post a bond under the provisions of this section. The amount of the bond for persons liable for [~~Kentucky distilled spirits or wine~~] tax *levied under KRS 243.720* shall be computed as provided in KRS 243.400(2). The amount of the bond for persons liable for [~~Kentucky malt beverage~~] tax *levied under KRS 243.720* shall be computed as provided in subsection (3) of this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

To reimburse himself for the cost of collecting and reporting the tax, each person required to pay and report the tax levied by KRS 243.720 shall deduct on each report one percent (1%) of the tax due, provided the amount due is not delinquent at the time of payment.

Section 5. KRS 243.850 is amended to read as follows:

For the purpose of assisting in the enforcement of KRS 243.720 to 243.850 or any amendments thereof, every licensee, except retailers, whether subject to the payment of taxes imposed by said sections or any amendments thereof, shall, on or before the *twentieth* [~~fifteenth~~] day of each month, render to the department of revenue a sworn or affirmed statement, in writing, of all his trafficking in alcoholic beverages during the preceding month. Such statement shall be taken directly from the records of the reporting licensee, and shall set forth on forms furnished by the department of revenue such information as shall be required by it. Such statement shall include alcohol destined for sale outside the state, as well as alcoholic beverages subject to the tax imposed by KRS 243.720 to 243.850 or any amendments thereof. Provided, That the department of revenue shall have authority to require from retail licensees and other licensees, other reports and statements at such times as are necessary for the enforcement of KRS 243.720 to 243.850 or any amendments thereof.

Section 6. KRS 243.990 is amended to read as follows:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of KRS 243.020 to 243.670, for which no other penalty is provided, shall, for the first offense, be fined not less than one hundred (100) nor more than two hundred dollars ($200), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the second and each subsequent violation, he shall be fined not less than two hundred (200) nor more than five hundred dollars ($500), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license.

(2) Any person who, by himself or through another, directly or indirectly, violates subsection (1) of KRS 243.030 shall, for the first offense, be fined not less than one hundred (100) nor more than two hundred dollars ($200), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; for the second offense he shall be fined not less than two hundred (200) nor more than five hundred dollars ($500), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the third and each subsequent offense, he shall be fined not less than five hundred (500) nor more than five thousand dollars ($5,000), or be imprisoned in the penitentiary for not more than five (5) years, or both.

(3) Any person who violates subsection (3) of KRS 243.020 shall be fined not less than one hundred (100) nor more than five hundred dollars ($500).

(4) Any person who violates KRS 243.620 with respect to a license issued under KRS 243.050 shall be fined not less than fifty (50) nor more than five hundred dollars ($500).

(5) Any person who violates any of the provisions of KRS 243.720 or 243.730 or any regulation issued thereunder shall be fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or be imprisoned for not less than thirty (30) days nor more than one (1) year, or both.

(6) Any person required to pay any tax or file any report or statement provided by KRS *243.720* [~~243.710~~] to 243.850, who fails to pay the tax or file any report or statement when due shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty of ten dollars ($10) or an amount equal to twenty per cent (20%) of the tax due and delinquent, whichever is greater.

(7) In every case, any tax imposed by KRS [~~243.710 to~~] 243.720 which is not paid on or before the due date shall bear interest at the rate of eight percent (8%) per annum from the due date until the date of payment.

SECTION 7. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

Every retailer of distilled spirits, wine or malt beverages shall, within fifty (50) days from the effective date of this Act, report and pay to the department of revenue a floor stocks tax equal to fifteen percent (15%) of the purchase price of distilled spirits, wine and malt beverages in the possession of such retailers in this state at the close of business on the day immediately preceding the effective date of this Act. A credit against such floor stocks tax shall be allowed at the proportional rate of one dollar and ninety-two cents ($1.92) on each wine gallon of distilled spirits, fifty cents (50¢) on each gallon of wine and two dollars and fifty cents ($2.50) on each barrel of thirty-one (31) gallons of malt beverages. Wholesalers of distilled spirits, wine and malt beverages shall be entitled to similar credit on their tax paid inventory of alcoholic beverages on the effective date of this Act. Such credit shall be offset against the tax levied by this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

Receipts derived from taxes assessed and collected under the provisions of this chapter shall be appropriated for general fund purposes.

Section 9. KRS 243.010 is amended to read as follows:

(1) As used in KRS *Chapter 243* [~~243.020 to 243.710~~], unless the context requires otherwise, the words and terms defined in KRS 241.010 have the meaning given to them in KRS 241.010, except that in KRS 243.720 to 243.850 the word "department" means the department of revenue, and the word "commissioner" means the commissioner of revenue.

(2) As used in KRS 243.720 to 243.850, unless the context requires otherwise:

(a) "Alcohol," "alcoholic beverage," "bottling," "licensee," "malt beverage" and "manufacturer" have the meaning given to them in KRS 241.010 and "department" means the department of revenue.

(b) "Distilled spirits" means any alcoholic beverage, except malt beverages and wine.

(c) "Retail container" means any bottle, can, barrel or other container which, without a separable intermediate container, holds alcoholic beverage and which is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.

(d) "Retail outlet" means retailers, hotels, restaurants, railroad dining cars, clubs and any person who sells alcoholic beverages to consumers or to any person other than a manufacturer licensed by this state or some other state or a wholesaler licensed by this state or some other state or a retail outlet licensed by this state or some other state or a state alcoholic beverage corporation.

(e) "Retail sale" means sale by a retail outlet.

(f) "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of retail outlet.

(g) "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne, sparkling and fortified wine of an alcoholic content not exceeding twenty-four percent (24%) by volume. It includes preparations or mixtures vended in retail containers if such preparations or mixtures contain not exceeding fifteen percent (15%) of alcohol by volume.

Section 10. KRS 243.710 Wholesaler's tax on distilled spirits, is repealed.

HB 673, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.220 is amended to read as follows:

(1) Deposits belonging to a resident of Kentucky in any national bank not of this state or in any bank, trust company, or combined bank and trust company not organized under the laws of this state, and unmanufactured tobacco insofar as it is subject to taxation by KRS 132.190 and 132.200, shall be listed, assessed and valued as of September 1 of each year. Money in hand shall be listed, assessed, and valued as of September 1 of each year. Shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and all interest in such property, unless otherwise provided by law shall be listed, assessed, and valued as of the beginning of business on January 1 of each year. All other taxable property and all interest in other taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1, 1962, and January 1 of each year thereafter. It shall be the duty of all persons owning or having any interest in any property taxable in this state to list or have listed such property with the property valuation administrator of the county where it is located, between January 1 and March 1 in each year, except as otherwise provided by law. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.

(2) Any taxpayer who has a reasonable excuse for not listing his property before the property valuation administrator or his deputy may appear before any person authorized to administer an oath and make the necessary affidavit required by the schedule as to the value of his property and may then return the schedule to the property valuation administrator. This shall be a compliance with the law in his particular case.

(3) Real property or any interest therein shall be listed in the taxing district where it is located, by the owner of the first freehold estate therein, and it shall be assessed without reference to conflicting title. If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list.

(4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of such person without designating them by name.

(5) Beginning in the year 1951, all real property exempt from taxation by section 170 of the constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of such tax-exempt property, but such property shall not be placed on the tax rolls.

(6) *Beginning with on January 1, 1984 assessment date, all interest in or ownership of mineral rights shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of such mineral rights but such property shall not be placed on the tax rolls.*

(7) Each property valuation administrator, under the direction of the department of revenue, shall review annually all real property listed with him under subsection (5) of this section and claimed to be exempt from taxation by section 170 of the constitution *and shall review annually all real property listed with him under subsection (6)*. The property valuation administrator shall place on the tax rolls all such property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990 (2).

HB 809, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

(1) In the event that the tax rate applicable to real property levied by a county fiscal court will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the county fiscal court may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property; however, in no event shall the tax rate levied by a county fiscal court applicable to personal property exceed the prior year tax rate applicable to personal property levied by the respective county fiscal court.

(2) The tax rate applicable to personal property levied by a county fiscal court under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 68.245(5) and to the recall provisions of KRS 68.245(6).

SECTION 2. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

(1) In the event that the tax rate levied by a county fiscal court for 1979-80, 1980-81 or 1981-82 produced a percentage increase in revenue from personal property less than the percentage increase in revenue from real property for the respective year, the county fiscal court may levy a tax rate applicable to personal property for 1982-83 only, which will produce the same cumulative percentage increase in revenue from personal property as was produced from real property in 1979-80, 1980-81 and 1981-82. Such a tax rate may be in addition to the tax rate levied under the provisions of Section 1 of this Act.

(2) The tax rate levied under the provisions of subsection (1) of this section shall not exceed the tax rate applicable to personal property levied by the respective county fiscal court in 1978-79.

(3) The tax rate applicable to personal property levied by a county fiscal court under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 68.245(5) and to the recall provisions of KRS 68.245(6).

SECTION 3. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) In the event that the tax rate applicable to real property levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the taxing district, other than the state, counties, school districts, cities and urban-county governments, may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property; however, in no event shall the tax rate levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, applicable to personal property exceed the prior year tax rate applicable to personal property levied by the respective taxing district, other than the state, counties, school districts, cities and urban-county governments.

(2) The tax rate applicable to personal property levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 132.023(3) and to the recall provisions of KRS 132.023(4).

SECTION 4. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) In the event that the tax rate levied by an action of a taxing district, other than the state, counties, school districts, cities, and urban-county governments, for 1979-80, 1980-81 or 1981-82 produced a percentage increase in revenue from personal property less than the percentage increase in revenue from real property for the respective year, the taxing district, other than the state, counties, school districts, cities and urban-county governments, may levy a tax rate applicable to personal property for 1982-83 only, which will produce the same cumulative percentage increase in revenue from personal property as was produced from real property in 1979-80, 1980-81 and 1981-82. Such a tax rate may be in addition to the tax rate levied under the provisions of Section 3 of this Act.

(2) The tax rate levied under the provision of subsection (1) of this section shall not exceed the tax rate applicable to personal property levied by the respective taxing district, other than the state, counties, school districts, cities and urban-county governments, in 1978-79.

(3) The tax rate applicable to personal property levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments shall not be subject to the public hearing provisions of KRS 132.023(3) and to the recall provisions of KRS 132.023(4).

SECTION 5. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) In the event that the tax rate applicable to real property levied by a city or urban-county government will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the city or urban-county government may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property; however, in no event shall the tax rate levied by a city or urban-county government applicable to personal property exceed the prior year tax rate applicable to personal property levied by the respective city or urban-county government.

(2) The tax rate applicable to personal property levied by a city or urban-county government under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 132.027(3) and to the recall provisions of KRS 132.027(4).

SECTION 6. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) In the event that the tax rate levied by a city or urban-county government for 1979-80, 1980-81 or 1981-82 produced a percentage increase in revenue from personal property less than the percentage increase in revenue from real property for the respective year, the city or urban-county government may levy a tax rate applicable to personal property for 1982-83 only, which will produce the same cumulative percentage increase in revenue from personal property as was produced from real property in 1979-80, 1980-81 and 1981-82. Such a tax rate may be in addition to the tax rate levied under the provisions of Section 5 of this Act.

(2) The tax rate levied under the provisions of subsection (1) of this section shall not exceed the tax rate applicable to personal property levied by the respective city or urban-county government in 1978-79.

(3) The tax rate applicable to personal property levied by a city or urban-county government under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 132.027(3) and to the recall provisions of KRS 132.027(4).

SECTION 7. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) In the event that a general tax rate, voted general tax rate, or voted building tax rate applicable to real property levied by a district board of education will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the district board of education may levy a general tax rate, voted general tax rate, or voted building tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property; however, in no event shall the general tax rate, voted general tax rate, or voted building tax rate levied by the district board of education applicable to personal property exceed the prior year general tax rate, voted general tax rate, or voted building tax rate applicable to personal property levied by the respective district board of education.

(2) The general tax rate, voted general tax rate, or voted building tax rate applicable to personal property levied by a district board of education under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 160.470(10) and to the recall provisions of KRS 160.470(11).

SECTION 8. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) In the event that the general tax rate, voted general tax rate, or voted building tax rate levied by a district board of education for 1979-80, 1980-81 or 1981-82 produced a percentage increase in revenue from personal property less than the percentage increase in revenue from real property for the respective year, the district board of education may levy a general tax rate, voted general tax rate, or voted building tax rate applicable to personal property for 1982-83 only, which will produce the same cumulative percentage increase in revenue from personal property as was produced from real property in 1979-80, 1980-81, and 1981-82. Such a general tax rate, voted general tax rate, or voted building tax rate may be in addition to the general tax rate, voted general tax rate, or voted building tax rate levied under the provisions of Section 7 of this Act.

(2) The general tax rate, voted general tax rate, or voted building tax rate levied under the provisions of subsection (1) of this section shall not exceed the general tax rate, voted general tax rate, or voted building tax rate applicable to personal property levied by the respective district board of education in 1978-79.

(3) The general tax rate, voted general tax rate, or voted building tax rate applicable to personal property levied by a district board of education shall not be subject to the public hearing provisions of KRS 160.470(10) and to the recall provisions of KRS 160.470(11).

SECTION 9. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) If the tax rate applicable to real property levied by a county fiscal court, district board of education or legislative body of a city, urban-county government or other taxing district is reduced as a result of reconsideration by the county fiscal court, district board of education or legislative body of a city, urban-county government or other taxing district under the provisions of KRS 132.017(1)(b), the tax rate applicable to personal property levied under the provisions of subsections 1(1), 3(1), 5(1) and 7(1) of this Act shall be reduced by the respective county fiscal court, district board of education or legislative body of a city, urban-county government or other taxing district to an amount which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property resulting from the reduced tax rate applicable to real property.

(2) If the tax rate applicable to real property levied by a county fiscal court, district board of education or legislative body of a city, urban-county government or other taxing district is reduced, under the provisions of KRS 132.017(2)(b), as a result of a majority of votes cast in an election being opposed to such a rate, the tax rate applicable to personal property levied by the respective county fiscal court, district board of education or legislative body of a city, urban-county government or other taxing district shall be reduced, without further action by the levying body, to an amount which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property resulting from the reduced tax rate applicable to real property.

The Committee on State Government reported **HB 785,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 785, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The heads of the department of finance, department for human resources, department of justice, department for natural resources and environmental protection, department of transportation, cabinet for education and the arts, *commerce* cabinet [~~for development~~], department of energy, cabinet for public protection and regulation, and the lieutenant governor shall constitute the governor's executive cabinet. There shall be a vice-chairman appointed by the governor who shall serve in an advisory capacity to the executive cabinet. The governor shall be the chairman and the secretary of the department of finance shall be a second vice-chairman of the executive cabinet.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the governor. The executive cabinet shall be a part of the office of the governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the governor in the administration of the state government and shall assist the governor in the proper operation of his office and perform such other duties as the governor may require of them.

(3) The cabinet shall consider such matters involving policies and procedures as the governor or any member may place before it. The cabinet shall advise and consult with the governor on all matters affecting the welfare of the state.

Section 2. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) *Commerce* cabinet [~~for development~~].

(2) Cabinet for education and the arts.

(3) Cabinet for public protection and regulation.

Section 3. KRS 12.255 is amended to read as follows:

There is hereby established the office of secretary for *commerce* [~~development~~] cabinet, office of secretary for education and arts cabinet and office of secretary for public protection and regulation cabinet. Each of these offices shall be headed by a secretary appointed by the governor, and each secretary shall be chairman of the related cabinet.

Section 4. KRS 12.280 is amended to read as follows:

(1) There is hereby created an agency of state government to be known as Spindletop foundation.

(2) The functions of Spindletop foundation shall be:

(a) To hold in trust for state government the land and buildings conveyed back to the Commonwealth by Spindletop Research, Inc., as of June 29, 1973.

(b) To manage said property for state government.

(c) To pursue the original purpose of the dedication of the Spindletop property, which was the development of a research park.

(d) To act as a research broker in assisting state government to meet its research needs and to perform such function also upon request from local governments and private organizations.

(e) To hold and assign such contracts and grants as may from time to time be negotiated between the foundation and state and local government agencies, federal government agencies, private foundations, and other organizations.

(3) The Spindletop foundation is authorized to contract for such services as may be required to accomplish its functions and to employ such staff as may be required, subject to the approval of the governor.

(4) The Spindletop foundation shall be under the direction of a board of trustees which shall include the secretary of the cabinet, the executive director of the office for policy and management, the commissioner of the department of *economic development* [~~commerce~~], the chairman of the Kentucky council of economic advisers, the executive director of the council on higher education, a representative of the University of Kentucky, a representative to be designated by the Legislative Research Commission, and four (4) persons to be appointed annually by the governor. The secretary of the cabinet shall serve as chairman, and the executive director of the office for policy and management shall serve as secretary.

Section 5. KRS 41.380 is amended to read as follows:

(1) There shall be a state investment commission composed of the governor, the state treasurer, the secretary of the *commerce* [~~development~~] cabinet and the secretary of the department of finance. The commission shall have authority to and may invest any and all surplus funds of the state in direct obligations of the United States government, or of the Commonwealth of Kentucky. All such investments shall be obligations that will mature within five (5) years from the date of investment.

(2) The commission shall also have authority and may, whenever in its opinion the cash in the state treasury is in excess of the amount required to meet current expenditures, invest any and all of said excess cash in United States treasury bills or certificates of indebtedness or any other United States government security which will mature within one (1) year from the date of investment.

(3) Interest earned from investments made pursuant to this section shall accrue to the credit of the general expenditure fund, except that interest from investments of excess cash in the road fund shall be credited to the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when such donor shall have designated the use to which such interest shall be placed.

(4) The authority granted by this section to the state investment commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.

Section 6. KRS 42.320 is amended to read as follows:

(1) Any department, board, commission, agency, advisory council, interstate compact, corporate body, or instrumentality of the Commonwealth of Kentucky applying for federal funds, aids, loans, or grants shall file a summary notification of the intended application with the *department for local government* [~~executive department for finance and administration~~] in accordance with the existing A-95 procedures.

(2) When as a condition to receiving such federal funds, the Commonwealth of Kentucky is required to match the federal funds, a statement shall be filed with the notice of intent or summary of the application stating:

(a) The amount and source of state funds needed for matching purposes;

(b) The length of time such matching funds shall be required;

(c) The growth of the program;

(d) How the program will be evaluated;

(e) What action will be necessary should the federal funds be cancelled, curtailed, or restricted; and

(f) Such other financial and program management data as required by the [~~executive~~] department for *local government* [~~finance and administration~~].

(3) Any application for federal funds, aids, loans, or grants which will require state matching or replacement funds at the time of application or at any time in the future, must be approved by the secretary of the [~~executive department for~~] finance and administration *cabinet* or his designated agent prior to its filing with the appropriate Federal agency.

(4) When any federal funds, aids, loans, or grants are received by any department, board, commission, or agency of the Commonwealth of Kentucky, a report of the amount of funds received shall be filed with the [~~executive~~] department [~~for finance and administration~~]; and this report shall specify the amount of funds which would reimburse an agency for indirect costs as provided for under OMB Circular A-87.

(5) The secretary of the executive department for finance and administration *after consultation with the department for local government* may refuse to issue *a* [~~his~~] warrant for the disbursement of any state

or federal funds from the state treasury as the result of any application which is not approved pursuant to this section, or in regard to which the statements or reports required by this section were not filed.

(6) The *commissioner of the department for local government* [~~secretary of the executive department for finance and administration~~] shall be responsible for the orderly administration of this section and for issuing the appropriate guidelines and regulations for its implementation.

Section 7. KRS 45.716 is amended to read as follows:

(1) No contracting body shall enter into any personal service contract for advertising, promotional or public relations services unless the *office of tourism development, department of economic development* [~~department of public information~~], through the commissioner [~~of public information~~], has been informed in writing of the specific requirements relating to such services and has declined in writing to provide the proposed services or has failed to respond to the contracting body's written request for such services within thirty (30) days after receipt of the request. The contracting body shall furnish the commissioner [~~of public information~~] a comprehensive statement of, and be available as necessary for consultation about, the scope and nature of the proposed advertising, promotional or public relations services.

(2) The commissioner shall review each proposed personal service contract to determine whether the required services are available within state government at the same or less cost; whether the provisions of the proposed contract will provide the required services and whether the individual or agency proposing the personal service contract has the expertise and resources to provide the services. The commissioner shall forward his determination to the secretary of finance and shall recommend any modifications or alterations in the proposed personal service contract.

(3) Each proposed personal service contract for advertising, promotional or public relations services submitted to the Legislative Research Commission or department of finance shall be accompanied by a copy of the correspondence between the contracting body and the *office of tourism development, department of economic development* [~~department of public information~~] including any advisements concerning the proposed services from the commissioner [~~of public information~~] to the contracting body under subsections (1) and (2) of this section.

Section 8. KRS 56.450 is amended to read as follows:

(1) There is recognized, as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States department of the treasury, internal revenue service, a state property and buildings commission composed of the governor, who shall be chairman thereof, the lieutenant governor who shall be vice-chairman of the commission, the attorney general, the secretary of the *commerce* [~~development~~] cabinet, the secretary of the department of finance and the commissioner of revenue, or their alternates as authorized and permitted in subsection (5) of this section.

(2) No member of the commission shall receive any salary, fee or other remuneration for his services as a member of the commission but each member shall be entitled to be reimbursed for his ordinary traveling expenses, including meals and lodging, incurred in the performance of his duties.

(3) The commission constitutes a public body corporate with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to private corporations generally in KRS Chapter 271A, except as the same may be inconsistent with KRS 56.440 to 56.550.

(4) Subject to the provisions of KRS 56.550, but notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, all revenue bonds issued by state agencies except as provided in this chapter (but not including bonds issued directly by and in the name of the Commonwealth of Kentucky under authorization of the executive cabinet), shall be issued under the provisions of this chapter; provided further, that as an additional and alternative method for the issuance of revenue bonds under the provisions of this chapter, upon application of any state agency and approval by the commission, the commission acting for and on behalf of said state agency may issue revenue bonds in its own name in accordance with the terms and provisions of KRS Chapter 58 secured by and payable solely from all or any part of the revenues of said state agency as may be specified and provided in such approved application, and any covenants and undertakings of said state agency in such approved application with regard to the production of such revenues and the use, application or disposition thereof may be enforced by the holders of any such revenue bonds or by any trustee for such bondholders. The issuance of any revenue bonds for the state or any of its agencies by the Kentucky development finance authority and the issuance of any revenue bonds for economic development projects authorized by Acts 1980, ch. 109 shall require the prior approval of the state property and buildings commission. In issuing bonds under its own name, or in approving issuance of bonds by other state agencies, the commission shall be deemed to be acting for the state government of the Commonwealth of Kentucky as one unit within the meaning of the regulations of the United States department of the treasury, internal revenue service, and it shall be limited to the issuance of bonds to accomplish the public purposes of that unit.

(5) (a) Each member of the commission is hereby authorized and empowered to designate by an instrument in writing over his signature and filed with the secretary as a public record of the commission,

an alternate with full authority to attend in the absence of the appointing member for any reason, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission. Any such designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the face of the appointing instrument to be on a continuing basis (but in no case for a period of more than four years), whenever the appointing member is unable to attend, but always subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission. Any party transacting business with the commission, or materially affected thereby, shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time of designation, the scope thereof, and if of a continuing nature whether the same has been revoked, and when; and such joint certificate shall be made and delivered to any such party within a reasonable time after written request is made therefor with acceptable identification of the business or transaction referred, and of the requesting party's interest therein. Each alternate shall be a person on the staff of the appointing member, or in the employ of his agency or department of the government of the Commonwealth, as the case may be.

(b) Any four (4) members of the commission shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission. One (1) alternate may be substituted for a member in order to establish a quorum, provided that no business is transacted beyond the scope of authority of such alternate.

(c) The state property and buildings commission is reconstituted as of October 1, 1976, with the powers herein provided.

Section 9. KRS 64.055 is amended to read as follows:

(1) The salaries of circuit clerks, payable out of the state treasury per annum, subject to the minimum provided by subsection (2) and to the calculation provided by subsection (3) of this section, shall be:

Population of County	Annual Salary
0 - 4,999	$11,000
5,000 - 9,999	14,000
10,000 - 14,999	17,000
15,000 - 19,999	19,000
20,000 - 29,999	20,000
30,000 - 39,999	21,000
40,000 - 49,999	21,500
50,000 - 99,999	22,000
100,000 - 499,999	22,500
500,000 - and up	25,000

(2) The annual compensation payable to each circuit clerk beginning on July 1, 1980 shall be $2,000 in excess of the annual compensation payable as of June 30, 1980;

(3) In order to equate or adjust the compensation of circuit clerks with the purchasing power of the dollar, the department of finance shall compute by July 1 of every year, beginning on July 1, 1981, the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year. Upon notification from the department of finance, the annual compensation of circuit clerks for fiscal year 1982 and each fiscal year thereafter shall be set at a rate which includes the adjustment for the increase or decrease in the consumer price index, but in no event shall a circuit clerk receive an annual increase exceeding six percent (6%) of salary.

For purposes of determining movement of circuit court clerk salaries from calendar year 1976 level to the maximums for calendar year 1978 as outlined above, the following guidelines should be used.

1. The actual calendar year 1976 salary of the circuit court clerk, as certified by the administrative office of the courts from information supplied by the auditor of public accounts, will be adjusted to the 1977 cost of living increase to be determined by the Kentucky department of *economic development* [~~commerce~~]. This adjusted figure will be the base to compare with the salary maximums outlined above.

2. Those clerks whose base, as determined in 1. above, does not reach the maximums outlined above, will be allowed yearly increases up to twenty percent (20%) of the base, not to exceed the maximums outlined above.

3. Those clerks whose base, as determined in 1. above, is equal to or greater than the maximums outlined above, will be allowed a one (1) time ten percent (10%) adjustment to their base salary as determined in 1. above.

4. The initial population determination for compensation under this section shall be based on the 1970 Federal Census or the "Final" issue of "Current Population Reports, 1974" issued by the United States

Bureau of The Census, whichever is greater. In 1981 and thereafter, population shall be based on the decennial census.

5. The annual salary for 1978 for each circuit court clerk shall be no less than seventy-five percent (75%) of the maximum amount permitted for each population category.

Section 10. KRS 103.200 is amended to read as follows:

As used in KRS 103.200 to 103.285, "building" or "industrial building" means any land and building or buildings (including office buildings), any facility or other improvement thereon, and all real and personal properties, including operating equipment and machinery deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for the following or any combination thereof:

(1) Any activity, business or industry for the manufacturing, processing or assembling of any commercial product, including agricultural, mining or manufactured products, together with storage, warehousing and distribution facilities in respect thereof;

(2) Any commercial enterprise engaged in selling, providing or handling any financial service to the general public;

(3) Any undertaking involving the construction, reconstruction and use of airports, mass commuting facilities, ship canals, ports or port facilities, docks or wharf facilities or harbor facilities, off-street parking facilities or of railroads, monorails or tramways, railway or airline terminals, cable television, mass communication facilities, and related facilities;

(4) All or any part of any office building or buildings for the use of such tenant or tenants as may be determined or authorized by the city or county issuing bonds, including without limitation, any industrial, commercial, financial or service enterprise or any nonprofit domestic corporation or enterprise now or hereafter organized, whose purpose is the promotion of the economy of the Commonwealth or the health, welfare and safety of the citizens of the Commonwealth;

(5) Any buildings, structures and facilities, including the site thereof and machinery, equipment and furnishings suitable for use as health care or related facilities, including without limitation, hospitals, clinics, nursing homes, research facilities, extended or long-term care facilities, including housing for the aged or the infirm and all buildings, structures and facilities deemed necessary or useful in connection therewith;

(6) Any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including but not limited to classroom, laboratory, housing, administrative, physical educational and medical research and treatment facilities;

(7) Any facilities for any recreation or amusement park, public park or theme park, including specifically facilities for the use of nonprofit entities in making recreational and cultural benefits available to the public;

(8) Any commercial facilities constructed primarily for making wholesale or retail sales to the general public, if such facilities constitute new construction or substantial reconstruction;

(9) Any medical office building whether or not contiguous with or related to a hospital or health care facility;

(10) Any facilities involving manufacturing and service industries which process raw agricultural products, including timber, provide value added functions, or supply ingredients used for production of basic agricultural crops and products;

(11) Any facilities incident to the development of industrial sites, including land costs and the costs of site improvements thereon, such as grading, streets, drainage, storm and sanitary sewers, and other facilities and structures incidental to the use of such site or sites for industrial or commercial use;

(12) Any facilities for the furnishing of water if available on reasonable demand to members of the general public;

(13) Any facilities for the extraction, production, grading, separating, washing, drying, preparing, sorting, loading and distribution of mineral resources, together with related facilities;

(14) Any convention or trade show facilities, together with all related and subordinate facilities necessary to the development and proper utilization thereof;

(15) Any facilities designed and constructed to be used as hotels and/or motels, together with all related and subordinate facilities necessary to the operation thereof, including site preparation and similar facilities;

(16) Any activity designed for the preservation of residential neighborhoods, provided that such activity receives approval of the *heritage division, department of the arts* [~~Kentucky Heritage Commission~~] and insures the preservation of not fewer than thirty (30) family units.

Section 11. KRS 103.2101 is amended to read as follows:

(1) The industrial revenue bond oversight committee is hereby established and shall consist of eight (8) members, who shall be appointed as follows for a term of four (4) years:

(a) One (1) member shall be a member of the house of representatives, appointed by the speaker of the house of representatives;

(b) One (1) member shall be a senator, appointed by the president pro tempore of the senate;

(c) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky association of counties;

(d) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky municipal league;

(e) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky chamber of commerce;

(f) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky AFL-CIO;

(g) One (1) member shall be a citizen at large who is not associated with or financially interested in the business regulated;

(h) The secretary of the *commerce* [~~development~~] cabinet, or his designee, shall be a member of the committee.

(2) The industrial revenue bond oversight committee is attached to the *commerce* [~~development~~] cabinet for administrative and support purposes.

(3) The committee shall adopt a monthly meeting schedule and shall meet at least monthly and a majority of the members of the committee shall constitute a quorum.

(4) It shall be the duty of the committee to review only those projects authorized by subsections (2), (4), (8), (9) and (16) of KRS 103.200, and only off-street parking facilities, cable television and mass communication facilities as authorized by KRS 103.200(3), whether by cities, counties, urban county governments, air boards, riverport authorities, or the Kentucky industrial development finance authority. Such review shall include, but need not be limited to, the following:

(a) The economic need for the project in the area.

(b) Whether the project places an unjustified competitive disadvantage on existing business in the area.

(c) If normal commercial financing is unavailable for this project or if available at what rates it must be secured and under what terms and conditions.

(d) If the project is in accord with the intent of KRS 103.200 to 103.285, this section, and KRS 103.2451.

(e) The project's economic soundness.

(5) If the committee finds that the project does not meet all of the above listed criteria it shall deny approval of the project until the objections thereto have been met.

(6) Members of the committee shall receive seventy-five dollars ($75.00) per diem and their actual and necessary expenses incurred in the performance of their duties.

(7) The committee may require the submission of testimony, project data, or any other information deemed appropriate with regard to any project submitted to it for approval.

(8) The committee, within fourteen (14) days of receiving application, shall notify the agency or unit of government proposing the issuance of bonds and the developers of the project of the date on which the project will be considered by the committee at a public hearing. Any person may attend the hearing and may personally, or through counsel, address the committee with regard to the project and make recommendations to the committee thereon. Notice shall be given to the agency or unit of government proposing to issue the bonds and the developers of the project not less than forty-five (45) days before the date the committee has set for the hearing on the project. The agency or unit of government proposing the issuance of the bonds shall, not less than thirty (30) days before the date of the hearing, publish notice of the hearing in the manner required by KRS Chapter 424. The agency or unit of government proposing the issuance of the bonds shall require the developer of the project (if it is other than the agency or unit of government) to reimburse the agency or unit of government for the cost of the advertising required herein.

(9) The committee shall have the right to approve or disapprove any project submitted to it, and over which it has jurisdiction as described in subsection (4) of this section, and no bonds or other evidence of indebtedness for any such project shall be issued until such project has been approved by the committee.

Section 12. KRS 147.075 is amended to read as follows:

As used in KRS 147.070 to 147.120 the term "governor's cabinet" shall mean the "governor's executive cabinet" and such other persons as the governor may designate to compose the membership of the "state planning committee." The governor shall serve as chairman of the state planning committee, the secretary of the *commerce* [~~development~~] cabinet shall serve as vice chairman, and the director of the office for policy and management shall serve as secretary.

Section 13. KRS 147A.003 is amended to read as follows:

The following administrative bodies shall be attached to the department for local government for administrative purposes:

(1) [~~Council for land use planning;~~

~~(2) County debt commission;~~

~~(3) Municipal statutes revision commission;~~

~~(4) County statutes revision commission;~~]

[~~(5)~~] Local government advisory commission;

[~~(6) Kentucky urban affairs office;~~]

(2)[~~(7)~~] Appalachian development council; and

(3) The state-federal council for balanced economic growth.

[~~(8) Office of developmental planning.~~]

Section 14. KRS 147A.020 is amended to read as follows:

(1) [~~The department for local government shall exercise all administrative functions of the state as provided in the county debt act, KRS 66.280 to 66.390; as regards county and local government budgets as provided in KRS 68.210 to 68.360; and as to local government bonds as provided in KRS 66.045.~~

~~(2)~~] The department for local government shall have the following powers and duties:

(a) To require such reports from local governments as will enable it adequately to provide the technical and advisory assistance authorized by this section. The reports shall provide the necessary information for a complete file on local government debt, which shall be kept open for public inspection at the state local finance offices.

(b) To encourage, conduct, or participate in training courses in debt and general fiscal management and procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.

(c) To conduct studies in debt management, including ways and means of appraising the terms of alternative bids.

(d) To request such assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the state local finance officer to carry out his duties under this section.

(e) At its discretion, to compile and publish annually a report. Such report may include detailed information on local government long-term debt issued and retired during the previous year and outstanding, and other available statistical data on local government finances.

(2)[~~(3)~~] The department for local government shall coordinate for the governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to the following programs:

(a) [~~Housing and urban development act as amended;~~

~~(b)~~] Demonstration cities and metropolitan development act as amended *with the exception of title I of the housing and community development act of 1974 as amended through 1981*;

(b)[~~(c)~~] Farmers home administration;

(c)[~~(d)~~] Veterans administration act as amended, as it pertains to housing;

(d)[~~(e)~~] General revenue sharing for local governments.

(3)[~~(4)~~] The department for local government shall provide technical assistance and information to units of local government, including but not limited to:

(a) [~~Fiscal management;~~

~~(b)~~] Personnel administration;

(b)[~~(c)~~] Purchases and contracts;

(c)[~~(d)~~] Ordinances and codes;

(d)[~~(e)~~] Community development*;*

(e) Appalachian regional development program;

(f) Economic development administration program;

(g) Intergovernmental personnel act program;

(h) Land and water conservation fund program;

(i) Area development fund program;

(j) Gas system restoration project;

(k) Joint funding administration program;

(l) State clearinghouse for A-95 review;

(m) The memorandums of agreement with the area development districts to provide management assistance to local governments;

(n) The urban development office.

Section 15. KRS 148.022 is amended to read as follows:

(1) The department of *local government* [~~parks~~] shall administer and operate the outdoor recreation programs of the state and shall be responsible for developmental planning and the administration of United States bureau of outdoor recreation funds.

(2) All functions of the Commonwealth relating to the Breaks Interstate Park shall be attached to the department *of parks* for administrative purposes.

Section 16. KRS 148.260 is amended to read as follows:

(1) *The state horse park management board is hereby established, is attached to the commerce cabinet and shall consist of seven (7) members appointed by the governor, who shall also designate its chairman. Members shall serve terms of four (4) years, or until their successors are appointed, except that the initial terms of membership shall be staggered as follows:*

(a) One (1) member shall serve a term of one (1) year;

(b) Two (2) members shall serve a two (2) year term;

(c) Two (2) members shall serve a three (3) year term; and

(d) Two (2) members shall serve four (4) year terms.

(2) The management board shall be authorized to adopt bylaws providing for the call of its meetings and its operating procedures. A quorum of the board shall consist of four (4) members, and a majority of members present at any duly-called meeting may act upon any matter before it for consideration. Full minutes and records shall be maintained of all meetings and official actions of the board, and shall be subject to the Kentucky open records and open meetings acts. Members of the board shall be reimbursed for their expenses in attending meetings subject to department of finance regulation, and shall receive sixty-five dollars ($65.00) per diem for attending such meetings. [~~The state horse park board is hereby established and shall be composed of nineteen (19) members, as follows:~~

~~(a) The commissioner of parks;~~

~~(b) The commissioner of tourism; and~~

~~(c) Seventeen (17) members appointed by the governor of whom ten (10) shall be appointed with due consideration to geographical distribution throughout the state, and seven (7) members who shall be selected, one each, from a list of three (3) submitted by the governing bodies of each of the following organizations:~~

~~(i) Thoroughbred breeders of Kentucky;~~

~~(ii) Kentucky quarter horse association;~~

~~(iii) American standardbred breeders association of Kentucky;~~

~~(iv) American saddle horse breeders association;~~

~~(v) Kentucky walking horse association;~~

~~(vi) Kentucky Horse Council; and~~

~~(vii) Appaloosa Horse Clubs of Kentucky.~~

~~(2) The terms of appointed members of the board shall be for four (4) years, and until such time as their successors shall be appointed, except with respect to the first board whose appointments shall be as follows:~~

~~(a) Four (4) members shall serve for terms of two (2) years from the date of their appointment;~~

~~(b) Five (5) members shall serve for terms of three (3) years from the date of their appointment;~~

~~(c) Five (5) members shall serve for terms of four (4) years from the date of their appointment; and~~

~~(d) Three (3) members shall serve for terms of four (4) years from the date of their appointment.~~

~~(3) Of the ten (10) geographically appointed members, the governor shall make appointments so as to assure representation as nearly equal as possible from each of the two (2) political parties polling the largest number of votes in statewide elections.~~

~~(4) The governor shall appoint the first board chairman, after which the state horse park board shall elect annually from among its appointed membership a chairman. A quorum of the board shall consist of ten (10) members, and a majority of members present at any meeting of the board may act for it upon any matter legally before the body.~~

~~(5) The members of the board shall be allowed their necessary expenses incurred in attending meetings and performance of their official duties, and shall be allowed sixty-five dollars ($65) per diem for attending meetings.~~

~~(6) Appointed members of the state horse park board may be removed by the governor only for cause after being given a copy of charges against them and an opportunity to be heard publicly, with the advice of counsel, on such charges against them before the governor and a finding of fact by the governor. A copy of the charges and transcript of the record of the hearings and findings of fact shall be filed with the secretary of state.~~

~~(7) In the event of a vacancy among geographically appointed membership of the board, the governor shall fill the unexpired terms so as to maintain both geographical and political balance as required in subsection (3) of this section.~~]

Section 17. KRS 148.270 is amended to read as follows:

(1) The state horse park *management* board shall be a body corporate with usual corporate powers. Full minutes and records shall be kept of all meetings of the board and all official actions shall be recorded.

(2) The state horse park *management* board shall appoint an executive director and a secretary, who shall hold office during its pleasure and shall devote their entire time to the duties of their offices. The executive director shall be the chief administrative officer of the office of the board and shall provide the staff

direction and coordination in implementing the program and discharging the duties of the board. The secretary shall keep a full and true record of all the proceedings of the board, of all books and papers ordered filed by the board, and of all orders made by the board or approved and confirmed by it and ordered filed, and shall be responsible to it for the safe custody and preservation of all such documents in its office. All documents shall be subject to the open records provisions of KRS 61.870 to 61.884.

(a) The board shall designate from time to time staff persons to perform the duties of the executive director and secretary during their absence, and during the absence of either, the persons so designated shall possess the same powers as their principal.

(b) The executive director with the approval of the board may assign the secretary additional administrative duties.

(3) The board acting through the executive director may employ such additional staff as necessary to perform the duties and exercise the powers conferred upon it by the provisions of KRS 148.260 to 148.320.

Section 18. KRS 148.280 is amended to read as follows:

(1) The state horse park *management* board:

(a) Shall have the authority and control of such property as now is under its custody and control, and of such property as may hereafter be placed under its control or transferred to it by the state property and buildings commission, for any purpose mentioned in this section;

(b) May erect and repair buildings on the state horse park and make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objectives defined in this section;

(c) Shall promote the progress of the state and stimulate public interest in the advancement and development of the state by providing the facilities of the state horse park for exhibitionary, competitive and other events relative to various aspects of the horse industry and other functions calculated to advance and enhance the tourist industry, economy, entertainment, cultural, and educational interests of the public.

(2) The state horse park *management* board may take, acquire and hold property, and all interest herein, by deed, gift, devise, bequest, lease, or by transfer from the state property so acquired in the manner provided by law.

(3) The state horse park *management* board is authorized to enact by administrative regulation as provided in KRS Chapter 13, rules governing the operation, maintenance or use of property under its custody and control.

(4) The state horse park management board may employ or contract such other person, firms or corporations as the board may deem necessary or desirable to accomplish its duties and functions; may fix the compensation and the terms of employment or contract of those employed or contracted with; and may assign to them such duties and responsibilities as the board may determine, including the responsibility of actual operation of any or all of the facilities under the control of the said board.

(5) The department of parks shall assume responsibility for the routine, nonpolicy making administration of the Kentucky horse park, which responsibility includes though is not limited to preparation and coordination of purchases, establishment and maintenance of a budgetary and accounting system, and retention and maintenance of all personnel and payroll documents. The cost for these services shall be charged, by means of inter-account.

Section 19. KRS 148.290 is amended to read as follows:

(1) The state horse park *management* board may enter into agreements with the chief of the law enforcement agency of any urban county or counties in which the state horse park is located or in any adjacent county for proper policing of the state horse park, and may arrange with the state for the policing of the state horse park by the state police. The board may also apply for the appointment of special law enforcement officers to provide security subject to the procedures of KRS 61.900 to 61.930.

(2) The state horse park *management* board is authorized to establish by resolution speed limits governing the operation of motor vehicles on horse park property. Notice to the public of such speed limits shall be posted by signs or markings.

Section 20. KRS 148.300 is amended to read as follows:

(1) The state horse park *management* board shall have exclusive control of concessions, exhibitions, shows, entertainments and attractions at any place on the state horse park grounds, and may in the direction of the board operate any or all of such purposes, by law.

(2) The board shall have a prior lien upon the property of any concessionaire, exhibitor or person, immediately upon its coming or being brought on the grounds to secure existing or future indebtedness.

(3) Any designated employe or agent of the state board may sell the property to satisfy the indebtedness after giving ten (10) days' notice to the owner or agent of the owner or, if notice cannot be given to the owner, after a notice is posted for ten (10) days in the office of the state board on the grounds, announcing that the property is to be sold. The state board through its designated agent, may bid and buy on the property offered for sale for the use and benefit of the state horse park.

Section 21. KRS 148.310 is amended to read as follows:

None of the provisions of KRS Chapter 137 and none of the provisions of KRS 92.280(2) shall apply to any operations on state horse park grounds wherein the state horse park *management* board shares in the receipts and proceeds of such operations.

Section 22. KRS 148.320 is amended to read as follows:

(1) All revenues derived by the state horse park *management* board from the use of properties and facilities under its custody and control shall be used exclusively for the purpose of defraying the expenses of the board, the cost of the management and operation of such properties and facilities, the payment of interest and principal upon any indebtedness incurred by the board for such properties and facilities, the creation of adequate reserve for the repair and replacement thereof and for the financing of further extensions, improvements, and additions thereto. Included in the cost of operation may be such promotional activities as the state horse park *management* board may determine upon as calculated to stimulate and increase the use and the revenues of such facilities, and to increase and stimulate the interest and usefulness of the state horse park.

(2) The state horse park *management* board shall generally cause its funds to be deposited in the state treasurer's office to be withdrawn on appropriate vouchers approved by the board.

(3) An annual accounting of the funds of the state board shall be made by the auditor of public accounts and reported to the governor for the benefit of the governor and the general assembly.

Section 23. KRS 151.040 is amended to read as follows:

The Kentucky geological survey shall report periodically on its findings to the governor and general assembly and such reports shall be available to the public. It shall at all times furnish cooperative services to the department of *economic development* [~~commerce~~] and such other state agencies as may request its services, and make available to those agencies such information and data as are at the disposal of the survey. The survey may issue reports, maps and other publications for sale at a price prescribed by the governing authorities of the University of Kentucky.

Section 24. KRS 151.330 is amended to read as follows:

(1) The governor, the secretary for natural resources and environmental protection, the secretary of the department of finance, the secretary for human resources or his designee, the commissioner of *economic development* [~~commerce~~], the commissioner of agriculture, the secretary of the *commerce* cabinet [~~for development~~], the attorney general, the secretary of the department of transportation, the commissioner of fish and wildlife resources, the commissioner of parks, and their respective successors in office, and two (2) members of the flood control advisory commission shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the Commonwealth by the name of "the water resources authority of Kentucky" with perpetual succession and with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their service in that capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with the performance of their duties and functions as such members.

(3) Seven (7) members of the authority shall constitute a quorum for the transaction of business. The governor shall, by virtue of his office, be the chairman of the authority. The secretary for natural resources and environmental protection shall, by virtue of his office, be the vice-chairman of the authority. The secretary of the department of finance shall, by virtue of his office, be the treasurer of the authority.

(4) The authority shall meet quarterly or more often if necessary.

Section 25. KRS 152.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) [~~"Commission" means the economic development commission;~~

~~(2)~~] "Commissioner" means commissioner of the department of *economic development* [~~commerce~~];

(2)[~~(3)~~] "Department" means department of *economic development* [~~commerce~~].

Section 26. KRS 152.020 is mended to read as follows:

(1) There is hereby created an agency of the state government to be known as the department of *economic development* [~~commerce~~], which shall constitute a department of the state government within the meaning of KRS chapter 12. The department shall consist of a commissioner and such administrative bodies and employes as are provided by law.

(2) The department, subject to the provisions of KRS 12.010 to 12.141, shall be organized into *an office of business development, an office of tourism development, an office of community development, and* a division *of administrative services* [~~devoted to industrial development, a division devoted to marketing development, a division devoted to research and planning, a division devoted to community and industrial services, a division devoted to development of small and minority business enterprise, a division devoted to international trade and reverse investment~~], and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the department.

(3) The executive officer of the department shall be the commissioner of the department of *economic development* [~~commerce~~]. The commissioner shall be appointed by the governor and shall serve at the pleasure of the governor. The commissioner shall have general supervision and direction over all activities and functions of the department and its employes, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be the chief executive officer of the department and, as such, shall have authority to enter into contracts, subject to the approval of the secretary of the *commerce* [~~development~~] cabinet and the secretary of the department of finance, when such contracts are deemed necessary to implement and carry out the program of the department.

(4) The office of business development shall be headed by an executive director appointed pursuant to KRS 12.050 and shall consist of a division of research and planning, a division of small and minority business development, a division of industrial development and the Kentucky port and river development commission, each headed by directors appointed pursuant to KRS 12.050.

(5) The office of tourism development shall be headed by an executive director appointed pursuant to KRS 12.050 and shall consist of a division of marketing and information and a division of travel development each headed by directors appointed pursuant to KRS 12.050.

(6) The office of community development shall be headed by an executive director appointed pursuant to KRS 12.050 and shall consist of a division of community programs responsible for the administration of Title I of the housing and community development act of 1974 as amended through 1981, which includes the community development block grant program and the 107 technical assistance program, and a division of community assistance responsible for community assistance and revitalization and the administration of the governor's economic achievement recognition program each headed by a director appointed pursuant to KRS 12.050.

(7) The division of administrative services shall be headed by a director appointed by the commissioner pursuant to KRS 12.050 and shall provide administrative and fiscal service support and perform all personnel functions for both the department and the office of the secretary of the commerce cabinet.

SECTION 27. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the commerce cabinet a department of the arts, to be headed by a commissioner to be appointed by the governor. The department's functions shall include the development, marketing and promotion of Kentucky's arts, crafts and film industry, as well as overseeing the presentation of Kentucky's historic landmarks and buildings. The commissioner may appoint such deputy commissioners and principal assistants as may be necessary to carry out the functions of the office.

(2) The department shall consist of the following divisions, each headed by a director appointed by the commissioner pursuant to KRS 12.050:

(a) A division of administrative services, which duties shall include overseeing the general management, fiscal, personnel and grants activities of the department;

(b) A division of crafts, which duties shall include coordination of development, marketing and promotion of the crafts industry in Kentucky;

(c) A division of arts, which duties shall include directing the development, marketing and promoting of a comprehensive program for support of the arts in Kentucky;

(d) A division of creative services, which duties shall include providing photography, multi-media and graphic arts services to state government;

(e) A film division, which duties shall include promoting development of the film production industry in Kentucky; and

(f) A heritage division, which duties shall include preserving and protecting buildings, sites and other landmarks associated with the archaeological, cultural, economic, military, national, political and social aspects of Kentucky's history.

SECTION 28. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

There is hereby established within the department of the arts a citizens advisory board. The board shall be composed of seventeen (17) members, representing different geographic regions of the Commonwealth, to be appointed by the governor for a term of four (4) years; except for the initial members appointed, six (6) shall serve for a term of two (2) years; six (6) shall serve for a term of three (3) years; and five (5) shall serve for a term of (4) years. Members shall serve for the terms designated and until their successors are appointed.

Section 29. KRS 153.215 is amended to read as follows:

(1) There is established the Kentucky arts *council* [~~commission~~] (hereinafter referred to as "the *council* [~~commission~~]") *which shall perform functions pursuant to KRS 153.210 to 153.235* [~~as a separate administrative body of state government within the meaning of KRS chapter 12~~].

(2) The purpose of the *council* [~~commission~~] shall be to develop and promote a broadly conceived state policy of support for the arts in Kentucky pursuant to KRS 153.210 to 153.235.

(3) The membership of the *council* [~~commission~~] shall consist of not more than sixteen (16) members who have an interest in the arts. On July 1, 1972, the governor shall appoint not more than four (4) members for a term of one (1) year; not more than four (4) members for a term of two (2) years; not more than four (4) members for a term of three (3) years; and not more than four (4) members for a term of four (4) years. Thereafter the governor shall make all appointments for a term of four (4) years.

(4) *Council* [~~Commission~~] members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS chapters 44 and 45 for actual and necessary expenses incurred in the performance of their duties under KRS 153.210 to 153.235.

(5) From the *council* [~~commission~~] membership the Governor shall appoint a chairman and a vice-chairman of the *council* [~~commission~~]. The *council* [~~commission~~] may elect by majority vote other officers deemed necessary.

(6) The *council* [~~commission~~] shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the *council* [~~commission~~] shall constitute a quorum.

(7) *The council shall be attached to the department of the arts for administrative purposes* [~~From the commission membership, the governor shall name three members who along with the commission chairman and vice-chairman shall serve as the executive committee. The executive committee shall be responsible for the execution of duties and functions assigned to the commission~~].

Section 30. KRS 153.220 is amended to read as follows:

The duties and functions of the *council* [~~commission~~] shall be to:

(1) Stimulate and encourage throughout the state the study and presentation of the arts, and foster public interest and participation therein;

(2) Encourage public interest in the cultural heritage of our state and expand the state's cultural resources;

(3) Encourage and assist freedom of artistic expression essential for the well-being of the arts;

(4) Serve as the sole agency in the commonwealth for *administration of a* [~~administering any~~] state *arts* plan *developed in coordination with the department* [~~for the development~~] of the arts;

(5) Advise the governor on matters pertaining to the arts;

(6) Adopt and promulgate rules and regulations for the performance of its duties and functions provided in KRS 153.210 to 153.235;

(7) Receive federal grants, and other money and property of any nature whatsoever which may be given, donated, conveyed, bequeathed, devised, or otherwise transferred, without condition or restriction except that provided by law, other than that it be used for some purpose of the *council* [~~commission~~] as permitted by KRS 153.210 to 153.235;

(8) *Review and approve the appointment of a director who shall be the director of the division of arts, department of the arts* [~~Appoint staff members, subject to the provisions of the merit system, KRS chapter 18, as necessary to carry out its functions, define its duties, and supervise and direct its activities~~];

(9) Contract from time to time as appropriate with experts and consultants who may be utilized as deemed necessary, and make other necessary purchases and expenditures, all in accordance with the state *plan approved by the commissioner of the department of the arts and with the state* purchasing provisions of KRS *Chapters* [~~Chapter~~] 45 *and 45A*;

(10) Hold public and private hearings for the purpose of furthering the objectives of the *council's* [~~commission's~~] programs; and

(11) Make and sign any agreements, subject to the provisions of KRS *Chapters* [~~Chapter~~] 45 *and 45A*, and do and perform any acts that may be necessary to carry out the purposes of KRS 153.210 to 153.235. Section 31. KRS 153.225 is amended to read as follows:

The *council* [~~commission~~] is the official agency of the commonwealth to receive and disburse any funds made available to the state government by the federal government for any programs related to the arts; Provided, however, That such funds are not expressly intended for some other agency of the commonwealth, or that some other agency is not deemed a more appropriate recipient.

Section 32. KRS 153.230 is amended to read as follows:

The *council* [~~commission~~] shall submit an annual report to the governor before the 15th day of August each year, summarizing the *council's* [~~commission's~~] activities, expenditures, and grants of money or property from all sources for the preceding year, including such recommendations as the *council* [~~commission~~] deems appropriate.

Section 33. KRS 153.235 is amended to read as follows:

(1) The *council* [~~executive committee, with the advice of the commission,~~] may establish and carry out a program of grants-in-aid to groups or, in appropriate cases, to individuals engaged in or concerned with the arts for the purpose of enabling them to provide or support in Kentucky any of the following:

(a) Productions which have substantial artistic and cultural significance, giving emphasis to creativity and the maintenance and encouragement of professional excellence;

(b) Projects which will encourage and assist artists and enable them to achieve standards of professional excellence;

(c) Workshops which will encourage and develop the appreciation and enjoyment of the arts by residents of the commonwealth; and

(d) Other relevant projects, giving emphasis to creativity, including surveys, research, and planning in the arts.

(2) Any group or individual desirous of receiving a grant-in-aid must submit an application to the *council* [~~commission~~] that shall contain such data as the *council* [~~commission~~] may require.

(3) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies. Any real property acquired shall be held in the name of the commonwealth for the use and benefit of the *council* [~~commission~~]; and the acquisition, control, or disposal of such property shall be subject to the applicable provisions of KRS chapters 45, *45A* and 56.

Section 34. KRS 154.020 is amended to read as follows:

(1) There shall be a development finance authority in the state government which shall be known as the Kentucky development finance authority, which shall be an independent agency of the Commonwealth reporting to the secretary of the *commerce* [~~development~~] cabinet, but not attached to any administrative department.

(2) The authority shall consist of [~~the executive director of the economic development commission, the commissioner of commerce,~~] the secretary of the *commerce* [~~development~~] cabinet, and the secretary of the department of finance, and *eleven (11)* [~~nine (9)~~] at large members appointed by the governor. Of the *eleven (11)* [~~nine (9)~~] at large members, three (3) shall be representative of industrial or manufacturing interests, three (3) shall be representative of agricultural interests, [~~and~~] three (3) shall be representative of tourism interests *and two (2) shall represent the public at large.* The chairman shall be the secretary of the *commerce* [~~development~~] cabinet who may appoint a deputy secretary of the *commerce* [~~development~~] cabinet to serve as chairman. Each ex-officio member of the authority, as described in this section, may appoint in writing a substitute, who shall have full voting and other powers as a member of the authority or of the board, as the case may be. The writing by which the appointment is made shall be filed as a part of the records of the authority.

(3) The terms of all appointive members of the former industrial development finance authority shall be deemed to have expired as of midnight on June 30, 1978. The terms of the new appointed members of the Kentucky development finance authority shall commence as of July 1, 1978.

(4) Two (2) members initially appointed by the governor shall be appointed for a term of one (1) year, two (2) members for two (2), two (2) for three (3), and three (3) for four (4) years, respectively, from the date of their appointment and until their respective successors shall be duly appointed and qualified, the term of each appointed member to be designated by the governor at the time of his appointment. Their successors shall each be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any appointed member of the authority shall be eligible for reappointment.

(5) Members of the authority shall be entitled to compensation for their services as members in the amount of one hundred dollars ($100) for each regular meeting of the authority, and shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

Section 35. KRS 154.320 is amended to read as follows:

(1) The commission shall consist of the lieutenant governor, the commissioner of *economic development* [~~commerce~~], the secretary of the *commerce* cabinet [~~for development~~] and five (5) citizens chosen by the governor from each of the districts created in KRS 154.321. The citizen members shall be appointed for original terms of one (1), two (2), three (3), and four (4) years. Their successors shall be appointed for a term of four (4) years and each shall be eligible for reappointment. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of that term.

(2) A majority of the members shall constitute a quorum for the purpose of organizing the commission and conducting the business thereof. The members shall elect a chairman from the five (5) citizen members and the executive director shall serve as secretary. Meetings may be called by the chairman or at the request of three (3) or more members.

(3) Citizen members of the commission shall receive twenty-five dollars ($25) per day for attendance at each meeting. All commission members shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members of the commission.

(4) Any members of the commission may be removed by the governor for inefficiency, neglect of duty, malfeasance, or conflict of interest. The governor shall submit a written statement to the commission setting forth the reasons for removal, and the statement shall be read at the next commission meeting, which shall be open to the general public. The member so removed shall have the right of appeal to the Franklin Circuit Court.

Section 36. KRS 154.325 is amended to read as follows:

(1) The commission may appoint an executive director to be the chief administrative officer of the commission, and to assist in carrying out the functions and purposes of KRS 65.510 to 65.530, 139.483, 154.310 to 154.345. The executive director and other employes of the commission shall, for administrative purposes, be attached to the department of *economic development* [~~commerce~~], under the supervision and control of the commissioner of *economic development* [~~commerce~~]. The department of *economic development* [~~commerce~~] shall furnish office space.

(2) The executive director shall be entitled to compensation set by the commission and shall be allowed travel, subsistence, and other expenses incurred in the performance of his duties as may be provided from time to time for other employes of the commonwealth.

Section 37. KRS 154.600 is amended to read as follows:

(1) There is created [~~within the cabinet for development~~] an appalachian development council. The council shall be attached to the department for local government [~~of the development cabinet~~] for administrative purposes. The department for local government shall provide staff assistance to the council.

(2) The council shall serve as an advisory body to the *department* [~~secretary of the development cabinet~~] and to the general assembly on all phases of economic development in that part of Kentucky contained within the appalachian region as defined by the federal Appalachian Regional Development Act of 1965, as amended.

(3) The council shall consist of the lieutenant governor and twenty-two (22) members appointed by the governor. The governor shall appoint three (3) members from the appalachian region at-large. The remaining nineteen (19) members shall be appointed from the forty-nine (49) appalachian counties of Kentucky, within area development districts, as follows:

(a) Two (2) members from appalachian counties within the Fivco Area Development District;

(b) Two (2) members from appalachian counties within the Gateway Area Development District;

(c) Two (2) members from appalachian counties within the Big Sandy Area Development District;

(d) Two (2) members from appalachian counties within the Bluegrass Area Development District;

(e) Three (3) members from appalachian counties within the Kentucky River Area Development District;

(f) Three (3) members from appalachian counties within the Cumberland Valley Area Development District;

(g) Three (3) members from appalachian counties within the Lake Cumberland Area Development District;

(h) One (1) member from appalachian counties within the Barren River Area Development District; and

(i) One (1) member from appalachian counties within the Buffalo Trace Area Development District.

(4) The three (3) at-large members of the council shall serve for terms of one (1) year. The remaining nineteen (19) appointed members shall be appointed for terms of four (4) years, except that of the members initially appointed by the governor five (5) shall be appointed for a term of one (1) year, five (5) shall be appointed for a term of two (2) years, five (5) shall be appointed for a term of three (3) years, and four (4) shall be appointed for a term of four (4) years. The governor shall fill vacancies by appointment for the remainder of the unexpired term.

(5) The chairman of the council shall be selected annually by the council members [~~and shall serve as a member of the economic development commission created by KRS 152.050~~].

(6) The members of the council shall serve without compensation but shall be reimbursed for reasonable and necessary expenses incurred in performing the work of the council.

Section 38. KRS 155.030 is amended to read as follows:

In furtherance of the purposes set forth in KRS 155.020 above and in addition to the powers conferred on business corporations by the provisions of KRS Chapter 271A the corporation shall, subject to the restrictions and limitations herein contained, have the following powers:

(1) To elect, appoint and employ officers, agents and employes; to make contracts and incur liabilities for any of the purposes of the corporation; Provided, That the corporation shall not incur any secondary liability by way of guaranty or indorsement of the obligations of any person, firm, corporation, joint stock company, association, or trust, or in any other manner;

(2) To borrow money from any source including the United States government, or any instrumentality thereof, including the small business administration and similar agencies, for any of the purposes of the corporation; to issue therefor its bonds, debentures, notes or other evidences of indebtedness, whether secured or unsecured, and to secure the same by mortgage, pledge, deed of trust or other lien on its property, franchises, rights and privileges of every kind and nature or any part thereof or interest therein, without stockholder or member approval; Provided, That no loan to the corporation shall be secured in any manner unless all outstanding loans to the corporation are secured equally and ratably in proportion to the unpaid balance of such loans and in the same manner;

(3) To make loans to any person, firm, corporation, joint-stock company, association or trust, and to establish and regulate the terms and conditions with respect to any such loans and the charges for interest and service connected therewith; Provided, however, That the corporation shall not approve any application for a loan unless and until the person applying for said loan shall show that he has applied for the loan through ordinary banking channels and that the application has been refused by at least one (1) bank or other financial institution. The corporation may charge interest on such loans at rates of interest not to exceed whichever is the higher of the two (2) following rates: (a) the rate mentioned in KRS 360.010; (b) two percent (2%) in excess of the prime rate prevailing on unsecured commercial loans among the majority of the New York City clearing house member banks on the first day of the month in which the loan is made;

(4) To purchase, receive, hold, lease, or otherwise acquire, and to sell, convey, transfer, lease or otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations;

(5) To acquire the good will, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, corporations, joint-stock companies, associations, or trusts, and to assume, undertake, or pay the obligations, debts, and liabilities of any such person, firm, corporation, joint-stock company, association or trust; to acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments thereon or for the purpose of disposing of such real estate to others for the construction of industrial plants or other business establishments; and to acquire, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, or otherwise dispose of industrial plants or business establishments;

(6) To acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the stock, shares, bonds, debentures, notes or other securities and evidences of interest in, or indebtedness of, any person, firm, corporation, joint-stock company, association or trust, and while the owner or holder thereof to exercise all the rights, powers, and privileges of ownership, including the right to vote thereon; and to acquire stock or stock options in the corporation or organization to which it makes loans;

(7) To mortgage, pledge, or otherwise encumber any property, right or thing of value, acquired pursuant to the powers contained in subsections (4), (5), or (6), as security for the payment of any part of the purchase price thereof;

(8) To cooperate with and avail itself of the facilities of the department of *economic development* [~~commerce~~] and the industrial development finance authority and any similar governmental or private agencies; and to cooperate with and assist, and otherwise encourage organizations in the various communities of the Commonwealth in the promotion, assistance, and development of the business prosperity and economic welfare of such communities or of this Commonwealth or of any part thereof;

(9) To do all acts and things necessary or convenient to carry out the powers granted in this chapter.

Section 39. KRS 171.381 is amended to read as follows:

(1) There is established *within the department of the arts, a heritage division which shall function as successor to* the Kentucky heritage commission, *which is abolished* [~~as a separate administrative body of state government within the meaning of KRS chapter 12~~].

(2) *Through its heritage division, the department of the arts* [~~The commission~~] shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.

(3) [~~The membership of the commission shall consist of not more than thirty (30) members each of whom shall have manifested an interest in the history of the Commonwealth and the preservation of its heritage. They shall be appointed by the governor and shall serve at the governor's will during his incumbency and until each member's successor is appointed. From the commission's membership the governor shall appoint a chairman and a vice-chairman of the commission. The commission may elect by majority vote, other officers deemed necessary by the commission. It shall meet at the call of the chairman, but at least twice during each calendar year. A majority of the members shall constitute a quorum. From the commission's membership the governor shall name three (3) members who, along with the commission's chairman and vice-chairman shall serve as the executive committee. The executive committee shall be responsible for the execution of duties and functions assigned to the commission.~~

~~(4)~~] The duties and functions of the *department* [~~commission~~] shall be to:

(a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property.

(b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the *department* [~~commission~~] is dedicated, and specifically with the Kentucky department of parks and historical society in matters of common concern.

(c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private.

(d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.

(4)[~~(5)~~] The *department* [~~commission~~] may:

(a) Accept grants or other funds or property from any available source, public or private.

(b) Employ, with the approval of the governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS chapter 18, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS chapters 44 and 45.

(c) Enter into such contractual relationships as may be necessary.

(d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45.360, and hold the same in the name of the Commonwealth for the use and benefit of the *department* [~~commission~~].

(e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private.

(f) Adopt such rules and regulations as may be necessary and incidental to the performance of the *department's* [~~commission's~~] duties and functions.

[~~(6) Members of the commission shall receive twenty-five dollars ($25) per day for each meeting attended and may be reimbursed in accordance with the provisions of KRS chapters 44 and 45 for actual and reasonable expenses incurred in the furtherance of the commission's activities.~~]

(5)[~~(7)~~] The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.

(6)[~~(8)~~] No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.

(7) The governor shall appoint the state historic preservation officer.

Section 40. KRS 171.383 is amended to read as follows:

All covered wooden bridges within the state shall be designated as state shrines by the [~~Kentucky~~] heritage *division, department of the arts* [~~commission~~] according to the procedures of the agency. Each covered wooden bridge shall be identified as such by an official marker placed by the Kentucky historical society.

Section 41. KRS 171.384 is amended to read as follows:

(1) There is hereby established the Kentucky historic preservation review board, which shall aid and advise the [~~Kentucky~~] heritage *division, department of the arts* [~~commission~~] in the selection of historic sites and all duties pursuant to public law 89-669, as amended, and regulations issued pursuant thereto.

(2) The board shall be composed of eleven (11) members appointed by the governor; one (1) of whom shall be a professionally recognized historian; one (1) an architect; and one (1) an archaeologist. Each board member shall receive twenty-five dollars ($25) per diem and necessary expenses for performance of his duties.

Section 42. KRS 171.388 is amended to read as follows:

(1) As used in this section, "structure" means a house, barn, shed, crib, silo, windmill, fence or cemetery marker.

(2) The *department of the arts* [~~Kentucky heritage commission~~] shall establish the Kentucky register of heritage farms. A heritage farm shall comprise at least forty (40) acres and (a) shall have been owned and farmed by the same family for more than one hundred (100) years or, (b) shall include at least one structure more than fifty (50) years old.

(3) Designation of a farm as a Kentucky heritage farm under this section shall not restrict the sale, alteration, use, or the exercise of any other right of ownership.

Section 43. KRS 171.395 is amended to read as follows:

The Kentucky railway museum shall be designated as the official railway museum in the state of Kentucky. The museum shall be so designated by an official marker erected by the *department of the arts* [~~Kentucky heritage commission~~].

Section 44. KRS 175.430 is amended to read as follows:

(1) The governor, the lieutenant governor, the commissioner of highways, the state highway engineer, *the secretary of commerce* and the attorney general, and their respective successors in office, shall be a body corporate and politic constituting a public corporation and governmental agency and instrumentality of the Commonwealth by the name of "The Turnpike Authority of Kentucky," with perpetual succession and with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their services in that capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.

(3) Three (3) members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one (1) or more members may adjourn from time to time until a quorum is convened. Within ninety (90) days from March 25, 1960, the authority shall convene and organize. The governor shall, by virtue of his office, be the chairman of the authority and the lieutenant governor shall in like manner be the vice-chairman. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive such compensation as may be determined by the authority with approval of the commissioner of personnel to be paid from the budgeted funds of the bureau. The treasurer shall give bond to the authority and the Commonwealth conditioned upon his faithful accounting for all funds coming into his custody from time to time, the same to be in such amount as the authority may prescribe, with corporate surety given by a surety company qualified to do business in the Commonwealth, premium therefor to be paid by the authority. The authority shall establish and maintain an office in premises which shall be provided for that purpose by the bureau of highways without cost to the authority; and the secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings, which shall constitute public records open to inspection at reasonable times.

Section 45. KRS 176.400 is amended to read as follows:

(1) Administrative control of covered wooden bridges designated as state shrines shall be shared by the department of transportation, the department of parks and the authorities created under KRS 176.410.

(2) The department of transportation shall maintain all covered wooden bridges in the Commonwealth which are on public roads and open to vehicular traffic. The department shall maintain the bridges for safety and for historical and aesthetic beauty. The department shall prepare estimates of the cost of maintaining covered wooden bridges which are on public roads and open to vehicular traffic and shall identify and include the total of these estimates in its biennial budget request.

(3) The department may delegate its responsibility for maintenance of covered bridges located on roads maintained by a county to the local government responsible for such roads. Delegation of responsibility for maintenance of covered bridges to a local government shall require periodic inspection by the department.

(4) Nothing in this section shall prevent an appropriate unit of government from closing a covered wooden bridge to vehicular traffic.

(5) The department of parks shall be responsible for all covered wooden bridges located in the Commonwealth which are on public property and no longer open to vehicular traffic. The department shall maintain these bridges in sound structural condition and for historical and aesthetic beauty. The department shall prepare estimates of the cost of maintaining covered wooden bridges for which it has a responsibility and shall identify and include the total of these estimates in its biennial budget request.

(6) When an appropriation is made to a covered wooden bridge authority created under the provisions of KRS 176.410, the department shall transfer the obligation of maintenance for the bridges designated in the appropriation to that authority.

(7) An authority may re-transfer the right of possession or title and the obligation of maintenance of covered bridges under its jurisdiction to the department of parks.

(8) The *heritage division, department of the arts* [~~Kentucky heritage commission~~] may determine that an authority is inactive or unable to discharge its responsibilities and may transfer the right of title or possession to covered bridges under the jurisdiction of the authority to the department of parks. The *department of the arts* [~~commission~~] shall give notice of such an action to the authority and the department *of parks*.

Section 46. KRS 176.410 is amended to read as follows:

(1) Except as provided by KRS 176.400, at the request of citizens or organizations of a county or multi-county region, the *heritage division, department of the arts* [~~Kentucky heritage commission~~] shall certify to the governor the creation of a county or multi-county covered wooden bridge authority for that county or multi-county region.

(2) An authority shall consist of five (5) members to be appointed by the governor. The members of an authority shall hold office for terms of four (4) years and until their successors are appointed and qualify except that the terms of office of the members first appointed shall be as follows: two (2) members shall be nominated and appointed for two (2) years, and three (3) members shall be nominated and appointed for four (4) years. An authority may elect by majority voice officers deemed necessary by its members. A majority of the members shall constitute a quorum. An authority shall meet at the call of its chairman, but at least twice during each calendar year.

(3) An authority shall be dedicated to the preservation, restoration and maintenance of all covered wooden bridges not open to vehicular traffic in the county or multi-county region for which it is created. The duties and functions of an authority shall be to:

(a) Review, recommend and administer projects and programs to insure the proper preservation, restoration and maintenance of covered wooden bridges in the county or multi-county region for which it is created.

(b) Advise, consult and cooperate with state, local and national officials and agencies, and with the *department of the arts* [~~Kentucky heritage commission~~] as provided by KRS 176.400and 176.410, to accomplish the purposes for which the authority is established.

(4) An authority may:

(a) Accept grants or other funds or property from any source, public or private;

(b) Enter into such contractual relationships as may be necessary;

(c) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45.360, and hold the same in the name of the Commonwealth for the use and benefit of the authority;

(d) Adopt rules and regulations necessary to the performance of its duties and functions.

(5) Members of an authority may be reimbursed in accordance with the provisions of KRS Chapters 44 and 45 for actual and reasonable expenses incurred in the furtherance of the authority's activities.

(6) The receipt, control and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of state agencies.

(7) Each authority shall develop a program for the preservation, restoration and maintenance of covered wooden bridges in the county or multi-county region for which it was established. It shall select the bridges to be preserved, restored or maintained within a biennium and shall prepare estimates of the cost of preservation, restoration or maintenance within that biennium.

(8) The program developed by an authority shall be submitted to the *department of the arts* [~~Kentucky heritage commission~~]. Upon approval by the *department* [~~commission~~], the authority shall submit its program as its biennial budget request.

(9) When an appropriation is made to an authority to fund its program for the preservation, restoration and maintenance of covered wooden bridges, title to all covered wooden bridges to be preserved, restored or maintained under its authority shall be transferred to the authority. Preservation, restoration and maintenance of covered wooden bridges shall comply with the program approved by the *department* [~~commission~~] and shall be administered by the authority. Each authority is authorized to enter into any agreement or contract necessary to implement an approved and funded program.

(10) There is established the covered wooden bridge authority for the counties of Bracken, Fleming, Lewis, Mason and Robertson as a pilot project.

Section 47. KRS 176.991 is amended to read as follows:

(1) Any person who willfully burns, defaces or destroys a covered bridge designated as a state shrine by the Kentucky heritage commission *or by the heritage division, department of the arts* shall be fined not more than five hundred dollars ($500) or confined in the county jail for not less than thirty (30) days or more than six (6) months or both. This shall be in addition to other penalties.

(2) Any person who exceeds the posted weight limits for a covered wooden bridge designated as a state shrine shall be fined not less than ten dollars ($10.00) or more than five hundred dollars ($500). This shall be in addition to other penalties.

Section 48. KRS 194.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the department to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the department of finance, or the superintendent of public instruction, or the secretary of the department of justice, or the secretary for natural resources and environmental protection, or the secretary of the *commerce* [~~development~~] cabinet, or the executive director of the council on higher education, or the secretary of the public protection and regulation cabinet, or the commissioner of labor, or the commissioner of *economic development* [~~commerce~~], or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 49. KRS 198A.030 is amended to read as follows:

(1) There is hereby created and established an independent, de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to be known as the Kentucky housing corporation.

(2) The Kentucky housing corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people by the production of residential housing in Kentucky.

(3) The corporation shall be governed by a board of directors, consisting of sixteen (16) members, eight (8) of whom shall be the lieutenant governor, the secretary of the department of finance, the commissioner of the department for local government, the commissioner of revenue, the attorney general, the secretary of the *commerce* cabinet [~~for development~~], the secretary of transportation and the commissioner of *economic development* [~~commerce~~], or their duly appointed designees, as public directors, and eight (8) of whom shall be chosen from the general public residing in the Commonwealth, as private directors.

(4) Upon organization of the corporation, the governor shall appoint the eight (8) private directors to take office and to exercise all powers thereof immediately. Of the eight (8) directors of the corporation thus appointed, two (2) shall continue in office for terms of one (1) year, and two (2) for terms of two (2) years, two (2) for terms of three (3) years and two (2) for terms of four (4) years respectively as the governor shall designate; at the expiration of said terms and for all succeeding terms, the governor shall appoint a successor to the office of private director for a term of four (4) years in each case.

(5) In case of a vacancy, the governor may appoint a person for such a vacancy to hold office during the remainder of the term.

(6) The governor may remove any private director whom he may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant and may appoint a person for such vacancy as provided in other cases of vacancy.

(7) The governor shall designate a director of the corporation to serve as chairman. The term of the chairman shall extend to the earlier of either the date of expiration of his then current term as a director of the corporation or a date six (6) months after the expiration of the then current term of the governor designating such chairman.

(8) The board of directors shall annually elect one (1) of its members as vice chairman. The board of directors shall also elect or appoint, and prescribe the duties of, such other officers as the board of directors deems necessary or advisable, including an executive director and a secretary, and the board of directors shall fix the compensation of such officers.

(9) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that such copies are true copies, and all persons dealing with the corporation may rely upon such certificates.

(10) A majority of the board of directors of the corporation shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies.

(11) Action shall be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum shall exist called upon three (3) days' written notice to each director or upon the concurrence of at least seven (7) directors.

(12) All directors shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties under this chapter. Each private director appointed pursuant to subsection (3) of this section shall be entitled to a fee of fifty dollars ($50) for attendance at each meeting of the board of directors.

Section 50. KRS 224.218 is amended to read as follows:

The *secretary* [~~commissioner~~] of the [~~department of~~] commerce *cabinet* shall cooperate with the secretary of the department of energy in examining the feasibility of a hazardous waste treatment-industrial park complex approach to the siting of hazardous waste management facilities and the promotion of industrial development. Consistent with the state policy of encouraging reuse and treatment of hazardous waste and of minimizing land disposal such study shall be based on development of integrated facilities consisting of a variety of treatment and disposal systems at a given site associated with industrial plants. Such study shall at a minimum:

(1) Survey the attitudes of various industries towards this approach;

(2) Survey public attitudes and perceptions towards this approach;

(3) Identify the advantages and disadvantages to industry, the Commonwealth, and local communities;

(4) Survey the degree to which the availability of hazardous waste management facilities has a bearing on the location of new industry;

(5) Develop a list of industry types with compatible waste streams for exchange, neutralization, or incineration;

(6) Identify economic or technical barriers to this approach; and

(7) Report its findings and recommendations to the 1982 general assembly.

Section 51. KRS 224A.030 is amended to read as follows:

(1) There is hereby created the Kentucky pollution abatement authority, which authority shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the Commonwealth of Kentucky. The affairs of the authority shall be managed and carried out by a board consisting of *seven (7)* [~~five (5)~~] members who shall be appointed by the governor of the state. *The membership of the authority shall include the secretary of the commerce cabinet who shall serve in an ex-officio capacity, and as chairman of the authority. The secretaries of finance and administration and natural resources and environmental protection, and the commissioners of economic development and local government shall also serve as ex-officio members of the authority. The governor shall additionally appoint two*

(2) at large members who shall serve for terms of four (4) years [~~each~~]. Said members shall constitute said Kentucky pollution abatement authority, with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers of the authority. In the carrying out of its purposes and the exercise by it of the powers conferred by this chapter, the authority is deemed and declared to be performing essential governmental functions and public purposes of the Commonwealth of Kentucky.

(2) The members of the authority shall receive no compensation for their services in said capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.

(3) *Four (4)* [~~Three (3)~~] members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one or more members may adjourn from time to time until a quorum is convened. Within 90 days from March 27, 1972, the authority shall convene and organize. The members of the authority shall choose from their ranks a chairman and a vice-chairman of the authority. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive such compensation as may be determined by the authority with approval of the commissioner of personnel, to be paid from funds appropriated for that purpose. The treasurer shall give bonds to the authority and the state conditioned upon his faithful accounting for all funds coming into his custody from time to time, the same to be in such amount as the authority shall prescribe, with corporate surety given by a surety company qualified to do business in the Commonwealth of Kentucky, premium therefor to be paid by the authority. The authority may engage an executive director, who shall be bonded as in the case of said treasurer, and such other technical personnel as may in the premises be deemed proper and prudent.

(4) The authority shall, for administrative purposes, be attached to that department of state government under which the state water pollution agency is administered, and shall establish and maintain offices in premises which shall be provided for that purpose by the appropriate and responsible state department; and the secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings which shall constitute public records open to inspection at all reasonable times.

Section 52. KRS 247.417 is amended to read as follows:

(1) The membership of the council shall consist of the governor, the lieutenant governor, the commissioner of agriculture, the secretary of the *commerce* [~~development~~] cabinet, the dean of the college of agriculture and home economics of the university of Kentucky, and fifteen citizen members, a majority of whom shall be full-time farmers, appointed by the governor. All members shall serve at the governor's will during his incumbency, and until each member's successor is appointed.

(2) The governor shall serve as chairman of the council. The council may elect by majority vote a vice-chairman and such officers of the council as may be deemed necessary.

(3) Citizen members of the council shall receive a compensation of fifty dollars ($50) per day for each day of attendance at meetings of the council, and shall be reimbursed by the secretary's office for necessary and actual expenses in accordance with the provisions of KRS chapters 44 and 45.

(4) The council shall meet at the call of the chairman, but not less often than four (4) times during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

Section 53. KRS 336.162 is amended to read as follows:

(1) There is hereby created the Commonwealth of Kentucky labor-management advisory council which shall consist of eighteen (18) members. One (1) member of the council shall be the commissioner of labor, and one (1) member shall be the *secretary* [~~commissioner~~] of commerce, who shall be ex officio nonvoting members of the council. The other members of the council shall be appointed by the governor for terms of four (4) years and until their successors have been appointed and have qualified.

(2) Vacancies shall be filled by appointment by the governor for the unexpired term of the member whose office is vacant and the appointment shall be made within sixty (60) days of the occurrence of the vacancy.

(3) In making appointments to the council, the governor shall appoint eight (8) members representing management and eight (8) members representing labor. The commissioner of labor shall serve as chairman of the council.

(4) Upon the expiration of the terms of members appointed in 1978 the next appointments shall be made as follows: Two (2) labor and two (2) management members shall be appointed for a term of one (1) year; two (2) labor and two (2) management members shall be appointed for a term of two (2) years; two (2) labor and two (2) management members shall be appointed for a term of three (3) years; and two (2) labor and two (2) management members shall be appointed for a term of four (4) years. Thereafter all appointments shall be for a term of four (4) years. Such appointments shall be made by the governor within thirty (30) days after the expiration of the term of any member.

(5) The council shall meet at least two (2) times each year and at other times on call of the chairman or a majority of the members. Nine (9) members of the council shall constitute a quorum for the transaction of business.

Section 54. KRS 336.164 is amended to read as follows:

(1) The council shall function as an advisory agent of state government and provide leadership and assistance for labor and management in this state, and shall serve to effect improved labor-management relations within the state, and to thereby attract and encourage new and existing industry in this state.

(2) The council shall not infringe upon or assume the responsibilities, duties or functions of the department of labor or [~~department of~~] commerce *cabinet*. The council may make recommendations to the governor and the legislature on matters relating to labor-management problems in this state and any other matter it deems necessary.

(3) Meetings of the council may be held at any location in this state; however the principal office of the council will be located in Frankfort, Kentucky.

(4) The commissioner of labor shall supply necessary staff and supplies to the council as well as funds for reimbursing each member for reasonable and necessary expenses incurred as a result of attending council meetings, and he shall act as the executive secretary of the council.

Section 55. The General Assembly hereby confirms the following re-organizations to the extent that the provisions have not been otherwise ratified:

Executive Order 80-591 (assigned Office of Volunteer Services to Department of Human Resources);

Executive Order 80-594 (defined administrative structure of the Office of the Secretary of Commerce);

Executive Order 80-927 (assigned Parks reservation system to Tourism);

Executive Order 81-496 (established administrative structure of Kentucky Horse Park);

Executive Order 81-512 (transferred Historic Properties Section to Kentucky Heritage Commission);

Executive Orders 81-526 and 81-618 (established park rangers division in Department of Parks);

Executive Order 81-574 (established Department of the Arts and Office of Tourism Development);

Executive Order 81-1066 (omnibus reorganization of Commerce Cabinet and recreation of Department of Economic Development);

Executive Order 82-63 (re-creation of Department of Local Government).

Section 56. The following Executive Orders are not submitted to the General Assembly for ratification and are not confirmed by the General Assembly for the reasons listed thereafter:

Executive Orders 80-456, 81-83, and 81-379 - each is related to the Commerce Cabinet and is superseded by Executive Order 81-1066;

Executive Orders 80-393, 81-84, 81-148 and 81-326 - each relates to the Department of Arts and Office of Tourism Development and is superseded by Executive Order 81-574;

Executive Order 80-479 - relates to the Office of Volunteer SErvices and is superseded by Executive Order 80-591;

Executive Order 81-140 - established a Department of Community and Regional Development and is superseded by Executive Orders 81-1066 and 82-63.

Section 57. The following KRS sections are repealed:

12.267 Office of developmental planning in department for local government.

147A.008 Governor's advisory council to the office of volunteer services — Appointment — Compensation.

152.050 Economic development commission — Membership — Function — Executive director.

152.490 Kentucky film commission established — Members — Responsibilities.

147.320 Legislative intent.

147.330 Council for land use planning created — Membership.

147.340 Qualifications of members — Organization — Meetings.

147.350 Duties of council — Reports.

147.360 Authorization for acceptance of gifts and grants.

153.005 Definition.

153.010 Department of public information created — Commissioner to head — Purpose.

153.020 Duties of department — How performed — Donations — Allocation of costs.

153.021 Related services.

153.070 Department of tourism — Commissioner.

153.075 Duties of department.

Committee Substitute to **HB 785:**

HB 785, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The heads of the department of finance, department for human resources, department of justice, department for natural resources and environmental protection, department of transportation, cabinet for education and the arts, *commerce* cabinet [~~for development~~], department of energy, cabinet for public protection and regulation, and the lieutenant governor shall constitute the governor's executive cabinet. There shall be a vice-chairman appointed by the governor who shall serve in an advisory capacity to the executive cabinet. The governor shall be the chairman and the secretary of the department of finance shall be a second vice-chairman of the executive cabinet.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the governor. The executive cabinet shall be a part of the office of the governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the governor in the administration of the state government and shall assist the governor in the proper operation of his office and perform such other duties as the governor may require of them.

(3) The cabinet shall consider such matters involving policies and procedures as the governor or any member may place before it. The cabinet shall advise and consult with the governor on all matters affecting the welfare of the state.

Section 2. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) *Commerce* cabinet [~~for development~~].

(2) Cabinet for education and the arts.

(3) Cabinet for public protection and regulation.

Section 3. KRS 12.255 is amended to read as follows:

There is hereby established the office of secretary for *commerce* [~~development~~] cabinet, office of secretary for education and arts cabinet and office of secretary for public protection and regulation cabinet. Each of these offices shall be headed by a secretary appointed by the governor, and each secretary shall be chairman of the related cabinet.

Section 4. KRS 12.280 is amended to read as follows:

(1) There is hereby created an agency of state government to be known as Spindletop foundation.

(2) The functions of Spindletop foundation shall be:

(a) To hold in trust for state government the land and buildings conveyed back to the Commonwealth by Spindletop Research, Inc., as of June 29, 1973.

(b) To manage said property for state government.

(c) To pursue the original purpose of the dedication of the Spindletop property, which was the development of a research park.

(d) To act as a research broker in assisting state government to meet its research needs and to perform such function also upon request from local governments and private organizations.

(e) To hold and assign such contracts and grants as may from time to time be negotiated between the foundation and state and local government agencies, federal government agencies, private foundations, and other organizations.

(3) The Spindletop foundation is authorized to contract for such services as may be required to accomplish its functions and to employ such staff as may be required, subject to the approval of the governor.

(4) The Spindletop foundation shall be under the direction of a board of trustees which shall include the secretary of the cabinet, the executive director of the office for policy and management, the commissioner of the department of *economic development* [~~commerce~~], the chairman of the Kentucky council of economic advisers, the executive director of the council on higher education, a representative of the University of Kentucky, a representative to be designated by the Legislative Research Commission, and four (4) persons to be appointed annually by the governor. The secretary of the cabinet shall serve as chairman, and the executive director of the office for policy and management shall serve as secretary.

Section 5. KRS 41.380 is amended to read as follows:

(1) There shall be a state investment commission composed of the governor, the state treasurer, the secretary of the *commerce* [~~development~~] cabinet and the secretary of the department of finance. The commission shall have authority to and may invest any and all surplus funds of the state in direct obligations of the United States government, or of the Commonwealth of Kentucky. All such investments shall be obligations that will mature within five (5) years from the date of investment.

(2) The commission shall also have authority and may, whenever in its opinion the cash in the state treasury is in excess of the amount required to meet current expenditures, invest any and all of said excess cash in United States treasury bills or certificates of indebtedness or any other United States government security which will mature within one (1) year from the date of investment.

(3) Interest earned from investments made pursuant to this section shall accrue to the credit of the general expenditure fund, except that interest from investments of excess cash in the road fund shall be credited to the road fund and interest from investments of excess cash in the game and fish fund shall be credited

to the game and fish fund, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when such donor shall have designated the use to which such interest shall be placed.

(4) The authority granted by this section to the state investment commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.

Section 6. KRS 42.320 is amended to read as follows:

(1) Any department, board, commission, agency, advisory council, interstate compact, corporate body, or instrumentality of the Commonwealth of Kentucky applying for federal funds, aids, loans, or grants shall file a summary notification of the intended application with the *department for local government* [~~executive department for finance and administration~~] in accordance with the existing A-95 procedures.

(2) When as a condition to receiving such federal funds, the Commonwealth of Kentucky is required to match the federal funds, a statement shall be filed with the notice of intent or summary of the application stating:

(a) The amount and source of state funds needed for matching purposes;
(b) The length of time such matching funds shall be required;
(c) The growth of the program;
(d) How the program will be evaluated;
(e) What action will be necessary should the federal funds be cancelled, curtailed, or restricted; and
(f) Such other financial and program management data as required by the [~~executive~~] department for *local government* [~~finance and administration~~].

(3) Any application for federal funds, aids, loans, or grants which will require state matching or replacement funds at the time of application or at any time in the future, must be approved by the secretary of the [~~executive department for~~] finance and administration *cabinet* or his designated agent prior to its filing with the appropriate Federal agency.

(4) When any federal funds, aids, loans, or grants are received by any department, board, commission, or agency of the Commonwealth of Kentucky, a report of the amount of funds received shall be filed with the [~~executive~~] department [~~for finance and administration~~]; and this report shall specify the amount of funds which would reimburse an agency for indirect costs as provided for under OMB Circular A-87.

(5) The secretary of the executive department for finance and administration *after consultation with the department for local government* may refuse to issue *a* [~~his~~] warrant for the disbursement of any state or federal funds from the state treasury as the result of any application which is not approved pursuant to this section, or in regard to which the statements or reports required by this section were not filed.

(6) The *commissioner of the department for local government* [~~secretary of the executive department for finance and administration~~] shall be responsible for the orderly administration of this section and for issuing the appropriate guidelines and regulations for its implementation.

Section 7. KRS 45.716 is amended to read as follows:

(1) No contracting body shall enter into any personal service contract for advertising, promotional or public relations services unless the *office of tourism development, department of economic development* [~~department of public information~~], through the commissioner [~~of public information~~], has been informed in writing of the specific requirements relating to such services and has declined in writing to provide the proposed services or has failed to respond to the contracting body's written request for such services within thirty (30) days after receipt of the request. The contracting body shall furnish the commissioner [~~of public information~~] a comprehensive statement of, and be available as necessary for consultation about, the scope and nature of the proposed advertising, promotional or public relations services.

(2) The commissioner shall review each proposed personal service contract to determine whether the required services are available within state government at the same or less cost; whether the provisions of the proposed contract will provide the required services and whether the individual or agency proposing the personal service contract has the expertise and resources to provide the services. The commissioner shall forward his determination to the secretary of finance and shall recommend any modifications or alterations in the proposed personal service contract.

(3) Each proposed personal service contract for advertising, promotional or public relations services submitted to the Legislative Research Commission or department of finance shall be accompanied by a copy of the correspondence between the contracting body and the *office of tourism development, department of economic development* [~~department of public information~~] including any advisements concerning the proposed services from the commissioner [~~of public information~~] to the contracting body under subsections (1) and (2) of this section.

Section 8. KRS 56.450 is amended to read as follows:

(1) There is recognized, as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States department of the treasury, internal revenue service, a state

property and buildings commission composed of the governor, who shall be chairman thereof, the lieutenant governor who shall be vice-chairman of the commission, the attorney general, the secretary of the *commerce* [~~development~~] cabinet, the secretary of the department of finance and the commissioner of revenue, or their alternates as authorized and permitted in subsection (5) of this section.

(2) No member of the commission shall receive any salary, fee or other remuneration for his services as a member of the commission but each member shall be entitled to be reimbursed for his ordinary traveling expenses, including meals and lodging, incurred in the performance of his duties.

(3) The commission constitutes a public body corporate with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to private corporations generally in KRS Chapter 271A, except as the same may be inconsistent with KRS 56.440 to 56.550.

(4) Subject to the provisions of KRS 56.550, but notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, all revenue bonds issued by state agencies except as provided in this chapter (but not including bonds issued directly by and in the name of the Commonwealth of Kentucky under authorization of the executive cabinet), shall be issued under the provisions of this chapter; provided further, that as an additional and alternative method for the issuance of revenue bonds under the provisions of this chapter, upon application of any state agency and approval by the commission, the commission acting for and on behalf of said state agency may issue revenue bonds in its own name in accordance with the terms and provisions of KRS Chapter 58 secured by and payable solely from all or any part of the revenues of said state agency as may be specified and provided in such approved application, and any covenants and undertakings of said state agency in such approved application with regard to the production of such revenues and the use, application or disposition thereof may be enforced by the holders of any such revenue bonds or by any trustee for such bondholders. The issuance of any revenue bonds for the state or any of its agencies by the Kentucky development finance authority and the issuance of any revenue bonds for economic development projects authorized by Acts 1980, ch. 109 shall require the prior approval of the state property and buildings commission. In issuing bonds under its own name, or in approving issuance of bonds by other state agencies, the commission shall be deemed to be acting for the state government of the Commonwealth of Kentucky as one unit within the meaning of the regulations of the United States department of the treasury, internal revenue service, and it shall be limited to the issuance of bonds to accomplish the public purposes of that unit.

(5) (a) Each member of the commission is hereby authorized and empowered to designate by an instrument in writing over his signature and filed with the secretary as a public record of the commission, an alternate with full authority to attend in the absence of the appointing member for any reason, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission. Any such designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the face of the appointing instrument to be on a continuing basis (but in no case for a period of more than four years), whenever the appointing member is unable to attend, but always subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission. Any party transacting business with the commission, or materially affected thereby, shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time of designation, the scope thereof, and if of a continuing nature whether the same has been revoked, and when; and such joint certificate shall be made and delivered to any such party within a reasonable time after written request is made therefor with acceptable identification of the business or transaction referred, and of the requesting party's interest therein. Each alternate shall be a person on the staff of the appointing member, or in the employ of his agency or department of the government of the Commonwealth, as the case may be.

(b) Any four (4) members of the commission shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission. One (1) alternate may be substituted for a member in order to establish a quorum, provided that no business is transacted beyond the scope of authority of such alternate.

(c) The state property and buildings commission is reconstituted as of October 1, 1976, with the powers herein provided.

Section 9. KRS 64.055 is amended to read as follows:

(1) The salaries of circuit clerks, payable out of the state treasury per annum, subject to the minimum provided by subsection (2) and to the calculation provided by subsection (3) of this section, shall be:

Population of County	Annual Salary
0 - 4,999	$11,000
5,000 - 9,999	14,000

Population of County	Annual Salary
10,000 - 14,999	17,000
15,000 - 19,999	19,000
20,000 - 29,999	20,000
30,000 - 39,999	21,000
40,000 - 49,999	21,500
50,000 - 99,999	22,000
100,000 - 499,999	22,500
500,000 - and up	25,000

(2) The annual compensation payable to each circuit clerk beginning on July 1, 1980 shall be $2,000 in excess of the annual compensation payable as of June 30, 1980;

(3) In order to equate or adjust the compensation of circuit clerks with the purchasing power of the dollar, the department of finance shall compute by July 1 of every year, beginning on July 1, 1981, the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year. Upon notification from the department of finance, the annual compensation of circuit clerks for fiscal year 1982 and each fiscal year thereafter shall be set at a rate which includes the adjustment for the increase or decrease in the consumer price index, but in no event shall a circuit clerk receive an annual increase exceeding six percent (6%) of salary.

For purposes of determining movement of circuit court clerk salaries from calendar year 1976 level to the maximums for calendar year 1978 as outlined above, the following guidelines should be used.

1. The actual calendar year 1976 salary of the circuit court clerk, as certified by the administrative office of the courts from information supplied by the auditor of public accounts, will be adjusted to the 1977 cost of living increase to be determined by the Kentucky department of *economic development* [~~commerce~~]. This adjusted figure will be the base to compare with the salary maximums outlined above.

2. Those clerks whose base, as determined in 1. above, does not reach the maximums outlined above, will be allowed yearly increases up to twenty percent (20%) of the base, not to exceed the maximums outlined above.

3. Those clerks whose base, as determined in 1. above, is equal to or greater than the maximums outlined above, will be allowed a one (1) time ten percent (10%) adjustment to their base salary as determined in 1. above.

4. The initial population determination for compensation under this section shall be based on the 1970 Federal Census or the "Final" issue of "Current Population Reports, 1974" issued by the United States Bureau of The Census, whichever is greater. In 1981 and thereafter, population shall be based on the decennial census.

5. The annual salary for 1978 for each circuit court clerk shall be no less than seventy-five percent (75%) of the maximum amount permitted for each population category.

Section 10. KRS 103.2101 is amended to read as follows:

(1) The industrial revenue bond oversight committee is hereby established and shall consist of eight (8) members, who shall be appointed as follows for a term of four (4) years:

(a) One (1) member shall be a member of the house of representatives, appointed by the speaker of the house of representatives;

(b) One (1) member shall be a senator, appointed by the president pro tempore of the senate;

(c) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky association of counties;

(d) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky municipal league;

(e) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky chamber of commerce;

(f) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky AFL-CIO;

(g) One (1) member shall be a citizen at large who is not associated with or financially interested in the business regulated;

(h) The secretary of the *commerce* [~~development~~] cabinet, or his designee, shall be a member of the committee.

(2) The industrial revenue bond oversight committee is attached to the *commerce* [~~development~~] cabinet for administrative and support purposes.

(3) The committee shall adopt a monthly meeting schedule and shall meet at least monthly and a majority of the members of the committee shall constitute a quorum.

(4) It shall be the duty of the committee to review only those projects authorized by subsections (2), (4), (8), (9) and (16) of KRS 103.200, and only off-street parking facilities, cable television and mass communication facilities as authorized by KRS 103.200(3), whether by cities, counties, urban county governments,

air boards, riverport authorities, or the Kentucky industrial development finance authority. Such review shall include, but need not be limited to, the following:

(a) The economic need for the project in the area.

(b) Whether the project places an unjustified competitive disadvantage on existing business in the area.

(c) If normal commercial financing is unavailable for this project or if available at what rates it must be secured and under what terms and conditions.

(d) If the project is in accord with the intent of KRS 103.200 to 103.285, this section, and KRS 103.2451.

(e) The project's economic soundness.

(5) If the committee finds that the project does not meet all of the above listed criteria it shall deny approval of the project until the objections thereto have been met.

(6) Members of the committee shall receive seventy-five dollars ($75.00) per diem and their actual and necessary expenses incurred in the performance of their duties.

(7) The committee may require the submission of testimony, project data, or any other information deemed appropriate with regard to any project submitted to it for approval.

(8) The committee, within fourteen (14) days of receiving application, shall notify the agency or unit of government proposing the issuance of bonds and the developers of the project of the date on which the project will be considered by the committee at a public hearing. Any person may attend the hearing and may personally, or through counsel, address the committee with regard to the project and make recommendations to the committee thereon. Notice shall be given to the agency or unit of government proposing to issue the bonds and the developers of the project not less than forty-five (45) days before the date the committee has set for the hearing on the project. The agency or unit of government proposing the issuance of the bonds shall, not less than thirty (30) days before the date of the hearing, publish notice of the hearing in the manner required by KRS Chapter 424. The agency or unit of government proposing the issuance of the bonds shall require the developer of the project (if it is other than the agency or unit of government) to reimburse the agency or unit of government for the cost of the advertising required herein.

(9) The committee shall have the right to approve or disapprove any project submitted to it, and over which it has jurisdiction as described in subsection (4) of this section, and no bonds or other evidence of indebtedness for any such project shall be issued until such project has been approved by the committee.

Section 11. KRS 147.075 is amended to read as follows:

As used in KRS 147.070 to 147.120 the term "governor's cabinet" shall mean the "governor's executive cabinet" and such other persons as the governor may designate to compose the membership of the "state planning committee." The governor shall serve as chairman of the state planning committee, the secretary of the *commerce* [~~development~~] cabinet shall serve as vice chairman, and the director of the office for policy and management shall serve as secretary.

Section 12. KRS 147A.003 is amended to read as follows:

The following administrative bodies shall be attached to the department for local government for administrative purposes:

(1) [~~Council for land use planning;~~
~~(2) County debt commission;~~
~~(3) Municipal statutes revision commission;~~
~~(4) County statutes revision commission;~~]
[~~(5)~~] Local government advisory commission;
[~~(6) Kentucky urban affairs office;~~]
(2)[~~(7)~~] Appalachian development council; and
(3) The state-federal council for balanced economic growth.
[~~(8) Office of developmental planning.~~]

Section 13. KRS 147A.020 is amended to read as follows:

(1) [~~The department for local government shall exercise all administrative functions of the state as provided in the county debt act, KRS 66.280 to 66.390; as regards county and local government budgets as provided in KRS 68.210 to 68.360; and as to local government bonds as provided in KRS 66.045.~~

~~(2)~~] The department for local government shall have the following powers and duties:

(a) To require such reports from local governments as will enable it adequately to provide the technical and advisory assistance authorized by this section. The reports shall provide the necessary information for a complete file on local government debt, which shall be kept open for public inspection at the state local finance offices.

(b) To encourage, conduct, or participate in training courses in debt and general fiscal management and procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.

(c) To conduct studies in debt management, including ways and means of appraising the terms of alternative bids.

(d) To request such assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the state local finance officer to carry out his duties under this section.

(e) At its discretion, to compile and publish annually a report. Such report may include detailed information on local government long-term debt issued and retired during the previous year and outstanding, and other available statistical data on local government finances.

(2)[~~(3)~~] The department for local government shall coordinate for the governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to the following programs:

(a) [~~Housing and urban development act as amended;~~

~~(b)~~] Demonstration cities and metropolitan development act as amended *with the exception of title I of the housing and community development act of 1974 as amended through 1981*;

(b)[~~(c)~~] Farmers home administration;

(c)[~~(d)~~] Veterans administration act as amended, as it pertains to housing;

(d)[~~(e)~~] General revenue sharing for local governments.

(3)[~~(4)~~] The department for local government shall provide technical assistance and information to units of local government, including but not limited to:

(a) [~~Fiscal management;~~

~~(b)~~] Personnel administration;

(b)[~~(c)~~] Purchases and contracts;

(c)[~~(d)~~] Ordinances and codes;

(d)[~~(e)~~] Community development*;*

(e) Appalachian regional development program;

(f) Economic development administration program;

(g) Intergovernmental personnel act program;

(h) Land and water conservation fund program;

(i) Area development fund program;

(j) Gas system restoration project;

(k) Joint funding administration program;

(l) State clearinghouse for A-95 review;

(m) The memorandums of agreement with the area development districts to provide management assistance to local governments;

(n) The urban development office.

Section 14. KRS 148.022 is amended to read as follows:

(1) The department of *local government* [~~parks~~] shall administer and operate the outdoor recreation programs of the state and shall be responsible for developmental planning and the administration of United States bureau of outdoor recreation funds.

(2) All functions of the Commonwealth relating to the Breaks Interstate Park shall be attached to the department *of parks* for administrative purposes.

Section 15. KRS 148.260 is amended to read as follows:

(1) The state horse park management board is hereby established, is attached to the commerce cabinet and shall consist of seven (7) members appointed by the governor, who shall also designate its chairman. Members shall serve terms of four (4) years, or until their successors are appointed, except that the initial terms of membership shall be staggered as follows:

(a) One (1) member shall serve a term of one (1) year;

(b) Two (2) members shall serve a two (2) year term;

(c) Two (2) members shall serve a three (3) year term; and

(d) Two (2) members shall serve four (4) year terms.

(2) The management board shall be authorized to adopt bylaws providing for the call of its meetings and its operating procedures. A quorum of the board shall consist of four (4) members, and a majority of members present at any duly-called meeting may act upon any matter before it for consideration. Full minutes and records shall be maintained of all meetings and official actions of the board, and shall be subject to the Kentucky open records and open meetings acts. Members of the board shall be reimbursed for their expenses in attending meetings subject to department of finance regulation, and shall receive sixty-five dollars ($65.00) per diem for attending such meetings. [~~The state horse park board is hereby established and shall be composed of nineteen (19) members, as follows:~~

~~(a) The commissioner of parks;~~

~~(b) The commissioner of tourism; and~~

~~(c) Seventeen (17) members appointed by the governor of whom ten (10) shall be appointed with due consideration to geographical distribution throughout the state, and seven (7) members who shall be~~

~~selected, one each, from a list of three (3) submitted by the governing bodies of each of the following organizations:~~

~~(i) Thoroughbred breeders of Kentucky;~~

~~(ii) Kentucky quarter horse association;~~

~~(iii) American standardbred breeders association of Kentucky;~~

~~(iv) American saddle horse breeders association;~~

~~(v) Kentucky walking horse association;~~

~~(vi) Kentucky Horse Council; and~~

~~(vii) Appaloosa Horse Clubs of Kentucky.~~

~~(2) The terms of appointed members of the board shall be for four (4) years, and until such time as their successors shall be appointed, except with respect to the first board whose appointments shall be as follows:~~

~~(a) Four (4) members shall serve for terms of two (2) years from the date of their appointment;~~

~~(b) Five (5) members shall serve for terms of three (3) years from the date of their appointment;~~

~~(c) Five (5) members shall serve for terms of four (4) years from the date of their appointment; and~~

~~(d) Three (3) members shall serve for terms of four (4) years from the date of their appointment.~~

~~(3) Of the ten (10) geographically appointed members, the governor shall make appointments so as to assure representation as nearly equal as possible from each of the two (2) political parties polling the largest number of votes in statewide elections.~~

~~(4) The governor shall appoint the first board chairman, after which the state horse park board shall elect annually from among its appointed membership a chairman. A quorum of the board shall consist of ten (10) members, and a majority of members present at any meeting of the board may act for it upon any matter legally before the body.~~

~~(5) The members of the board shall be allowed their necessary expenses incurred in attending meetings and performance of their official duties, and shall be allowed sixty-five dollars ($65) per diem for attending meetings.~~

~~(6) Appointed members of the state horse park board may be removed by the governor only for cause after being given a copy of charges against them and an opportunity to be heard publicly, with the advice of counsel, on such charges against them before the governor and a finding of fact by the governor. A copy of the charges and transcript of the record of the hearings and findings of fact shall be filed with the secretary of state.~~

~~(7) In the event of a vacancy among geographically appointed membership of the board, the governor shall fill the unexpired terms so as to maintain both geographical and political balance as required in subsection (3) of this section.~~]

Section 16. KRS 148.270 is amended to read as follows:

(1) The state horse park *management* board shall be a body corporate with usual corporate powers. Full minutes and records shall be kept of all meetings of the board and all official actions shall be recorded.

(2) The state horse park *management* board shall appoint an executive director and a secretary, who shall hold office during its pleasure and shall devote their entire time to the duties of their offices. The executive director shall be the chief administrative officer of the office of the board and shall provide the staff direction and coordination in implementing the program and discharging the duties of the board. The secretary shall keep a full and true record of all the proceedings of the board, of all books and papers ordered filed by the board, and of all orders made by the board or approved and confirmed by it and ordered filed, and shall be responsible to it for the safe custody and preservation of all such documents in its office. All documents shall be subject to the open records provisions of KRS 61.870 to 61.884.

(a) The board shall designate from time to time staff persons to perform the duties of the executive director and secretary during their absence, and during the absence of either, the persons so designated shall possess the same powers as their principal.

(b) The executive director with the approval of the board may assign the secretary additional administrative duties.

(3) The board acting through the executive director may employ such additional staff as necessary to perform the duties and exercise the powers conferred upon it by the provisions of KRS 148.260 to 148.320.

Section 17. KRS 148.280 is amended to read as follows:

(1) The state horse park *management* board:

(a) Shall have the authority and control of such property as now is under its custody and control, and of such property as may hereafter be placed under its control or transferred to it by the state property and buildings commission, for any purpose mentioned in this section;

(b) May erect and repair buildings on the state horse park and make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objectives defined in this section;

(c) Shall promote the progress of the state and stimulate public interest in the advancement and development of the state by providing the facilities of the state horse park for exhibitionary, competitive and other events relative to various aspects of the horse industry and other functions calculated to advance and enhance the tourist industry, economy, entertainment, cultural, and educational interests of the public.

(2) The state horse park *management* board may take, acquire and hold property, and all interest herein, by deed, gift, devise, bequest, lease, or by transfer from the state property so acquired in the manner provided by law.

(3) The state horse park *management* board is authorized to enact by administrative regulation as provided in KRS Chapter 13, rules governing the operation, maintenance or use of property under its custody and control.

(4) The state horse park management board may employ or contract such other person, firms or corporations as the board may deem necessary or desirable to accomplish its duties and functions; may fix the compensation and the terms of employment or contract of those employed or contracted with; and may assign to them such duties and responsibilities as the board may determine, including the responsibility of actual operation of any or all of the facilities under the control of the said board.

(5) The department of parks shall assume responsibility for the routine, nonpolicy making administration of the Kentucky horse park, which responsibility includes though is not limited to preparation and coordination of purchases, establishment and maintenance of a budgetary and accounting system, and retention and maintenance of all personnel and payroll documents. The cost for these services shall be charged, by means of inter-account.

Section 18. KRS 148.290 is amended to read as follows:

(1) The state horse park *management* board may enter into agreements with the chief of the law enforcement agency of any urban county or counties in which the state horse park is located or in any adjacent county for proper policing of the state horse park, and may arrange with the state for the policing of the state horse park by the state police. The board may also apply for the appointment of special law enforcement officers to provide security subject to the procedures of KRS 61.900 to 61.930.

(2) The state horse park *management* board is authorized to establish by resolution speed limits governing the operation of motor vehicles on horse park property. Notice to the public of such speed limits shall be posted by signs or markings.

Section 19. KRS 148.300 is amended to read as follows:

(1) The state horse park *management* board shall have exclusive control of concessions, exhibitions, shows, entertainments and attractions at any place on the state horse park grounds, and may in the direction of the board operate any or all of such purposes, by law.

(2) The board shall have a prior lien upon the property of any concessionaire, exhibitor or person, immediately upon its coming or being brought on the grounds to secure existing or future indebtedness.

(3) Any designated employe or agent of the state board may sell the property to satisfy the indebtedness after giving ten (10) days' notice to the owner or agent of the owner or, if notice cannot be given to the owner, after a notice is posted for ten (10) days in the office of the state board on the grounds, announcing that the property is to be sold. The state board through its designated agent, may bid and buy on the property offered for sale for the use and benefit of the state horse park.

Section 20. KRS 148.310 is amended to read as follows:

None of the provisions of KRS Chapter 137 and none of the provisions of KRS 92.280(2) shall apply to any operations on state horse park grounds wherein the state horse park *management* board shares in the receipts and proceeds of such operations.

Section 21. KRS 148.320 is amended to read as follows:

(1) All revenues derived by the state horse park *management* board from the use of properties and facilities under its custody and control shall be used exclusively for the purpose of defraying the expenses of the board, the cost of the management and operation of such properties and facilities, the payment of interest and principal upon any indebtedness incurred by the board for such properties and facilities, the creation of adequate reserve for the repair and replacement thereof and for the financing of further extensions, improvements, and additions thereto. Included in the cost of operation may be such promotional activities as the state horse park *management* board may determine upon as calculated to stimulate and increase the use and the revenues of such facilities, and to increase and stimulate the interest and usefulness of the state horse park.

(2) The state horse park *management* board shall generally cause its funds to be deposited in the state treasurer's office to be withdrawn on appropriate vouchers approved by the board.

(3) An annual accounting of the funds of the state board shall be made by the auditor of public accounts and reported to the governor for the benefit of the governor and the general assembly.

Section 22. KRS 151.040 is amended to read as follows:

The Kentucky geological survey shall report periodically on its findings to the governor and general assembly and such reports shall be available to the public. It shall at all times furnish cooperative services to the department of *economic development* [~~commerce~~] and such other state agencies as may request its services, and make available to those agencies such information and data as are at the disposal of the survey. The survey may issue reports, maps and other publications for sale at a price prescribed by the governing authorities of the University of Kentucky.

Section 23. KRS 151.330 is amended to read as follows:

(1) The governor, the secretary for natural resources and environmental protection, the secretary of the department of finance, the secretary for human resources or his designee, the commissioner of *economic development* [~~commerce~~], the commissioner of agriculture, the secretary of the *commerce* cabinet [~~for development~~], the attorney general, the secretary of the department of transportation, the commissioner of fish and wildlife resources, the commissioner of parks, and their respective successors in office, and two (2) members of the flood control advisory commission shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the Commonwealth by the name of "the water resources authority of Kentucky" with perpetual succession and with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their service in that capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with the performance of their duties and functions as such members.

(3) Seven (7) members of the authority shall constitute a quorum for the transaction of business. The governor shall, by virtue of his office, be the chairman of the authority. The secretary for natural resources and environmental protection shall, by virtue of his office, be the vice-chairman of the authority. The secretary of the department of finance shall, by virtue of his office, be the treasurer of the authority.

(4) The authority shall meet quarterly or more often if necessary.

Section 24. KRS 152.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) [~~"Commission" means the economic development commission;~~

~~(2)~~] "Commissioner" means commissioner of the department of *economic development* [~~commerce~~];

(2)[~~(3)~~] "Department" means department of *economic development* [~~commerce~~].

Section 25. KRS 152.020 is mended to read as follows:

(1) There is hereby created an agency of the state government to be known as the department of *economic development* [~~commerce~~], which shall constitute a department of the state government within the meaning of KRS chapter 12. The department shall consist of a commissioner and such administrative bodies and employes as are provided by law.

(2) The department, subject to the provisions of KRS 12.010 to 12.141, shall be organized into *an office of business development, an office of tourism development, an office of community development, and* a division *of administrative services* [~~devoted to industrial development, a division devoted to marketing development, a division devoted to research and planning, a division devoted to community and industrial services, a division devoted to development of small and minority business enterprise, a division devoted to international trade and reverse investment~~], and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the department.

(3) The executive officer of the department shall be the commissioner of the department of *economic development* [~~commerce~~]. The commissioner shall be appointed by the governor and shall serve at the pleasure of the governor. The commissioner shall have general supervision and direction over all activities and functions of the department and its employes, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be the chief executive officer of the department and, as such, shall have authority to enter into contracts, subject to the approval of the secretary of the *commerce* [~~development~~] cabinet and the secretary of the department of finance, when such contracts are deemed necessary to implement and carry out the program of the department.

(4) The office of business development shall be headed by an executive director appointed pursuant to KRS 12.050 and shall consist of a division of research and planning, a division of small and minority business development, a division of industrial development and the Kentucky port and river development commission, each headed by directors appointed pursuant to KRS 12.050.

(5) The office of tourism development shall be headed by an executive director appointed pursuant to KRS 12.050 and shall consist of a division of marketing and information and a division of travel development each headed by directors appointed pursuant to KRS 12.050.

(6) The office of community development shall be headed by an executive director appointed pursuant to KRS 12.050 and shall consist of a division of community programs responsible for the administration of Title I of the housing and community development act of 1974 as amended through 1981, which includes the community development block grant program and the 107 technical assistance program, and a division of community assistance responsible for community assistance and revitalization and the administration of

the governor's economic achievement recognition program each headed by a director appointed pursuant to KRS 12.050.

(7) The division of administrative services shall be headed by a director appointed by the commissioner pursuant to KRS 12.050 and shall provide administrative and fiscal service support and perform all personnel functions for both the department and the office of the secretary of the commerce cabinet.

SECTION 26. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the commerce cabinet a department of the arts, to be headed by a commissioner to be appointed by the governor. The department's functions shall include the development, marketing and promotion of Kentucky's crafts and film industry. The commissioner may appoint such deputy commissioners and principal assistants as may be necessary to carry out the functions of the office.

(2) The department shall consist of the following divisions, each headed by a director appointed by the commissioner pursuant to KRS 12.050:

(a) A division of administrative services, which duties shall include overseeing the general management, fiscal, personnel and grants activities of the department;

(b) A division of crafts, which duties shall include coordination of development, marketing and promotion of the crafts industry in Kentucky;

(c) A division of creative services, which duties shall include providing photography, multi-media and graphic arts services to state government; and

(d) A film division, which duties shall include promoting development of the film production industry in Kentucky.

SECTION 27. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

There is hereby established within the department of the arts a citizens advisory board. The board shall be composed of seventeen (17) members, representing different geographic regions of the Commonwealth, to be appointed by the governor for a term of four (4) years; except for the initial members appointed, six (6) shall serve for a term of two (2) years; six (6) shall serve for a term of three (3) years; and five (5) shall serve for a term of (4) years. Members shall serve for the terms designated and until their successors are appointed.

Section 28. KRS 154.020 is amended to read as follows:

(1) There shall be a development finance authority in the state government which shall be known as the Kentucky development finance authority, which shall be an independent agency of the Commonwealth reporting to the secretary of the *commerce* [~~development~~] cabinet, but not attached to any administrative department.

(2) The authority shall consist of [~~the executive director of the economic development commission, the commissioner of commerce,~~] the secretary of the *commerce* [~~development~~] cabinet, and the secretary of the department of finance, and *eleven (11)* [~~nine (9)~~] at large members appointed by the governor. Of the *eleven (11)* [~~nine (9)~~] at large members, three (3) shall be representative of industrial or manufacturing interests, three (3) shall be representative of agricultural interests, [~~and~~] three (3) shall be representative of tourism interests *and two (2) shall represent the public at large.* The chairman shall be the secretary of the *commerce* [~~development~~] cabinet who may appoint a deputy secretary of the *commerce* [~~development~~] cabinet to serve as chairman. Each ex-officio member of the authority, as described in this section, may appoint in writing a substitute, who shall have full voting and other powers as a member of the authority or of the board, as the case may be. The writing by which the appointment is made shall be filed as a part of the records of the authority.

(3) The terms of all appointive members of the former industrial development finance authority shall be deemed to have expired as of midnight on June 30, 1978. The terms of the new appointed members of the Kentucky development finance authority shall commence as of July 1, 1978.

(4) Two (2) members initially appointed by the governor shall be appointed for a term of one (1) year, two (2) members for two (2), two (2) for three (3), and three (3) for four (4) years, respectively, from the date of their appointment and until their respective successors shall be duly appointed and qualified, the term of each appointed member to be designated by the governor at the time of his appointment. Their successors shall each be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any appointed member of the authority shall be eligible for reappointment.

(5) Members of the authority shall be entitled to compensation for their services as members in the amount of one hundred dollars ($100) for each regular meeting of the authority, and shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

Section 29. KRS 154.320 is amended to read as follows:

(1) The commission shall consist of the lieutenant governor, the commissioner of *economic development* [~~commerce~~], the secretary of the *commerce* cabinet [~~for development~~] and five (5) citizens chosen by

the governor from each of the districts created in KRS 154.321. The citizen members shall be appointed for original terms of one (1), two (2), three (3), and four (4) years. Their successors shall be appointed for a term of four (4) years and each shall be eligible for reappointment. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of that term.

(2) A majority of the members shall constitute a quorum for the purpose of organizing the commission and conducting the business thereof. The members shall elect a chairman from the five (5) citizen members and the executive director shall serve as secretary. Meetings may be called by the chairman or at the request of three (3) or more members.

(3) Citizen members of the commission shall receive twenty-five dollars ($25) per day for attendance at each meeting. All commission members shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members of the commission.

(4) Any members of the commission may be removed by the governor for inefficiency, neglect of duty, malfeasance, or conflict of interest. The governor shall submit a written statement to the commission setting forth the reasons for removal, and the statement shall be read at the next commission meeting, which shall be open to the general public. The member so removed shall have the right of appeal to the Franklin Circuit Court.

Section 30. KRS 154.325 is amended to read as follows:

(1) The commission may appoint an executive director to be the chief administrative officer of the commission, and to assist in carrying out the functions and purposes of KRS 65.510 to 65.530, 139.483, 154.310 to 154.345. The executive director and other employes of the commission shall, for administrative purposes, be attached to the department of *economic development* [~~commerce~~], under the supervision and control of the commissioner of *economic development* [~~commerce~~]. The department of *economic development* [~~commerce~~] shall furnish office space.

(2) The executive director shall be entitled to compensation set by the commission and shall be allowed travel, subsistence, and other expenses incurred in the performance of his duties as may be provided from time to time for other employes of the commonwealth.

Section 31. KRS 154.600 is amended to read as follows:

(1) There is created [~~within the cabinet for development~~] an appalachian development council. The council shall be attached to the department for local government [~~of the development cabinet~~] for administrative purposes. The department for local government shall provide staff assistance to the council.

(2) The council shall serve as an advisory body to the *department* [~~secretary of the development cabinet~~] and to the general assembly on all phases of economic development in that part of Kentucky contained within the appalachian region as defined by the federal Appalachian Regional Development Act of 1965, as amended.

(3) The council shall consist of the lieutenant governor and twenty-two (22) members appointed by the governor. The governor shall appoint three (3) members from the appalachian region at-large. The remaining nineteen (19) members shall be appointed from the forty-nine (49) appalachian counties of Kentucky, within area development districts, as follows:

(a) Two (2) members from appalachian counties within the Fivco Area Development District;
(b) Two (2) members from appalachian counties within the Gateway Area Development District;
(c) Two (2) members from appalachian counties within the Big Sandy Area Development District;
(d) Two (2) members from appalachian counties within the Bluegrass Area Development District;
(e) Three (3) members from appalachian counties within the Kentucky River Area Development District;
(f) Three (3) members from appalachian counties within the Cumberland Valley Area Development District;
(g) Three (3) members from appalachian counties within the Lake Cumberland Area Development District;
(h) One (1) member from appalachian counties within the Barren River Area Development District; and
(i) One (1) member from appalachian counties within the Buffalo Trace Area Development District.

(4) The three (3) at-large members of the council shall serve for terms of one (1) year. The remaining nineteen (19) appointed members shall be appointed for terms of four (4) years, except that of the members initially appointed by the governor five (5) shall be appointed for a term of one (1) year, five (5) shall be appointed for a term of two (2) years, five (5) shall be appointed for a term of three (3) years, and four (4) shall be appointed for a term of four (4) years. The governor shall fill vacancies by appointment for the remainder of the unexpired term.

(5) The chairman of the council shall be selected annually by the council members [~~and shall serve as a member of the economic development commission created by KRS 152.050~~].

(6) The members of the council shall serve without compensation but shall be reimbursed for reasonable and necessary expenses incurred in performing the work of the council.

Section 32. KRS 155.030 is amended to read as follows:

In furtherance of the purposes set forth in KRS 155.020 above and in addition to the powers conferred on business corporations by the provisions of KRS Chapter 271A the corporation shall, subject to the restrictions and limitations herein contained, have the following powers:

(1) To elect, appoint and employ officers, agents and employes; to make contracts and incur liabilities for any of the purposes of the corporation; Provided, That the corporation shall not incur any secondary liability by way of guaranty or indorsement of the obligations of any person, firm, corporation, joint stock company, association, or trust, or in any other manner;

(2) To borrow money from any source including the United States government, or any instrumentality thereof, including the small business administration and similar agencies, for any of the purposes of the corporation; to issue therefor its bonds, debentures, notes or other evidences of indebtedness, whether secured or unsecured, and to secure the same by mortgage, pledge, deed of trust or other lien on its property, franchises, rights and privileges of every kind and nature or any part thereof or interest therein, without stockholder or member approval; Provided, That no loan to the corporation shall be secured in any manner unless all outstanding loans to the corporation are secured equally and ratably in proportion to the unpaid balance of such loans and in the same manner;

(3) To make loans to any person, firm, corporation, joint-stock company, association or trust, and to establish and regulate the terms and conditions with respect to any such loans and the charges for interest and service connected therewith; Provided, however, That the corporation shall not approve any application for a loan unless and until the person applying for said loan shall show that he has applied for the loan through ordinary banking channels and that the application has been refused by at least one (1) bank or other financial institution. The corporation may charge interest on such loans at rates of interest not to exceed whichever is the higher of the two (2) following rates: (a) the rate mentioned in KRS 360.010; (b) two percent (2%) in excess of the prime rate prevailing on unsecured commercial loans among the majority of the New York City clearing house member banks on the first day of the month in which the loan is made;

(4) To purchase, receive, hold, lease, or otherwise acquire, and to sell, convey, transfer, lease or otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations;

(5) To acquire the good will, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, corporations, joint-stock companies, associations, or trusts, and to assume, undertake, or pay the obligations, debts, and liabilities of any such person, firm, corporation, joint-stock company, association or trust; to acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments thereon or for the purpose of disposing of such real estate to others for the construction of industrial plants or other business establishments; and to acquire, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, or otherwise dispose of industrial plants or business establishments;

(6) To acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the stock, shares, bonds, debentures, notes or other securities and evidences of interest in, or indebtedness of, any person, firm, corporation, joint-stock company, association or trust, and while the owner or holder thereof to exercise all the rights, powers, and privileges of ownership, including the right to vote thereon; and to acquire stock or stock options in the corporation or organization to which it makes loans;

(7) To mortgage, pledge, or otherwise encumber any property, right or thing of value, acquired pursuant to the powers contained in subsections (4), (5), or (6), as security for the payment of any part of the purchase price thereof;

(8) To cooperate with and avail itself of the facilities of the department of *economic development* [~~commerce~~] and the industrial development finance authority and any similar governmental or private agencies; and to cooperate with and assist, and otherwise encourage organizations in the various communities of the Commonwealth in the promotion, assistance, and development of the business prosperity and economic welfare of such communities or of this Commonwealth or of any part thereof;

(9) To do all acts and things necessary or convenient to carry out the powers granted in this chapter.

Section 33. KRS 175.430 is amended to read as follows:

(1) The governor, the lieutenant governor, the commissioner of highways, the state highway engineer, *the secretary of commerce* and the attorney general, and their respective successors in office, shall be a body corporate and politic constituting a public corporation and governmental agency and instrumentality of the Commonwealth by the name of "The Turnpike Authority of Kentucky," with perpetual succession and with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their services in that capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.

(3) Three (3) members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one (1) or more members may adjourn from time to time until a quorum is convened. Within ninety (90) days from March 25, 1960, the authority shall convene and organize. The governor shall, by virtue of his office, be the chairman of the authority and the lieutenant governor shall in like manner be the vice-chairman. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive such compensation as may be determined by the authority with approval of the commissioner of personnel to be paid from the budgeted funds of the bureau. The treasurer shall give bond to the authority and the Commonwealth conditioned upon his faithful accounting for all funds coming into his custody from time to time, the same to be in such amount as the authority may prescribe, with corporate surety given by a surety company qualified to do business in the Commonwealth, premium therefor to be paid by the authority. The authority shall establish and maintain an office in premises which shall be provided for that purpose by the bureau of highways without cost to the authority; and the secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings, which shall constitute public records open to inspection at reasonable times.

Section 34. KRS 194.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the department to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the department of finance, or the superintendent of public instruction, or the secretary of the department of justice, or the secretary for natural resources and environmental protection, or the secretary of the *commerce* [~~development~~] cabinet, or the executive director of the council on higher education, or the secretary of the public protection and regulation cabinet, or the commissioner of labor, or the commissioner of *economic development* [~~commerce~~], or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 35. KRS 198A.030 is amended to read as follows:

(1) There is hereby created and established an independent, de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to be known as the Kentucky housing corporation.

(2) The Kentucky housing corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people by the production of residential housing in Kentucky.

(3) The corporation shall be governed by a board of directors, consisting of sixteen (16) members, eight (8) of whom shall be the lieutenant governor, the secretary of the department of finance, the commissioner of the department for local government, the commissioner of revenue, the attorney general, the secretary of the *commerce* cabinet [~~for development~~], the secretary of transportation and the commissioner of *economic development* [~~commerce~~], or their duly appointed designees, as public directors, and eight (8) of whom shall be chosen from the general public residing in the Commonwealth, as private directors.

(4) Upon organization of the corporation, the governor shall appoint the eight (8) private directors to take office and to exercise all powers thereof immediately. Of the eight (8) directors of the corporation thus appointed, two (2) shall continue in office for terms of one (1) year, and two (2) for terms of two (2) years, two (2) for terms of three (3) years and two (2) for terms of four (4) years respectively as the governor shall designate; at the expiration of said terms and for all succeeding terms, the governor shall appoint a successor to the office of private director for a term of four (4) years in each case.

(5) In case of a vacancy, the governor may appoint a person for such a vacancy to hold office during the remainder of the term.

(6) The governor may remove any private director whom he may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant and may appoint a person for such vacancy as provided in other cases of vacancy.

(7) The governor shall designate a director of the corporation to serve as chairman. The term of the chairman shall extend to the earlier of either the date of expiration of his then current term as a director of the corporation or a date six (6) months after the expiration of the then current term of the governor designating such chairman.

(8) The board of directors shall annually elect one (1) of its members as vice chairman. The board of directors shall also elect or appoint, and prescribe the duties of, such other officers as the board of directors deems necessary or advisable, including an executive director and a secretary, and the board of directors shall fix the compensation of such officers.

(9) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the board of directors of the corporation. The secretary

of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that such copies are true copies, and all persons dealing with the corporation may rely upon such certificates.

(10) A majority of the board of directors of the corporation shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies.

(11) Action shall be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum shall exist called upon three (3) days' written notice to each director or upon the concurrence of at least seven (7) directors.

(12) All directors shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties under this chapter. Each private director appointed pursuant to subsection (3) of this section shall be entitled to a fee of fifty dollars ($50) for attendance at each meeting of the board of directors.

Section 36. KRS 224.218 is amended to read as follows:

The *secretary* [~~commissioner~~] of the [~~department of~~] commerce *cabinet* shall cooperate with the secretary of the department of energy in examining the feasibility of a hazardous waste treatment-industrial park complex approach to the siting of hazardous waste management facilities and the promotion of industrial development. Consistent with the state policy of encouraging reuse and treatment of hazardous waste and of minimizing land disposal such study shall be based on development of integrated facilities consisting of a variety of treatment and disposal systems at a given site associated with industrial plants. Such study shall at a minimum:

(1) Survey the attitudes of various industries towards this approach;

(2) Survey public attitudes and perceptions towards this approach;

(3) Identify the advantages and disadvantages to industry, the Commonwealth, and local communities;

(4) Survey the degree to which the availability of hazardous waste management facilities has a bearing on the location of new industry;

(5) Develop a list of industry types with compatible waste streams for exchange, neutralization, or incineration;

(6) Identify economic or technical barriers to this approach; and

(7) Report its findings and recommendations to the 1982 general assembly.

Section 37. KRS 224A.030 is amended to read as follows:

(1) There is hereby created the Kentucky pollution abatement authority, which authority shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the Commonwealth of Kentucky. The affairs of the authority shall be managed and carried out by a board consisting of *seven (7)* [~~five (5)~~] members who shall be appointed by the governor of the state. *The membership of the authority shall include the secretary of the commerce cabinet who shall serve in an ex-officio capacity, and as chairman of the authority. The secretaries of finance and administration and natural resources and environmental protection, and the commissioners of economic development and local government shall also serve as ex-officio members of the authority. The governor shall additionally appoint two (2) at large members who shall serve* for terms of four (4) years [~~each~~]. Said members shall constitute said Kentucky pollution abatement authority, with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers of the authority. In the carrying out of its purposes and the exercise by it of the powers conferred by this chapter, the authority is deemed and declared to be performing essential governmental functions and public purposes of the Commonwealth of Kentucky.

(2) The members of the authority shall receive no compensation for their services in said capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.

(3) *Four (4)* [~~Three (3)~~] members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one or more members may adjourn from time to time until a quorum is convened. Within 90 days from March 27, 1972, the authority shall convene and organize. The members of the authority shall choose from their ranks a chairman and a vice-chairman of the authority. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive such compensation as may be determined by the authority with approval of the commissioner of personnel, to be paid from funds appropriated for that purpose. The treasurer shall give bonds to the authority and the state conditioned upon his faithful accounting for all funds coming into his custody from time to time, the same to be in such amount as the authority shall prescribe, with corporate surety given by a surety company qualified to do business in the Commonwealth of Kentucky, premium therefor to be paid by the authority. The authority may engage an executive

director, who shall be bonded as in the case of said treasurer, and such other technical personnel as may in the premises be deemed proper and prudent.

(4) The authority shall, for administrative purposes, be attached to that department of state government under which the state water pollution agency is administered, and shall establish and maintain offices in premises which shall be provided for that purpose by the appropriate and responsible state department; and the secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings which shall constitute public records open to inspection at all reasonable times.

Section 38. KRS 247.417 is amended to read as follows:

(1) The membership of the council shall consist of the governor, the lieutenant governor, the commissioner of agriculture, the secretary of the *commerce* [~~development~~] cabinet, the dean of the college of agriculture and home economics of the university of Kentucky, and fifteen citizen members, a majority of whom shall be full-time farmers, appointed by the governor. All members shall serve at the governor's will during his incumbency, and until each member's successor is appointed.

(2) The governor shall serve as chairman of the council. The council may elect by majority vote a vice-chairman and such officers of the council as may be deemed necessary.

(3) Citizen members of the council shall receive a compensation of fifty dollars ($50) per day for each day of attendance at meetings of the council, and shall be reimbursed by the secretary's office for necessary and actual expenses in accordance with the provisions of KRS chapters 44 and 45.

(4) The council shall meet at the call of the chairman, but not less often than four (4) times during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

Section 39. KRS 336.162 is amended to read as follows:

(1) There is hereby created the Commonwealth of Kentucky labor-management advisory council which shall consist of eighteen (18) members. One (1) member of the council shall be the commissioner of labor, and one (1) member shall be the *secretary* [~~commissioner~~] of commerce, who shall be ex officio nonvoting members of the council. The other members of the council shall be appointed by the governor for terms of four (4) years and until their successors have been appointed and have qualified.

(2) Vacancies shall be filled by appointment by the governor for the unexpired term of the member whose office is vacant and the appointment shall be made within sixty (60) days of the occurrence of the vacancy.

(3) In making appointments to the council, the governor shall appoint eight (8) members representing management and eight (8) members representing labor. The commissioner of labor shall serve as chairman of the council.

(4) Upon the expiration of the terms of members appointed in 1978 the next appointments shall be made as follows: Two (2) labor and two (2) management members shall be appointed for a term of one (1) year; two (2) labor and two (2) management members shall be appointed for a term of two (2) years; two (2) labor and two (2) management members shall be appointed for a term of three (3) years; and two (2) labor and two (2) management members shall be appointed for a term of four (4) years. Thereafter all appointments shall be for a term of four (4) years. Such appointments shall be made by the governor within thirty (30) days after the expiration of the term of any member.

(5) The council shall meet at least two (2) times each year and at other times on call of the chairman or a majority of the members. Nine (9) members of the council shall constitute a quorum for the transaction of business.

Section 40. KRS 336.164 is amended to read as follows:

(1) The council shall function as an advisory agent of state government and provide leadership and assistance for labor and management in this state, and shall serve to effect improved labor-management relations within the state, and to thereby attract and encourage new and existing industry in this state.

(2) The council shall not infringe upon or assume the responsibilities, duties or functions of the department of labor or [~~department of~~] commerce *cabinet*. The council may make recommendations to the governor and the legislature on matters relating to labor-management problems in this state and any other matter it deems necessary.

(3) Meetings of the council may be held at any location in this state; however the principal office of the council will be located in Frankfort, Kentucky.

(4) The commissioner of labor shall supply necessary staff and supplies to the council as well as funds for reimbursing each member for reasonable and necessary expenses incurred as a result of attending council meetings, and he shall act as the executive secretary of the council.

Section 41. The General Assembly hereby confirms the following re-organizations to the extent that the provisions have not been otherwise ratified:

Executive Order 80-591 (assigned Office of Volunteer Services to Department of Human Resources);
Executive Order 80-594 (defined administrative structure of the Office of the Secretary of Commerce);
Executive Order 80-927 (assigned Parks reservation system to Tourism);
Executive Order 81-496 (established administrative structure of Kentucky Horse Park);

Executive Order 81-512 (transferred Historic Properties Section to Kentucky Heritage Commission);

Executive Orders 81-526 and 81-618 (established park rangers division in Department of Parks);

Executive Order 81-1066 (omnibus reorganization of Commerce Cabinet and recreation of Department of Economic Development);

Executive Order 82-63 (re-creation of Department of Local Government).

Section 42. Executive Order 81-574 is confirmed only to the extent specified in other sections of this Act. The following parts of Executive Order 81-574 are not confirmed:

(1) That portion of Section 1 of the Order which assigned responsibilities for the arts and for overseeing the preservation of Kentucky's historic landmarks and buildings to the Department of the Arts, including but not limited to Subsection C, creating and defining the duties of a Division of the Arts and Subsection F, creating and defining the duties of a Heritage Division;

(2) Section 8 of the Order which abolished the Kentucky Heritage Commission and transferred functions, funds, personnel, equipment, records and the Historic Preservation Review Board to the Department of the Arts; and

(3) Section 9 of the Order which abolished the Kentucky Arts Commission and transferred its functions, personnel, funds, equipment and records to the Department of the Arts.

Section 43. The following Executive Orders are not submitted to the General Assembly for ratification and are not confirmed by the General Assembly for the reasons listed thereafter:

Executive Orders 80-456, 81-83, and 81-379 - each is related to the Commerce Cabinet and is superseded by Executive Order 81-1066;

Executive Orders 80-393, 81-84, 81-148 and 81-326 - each relates to the Department of Arts and Office of Tourism Development and is superseded by Executive Order 81-574;

Executive Order 80-479 - relates to the Office of Volunteer SErvices and is superseded by Executive Order 80-591;

Executive Order 81-140 - established a Department of Community and Regional Development and is superseded by Executive Orders 81-1066 and 82-63.

Section 44. The following KRS sections are repealed:

12.267 Office of developmental planning in department for local government.
147A.008 Governor's advisory council to the office of volunteer services — Appointment — Compensation.
152.050 Economic development commission — Membership — Function — Executive director.
152.490 Kentucky film commission established — Members — Responsibilities.
147.320 Legislative intent.
147.330 Council for land use planning created — Membership.
147.340 Qualifications of members — Organization — Meetings.
147.350 Duties of council — Reports.
147.360 Authorization for acceptance of gifts and grants.
153.005 Definition.
153.010 Department of public information created — Commissioner to head — Purpose.
153.020 Duties of department — How performed — Donations — Allocation of costs.
153.021 Related services.
153.070 Department of tourism — Commissioner.
153.075 Duties of department.

Senate Message

Announcing passage pf **SB 308**, **SB 376**, **SCR 34**, **SB 168**, **SB 131**, **SB 294**, **HB 111**, **HB 132**, **HB 228**, and **HB 424** with Senate Amendment.

Announcements

The following meetings were announced.

Committee on Rules: On adjournment, Room 316.

Judiciary-Civil: On adjournment, Room 110.

Business Organizations and Professions: Friday, 9:00 a.m., Room 109.

Education: On adjournment, Room 104.

Adjournment

Representative LeMaster moved that the House adjourn until 10:00 a.m., Friday, March 12, 1982.

On the roll call the vote was yeas 47-Arnold, Barrows, Bendl, Boswell, Brinkley, Burch, Clapp, Clark, Clarke, Cowan, Crupper, Cyrus, Dawahare, Donnermeyer, Dunn, Farrow, Freibert, Guenthner, Hancock, Head, Hines, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, McBee, Moberly, Nett, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, B. Richardson, P. Richardson, B. Smith, F. Smith, Thomason, Todd, Turner, Van Horn, Worthington, Yates. Nays 8-Blevins, Endicott, Ford, Handy, Maggard, Meyer, Perkins, Schmidt.

The motion to adjourn was adopted.